LEGISLATIVE COUNCIL

Tuesday 9 March 1999

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

QUESTIONS ON NOTICE

The PRESIDENT: I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 59, 103, 130-1, 139-40 and 159.

GOVERNMENT VEHICLES

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

1. Does the Government seek warranties from manufacturers of its new Government vehicles for 100 000 kilometres or more?
2. Will the Government consider keeping Government vehicles for 100 000 kilometres?
3. Has the Government considered, and have any reports been undertaken into, the feasibility of fitting liquid petroleum gas fuel systems to Government vehicles?
4. If so, will the Government release the reports publicly?
5. If not, why not?

The Hon. R.I. LUCAS:

1. All vehicles now purchased have, as standard, a 3 year/100 000 km warranty.
2. The Government has entered into a financing arrangement with the Commonwealth Bank whereby, with a few exceptions, it was agreed that vehicles would be retained for 2 years/40 000 km.
3. Fleet SA have had two Ministerial vehicles fitted with LPG. Due to the short retention period it was found not to be cost effective for vehicles to be fitted with a LPG system.

In December 1997 TransAdelaide, in association with Fleet SA, agreed to evaluate a Sedan equipped with a factory fitted dual petrol/LPG conversion. TransAdelaide will evaluate the LPG fuel option under various operational conditions and provide timely reports to Fleet SA.

4. As the trial is incomplete there is no report to release.
5. The results of the trial will not be fully known until the 3 year/60 000 km period is complete.

EXPIATION NOTICES

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

1. Will the Minister please list all expiation notices for which a $30 reminder notice for late payment is currently issued?
2. How much revenue was collected by the $30 reminder notice for late payment in total and individually for each category of expiation notice?

The Hon. DIANA LAIDLAW: The Minister for Police, Correctional Services and Emergency Services has been advised by Police that the statistics for the $30 reminder notice for late payment of expiation notices are as follows:

Reminders Issued/Late Payment Expiated During February 1997—November 1998

February 1997 to June 1997

Notices Category	Issued	Late Payment Expiated	Revenue $
CEN*	2 553	341	10 230
Red Light Camera	127	22	660
Speed Camera	7 218	1 623	48 690
TIN**	8 175	1 765	52 950
Other	333	60	3 600
Total	18 406	3 811	116 130

July 1997 to June 1998

Notices Category	Issued	Late Payment Expiated	Revenue $
CEN*	7 054	765	22 950
Red Light Camera	1 117	298	8 940
Speed Camera	43 563	12 286	368 580
TIN**	32 470	8 369	251 070
Other	856	117	3 510
Total	85 060	21 835	655 050

July 1998 to November 1998

Notices Category	Issued	Late Payment Expiated	Revenue $
CEN*	2 771	345	10 350
Red Light Camera	570	168	5 040
Speed Camera	17 949	4 985	149 550
TIN**	13 955	3 825	114 750
Other	293	46	1 380
Total	35 538	9 369	281 070

*Cannabis Expiation Notice
**Traffic Infringement Notice

JET SKIS

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

1. Who is responsible for the policing of the new Harbors and Navigation Act regulations covering the speed and zone limit for jet ski users?
2. To whom should members of the general public telephone complaints if they observe jet ski riders breaking the new Harbors and Navigation Act regulations?
3. Will the Government consider setting up a free 1800 number for the public to use to report jet ski rider offences?
4. How many officers will be patrolling beaches to enforce the new jet ski regulations during the 1999 summer?
5. Is the Government undertaking an education program to warn jet ski riders of the new regulations?
6. If so—

(a) How much has been spent on this education program; and
(b) What does this program entail?

The Hon. DIANA LAIDLAW:

1. Transport SA Marine Safety Officers, Police Officers, Fisheries Compliance Officers and authorised Council Inspectors who are all 'Authorised Persons' under the Harbors and Navigation Act and Regulations.
2. To officers from one of the above.
3. The Government has already given an undertaking that, six months after the introduction of the new jet ski rules, an assessment will be made of the measures. At that time a 1800 number, and reporting arrangements generally, will be considered.
4. Three Transport SA Marine Safety Officers and approximately 25 Council Inspectors. (Several hundred Police Officers and approximately 45 Fisheries Compliance Officers are authorised under the Harbors and Navigation Act and Regulations. However, their availability is dependant upon work commitments and will vary on a day to day basis.)

5 & 6. The Government has already distributed educational leaflets to all jet ski owners advising them of the new legislation. These leaflets have also been circulated to the relevant Councils, marine retail outlets and 'Authorised Persons' for distribution to jet ski users. In addition, signage indicating the new legislation has been erected at boat ramps and beach access roads. While expenditure will be on-going, some $12 000 has been spent to date by Transport SA on education and associated matters.

ROAD DEATHS

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

1. Will the Government investigate the causes for the rise in the number of elderly people being killed on South Australian roads, considering recent figures released by Transport SA, Management Information Section, show people aged 70 and over are twice as likely to be killed in a motor vehicle accident than any other age group?
2. Will the Government introduce driver education programs targeted specifically to the elderly as a matter of priority?

The Hon. DIANA LAIDLAW:

1. The increase in road crash fatalities amongst elderly people is a trend that has been noted in all States and Territories and in many overseas countries. A 1996 monograph issued by the Federal Office of Road Safety indicates the trend is related to the increase in the older population and the higher ownership of drivers' licences in this age group, rather than necessarily the skills of older drivers.

The monograph also indicates that when adjustments are made for average kilometres driven, drivers aged 65-69 actually have a lower incidence of fatality than drivers aged 21-25 years; and drivers aged 70-74 have similar fatality rates to drivers younger than 21.

However, after allowing for distances travelled, the rate of death for drivers climbs steeply after 80 years of age.

When further adjustments are made for the greater vulnerability to injury and death of older drivers involved in a crash, the likelihood of serious crash involvement among drivers aged 65-69 is about the same as for drivers aged 30-34. The propensity for serious crash involvement among drivers aged 75-79 is about the same as for drivers aged 26-29. However, the rate for drivers above 80 years of age remains high.

Currently, AUSTROADS has engaged the Monash University Accident Research Centre to conduct two older driver research projects. One involves reviewing aspects of the physical road environment in terms of older driver needs. The other involves re-examination of the policies and procedures required in effectively assessing older drivers fitness to drive.

Meanwhile, the Government's policy document, *Ageing: A Ten Year Plan for South Australia* (1997), outlines a wide range of initiatives concerning older people's general road safety needs. These include dissemination of appropriate information to professionals who work with the aged as well as older people themselves, monitoring of crash and demographic trends, and support of local community road safety projects. In addition, Transport SA in association with local Councils is trialing the Walk with Care Program which integrates older pedestrian education, engineering initiatives and advocacy.

2. The Joint Committee on Transport Safety established by this Parliament is currently hearing evidence on driver training and licensing matters.

Independent of the work of this Committee, research confirms that the notion of driver education programs targeting older drivers is a complex matter as individual older drivers vary enormously in their needs. Essentially, it is *elderly* drivers (drivers aged 80 and over but particularly drivers aged 85 and over), rather than *older* drivers who are at the greatest risk of a crash—especially when compared with younger age groups. Accordingly, it is considered that driver education involving elderly drivers is very much a matter of addressing individual needs.

Meanwhile, older drivers are generally very active in seeking appropriate information for their needs through motoring organisations, discussion groups, guest speakers, available literature, and in consulting with their own medical and health professionals. This often includes discussion about when to give up driving and the availability of alternative forms of transport, as well as tips on safe driving practices. In addition, older drivers can benefit from current public education programs aimed at all drivers, but which target specific road safety issues such as drink driving, speeding, seat belts and courtesy between road users.

VACATION CARE PROGRAM

139. **The Hon. T.G. CAMERON:** In light of the Vacation Care program already operating for staff at Roma Mitchell House, when will a similar program be available on site, or at Roma Mitchell House, for staff at Parliament House and members of Parliament?

The Hon. DIANA LAIDLAW: The Roma Mitchell House Vacation Care program will be extended to Parliament House, for both members of Parliament and parliamentary staff, during the April School Holidays (6-16 April 1999).

Flyers will be distributed in early March to all staff, to ascertain their interest in receiving more information about the program.

WOMEN'S INFORMATION SERVICE

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

1. Could the Minister please provide the amount of total funding (in dollars) allocated to the Women's Information Service for the years—

(a) 1993-94;
(b) 1994-95;
(c) 1995-96;
(d) 1996-97;
(e) 1997-98; and
(f) 1998-99?

2. Could the Minister please provide a breakdown of funding (in dollars) which was allocated to the Women's Information Service for the years—

(a) 1993-94;
(b) 1994-95;
(c) 1995-96;
(d) 1996-97;
(e) 1997-98; and
(f) 1998-99?

3. Could the Minister please provide the total amount per capita (in dollars) spent on the Women's Information Service?

The Hon. DIANA LAIDLAW: Since 1993, the Women's Information Service has grown in both the funding and the diversity of services that it provides to the women of South Australia. The Service is considered a benchmark for information services for women, both nationally and internationally.

For the years 1993-94 through to 1995-96 salaries and oncosts were included within the Office for the Status of Women budget. For the years 1993-94 and 1994-95 the goods and services budget for the Service was $40 000 per annum. In 1995-96 the goods and services budget for the Service increased to $58 000 per annum.

In 1996-97 the total budget for the Service was $361 225. This comprised $306 000 in salaries and $55 225 in goods and services.

In 1997-98 the total budget for the Service was $411 400. This comprised $322 000 in salaries and $89 400 in goods and services.

The current year budget (1998-99) for the Service is $472 055. This includes a provision for salaries of $290 000 and $182 055 for goods and services.

The total funding for this financial year represents an allocation of 0.33 cents per capita (based on the 1996 ABS Census of Population and Housing).

MOTOR VEHICLES, REGISTRATION LABELS

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

1. Is the Minister aware that the current motor vehicle registration stickers frequently fall off due to their low adhesive quality?

2. If so, what is being done to rectify the problem?

3. (a) Who prints the labels; and
(b) Is it a South Australian company?

The Hon. DIANA LAIDLAW:

1. In late 1997 and early 1998, following the introduction of rectangular registration labels, the Registrar of Motor Vehicles received a number of complaints from vehicle owners about registration labels not adhering to vehicle windscreens. The matter was immediately brought to the attention of the manufacturer.

I am advised that, after conducting various tests, the manufacturer determined that the registration label affixed to the certificate of registration was absorbing ink from the certificate, which formed a barrier between the adhesive on the label and the surface of the windscreen.

Apparently, the deterioration to the adhesion qualities depended upon the amount of contamination caused by the ink, which in turn was related to the application of the layer of silicon to the surface of the certificate before the ink had cured. The manufacturer has now delayed the application of the silicon and increased the intensity of the ultra-violet drying lamps—which has provided a more effective barrier between the ink on the printed certificate and the label adhesive.

For your interest, after the problem was identified, the manufacturer recalled all unissued stock held by Transport SA. These were replaced at no cost to Transport SA.

According to the manufacturer, the surface condition of the windscreen plays a significant role in the adhesion of a label. In testing conducted in conjunction with CSIRO, it has been found that greasy surfaces significantly reduce the adhesive quality of the label. In the tests, 'vinyl sweating', vinyl care products and other products used for cleaning the interior of a motor vehicle appeared to cause a greasy film on windscreens. Therefore, before affixing the label, owners need to ensure the surface of the windscreen is clean and dry.

2. To further improve the durability and consistency of labels, the manufacturer is now investigating and trialing the use of polyester film instead of the current polypropylene base. In addition, the Registrar—

- is reviewing the design of the existing registration label;
- will include a message on the certificate of registration to alert vehicle owners of the need to ensure that the surface of the windscreen is clean and dry; and
- is reviewing the existing contract, with the view to calling a new tender for the manufacture and supply of registration labels.

In the meantime, if an owner reports that a registration label is not adequately adhering to the windscreen, the Registrar will issue a replacement label at no cost.

3. (a) Registration labels are printed by Leigh-Mardon.

(b) Leigh-Mardon is a national company with premises at Cavan Road, Dry Creek, and in the Australian Capital Territory, Victoria, New South Wales, Western Australia and Queensland.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Senior Secondary Assessment Board of South Australia—Report, 1997

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

Corporation By-laws—
Port Adelaide Enfield—
No. 1—Permits and Penalties
No. 2—Moveable Signs
No. 3—Council Land
No. 4—Caravans and Camping
No. 5—Inflammable Growth
No. 6—Creatures
No. 7—Lodging Houses
No. 8—Aqueous Waste.

DRUGS

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made by the Premier in another place about drug law reform.

Leave granted.

SALMONELLA

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a copy of a ministerial statement made in another place today by the Hon. Dean Brown, Minister for Human Services, about the recent salmonella outbreak.

Leave granted.

QUESTION TIME

ROAD SAFETY

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about road safety audits.

Leave granted.

The Hon. CAROLYN PICKLES: I refer the Minister to the National Rural Road Safety Action Plan and the National Road Safety Strategy Implementation Task Force 1996 of which the State Government is a member through Transport SA. Progress of the implementation of the action plan is monitored against a timetable for major initiatives, including 'Completion of safety audits on 50 per cent of national and State highways by December 1997'. Locally, the Rural Road Safety Action Plan and the RAA have also focused on this issue, in particular, the lack of progress in this area. I quote from the RAA, May 1998, as follows:

The RAA believes this situation is unsatisfactory and that sufficient Government funding should be made available to conduct 'full' road safety audits on at least 50 per cent of South Australia's national highway and rural arterial road networks by the end of the 1998-99 financial year. The RAA believes that the Government should provide financial assistance to rural councils willing to carry out these audits. The association further submits that these councils, with financial assistance, should be required to complete a predetermined amount of road safety auditing annually, commensurate with their capacity to do this work.

My questions are as follows:

1. Does the Minister support the hypothecation of funding in order to meet the 50 per cent target and in recognition of the significance of such a measure?

2. Does the Minister believe that the Government should provide financial assistance to rural councils to enable them to undertake audits?

3. How much funding has been allocated to rural road safety audits in the 1998-99 allocation?

The Hon. DIANA LAIDLAW: This question has been prompted by a statement I made in answer to a question last week that tomorrow I will conclude my remarks on the noting of the Environment, Resources and Development Committee's report on the rural road strategy.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I will not go into the fact that the member was not here, but I hope she enjoyed herself. I am not too sure what the honourable member means by the hypothecation of funds. As the Government has provided funds (and I will be able to provide further detail on that tomorrow), I suspect that the honourable member will be pleased to congratulate the Government on this funding initiative.

PELICAN POINT POWER STATION

The Hon. P. HOLLOWAY: My question is directed to the Treasurer, and it concerns the Pelican Point Power Station project.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: What is the cost of new power transmission lines necessary to connect Pelican Point to the existing ETSA grid, and what is the cost of augmentation of the existing ETSA transmission network which will be necessary to support the transfer of power from Pelican Point? Who will pay for these two augmentation costs, and will the new transmission line to Pelican Point have regulated or unregulated status?

The Hon. R.I. LUCAS: I am happy to get the detail of that costing. I have a ballpark figure in my mind but, rather than mislead the Council, I will have that figure checked and bring back a reply. I will also bring back a reply to the other aspects of the honourable member's question.

LOUTH BAY TUNA FARMS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the development of tuna farms at Louth Bay.

Leave granted.

The Hon. T.G. ROBERTS: Last week, the Opposition questioned the Minister for Primary Industries on the illegal development of tuna farms at Louth Bay near Port Lincoln. The Hon. Ian Gilfillan also raised some questions in this Council on the same matter. The Development Assessment Commission is due this Thursday to hear the Tuna Boat Owners Association of Australia's application for the development of the tuna farms. However, as we have been told, these tuna farms have been operational since December 1996. The President of the Tuna Boat Owners Association, Mr Brian Jeffriess, told the ABC last week that it was his opinion that the sites near Louth Bay were approved years

ago. My questions to the Minister for Transport and Urban Planning are:

1. Is the Minister aware of any development approval granted to the Tuna Boat Owners Association for the site upon which the tuna farms are currently located?

2. Does the Minister accept, under Part 2, Division 1, of the Development Act 1993, that the actions of the Tuna Boat Owners Association do in fact constitute a breach of the Act?

3. Given the recent decision of the ERD Court to gaol a person for continued breaches of the Development Act 1993, does the Minister accept that there has been an equal application of the penalties under the Act for both these cases?

The Hon. DIANA LAIDLAW: I am not aware that there has been any earlier planning development approval. It does not mean that there has not been, but I am certainly not aware of it. However, as the honourable member has said, I am aware that applications are before the Development Assessment Commission, which is seriously assessing those and will hold the public meetings that the honourable member noted later this week. The Development Assessment Commission is an independent body which makes its recommendations to me accordingly, and the Parliament has deliberately set up that structure for that independent assessment.

I anticipate receiving advice from the Development Assessment Commission within possibly a couple of weeks after that public hearing; I have not been told that that will not be the timetable. In terms of breaches of the Act and conditions of those breaches, I would like to obtain some advice for the honourable member. It is a legal area in which at the moment I do not have expertise or sufficient advice, but I will seek a prompt reply.

ELECTRICITY, PRIVATISATION

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government in the Council (Hon. Robert Lucas) a question about electricity competition.

Leave granted.

The Hon. L.H. DAVIS: In the *Sunday Mail* of 7 March there was a page 2 article by Craig Clarke headed 'Vic assault on ETSA customers'. This stated:

> . . . Victorian power companies are offering cut-price electricity in an all-out assault to lure South Australian big business.

The article made particular mention of the fact that Western Mining Corporation had recently cancelled its $12 million ETSA contract, having negotiated with the Victorian company Yallourn Energy for the supply of electricity in the future. According to this article, the Victorian electricity companies Citipower and Powercor say that business in SA will be ripe for the plucking when hundreds of firms join the national grid later this year. The article continues:

> Powercor spokesman, Mr Mark Wilson, said the company was negotiating with BHP and Mobil, whose national head offices were keen to receive only one power bill. 'We have national customers who are in SA who are keen for us to supply power in SA,' Mr Wilson said. 'Of the seven big customers in SA, four are ours interstate . . . including BHP and mobile franchises. We are looking to get them in South Australia.'

In the same article, the Citipower spokesman (Mr Ross Gilmore) was also quoted as saying that his company was talking with SA firms. Both Powercor and Citipower have opened offices in South Australia to take advantage of the fact that we no longer have an electricity monopoly in South Australia but, indeed, a national electricity market. Given that the profits from the generation of power by ETSA will be under pressure as a result of the national electricity market and what we have already seen happen with Western Mining, and given that the Government is committed, if privatisation of power assets does not proceed, to maintain and upgrade the generation assets, will the Treasurer comment on the likely impact of this announcement by Western Mining and the general tenor of the article from the *Sunday Mail* on the likely profitability for the generation assets of ETSA?

The PRESIDENT: Order! Before I call the Treasurer, I ask that the honourable member leave out the word 'comment' and just ask the question. Obviously, there will be a comment, but we have talked about this before. I will let it go this time.

The Hon. R.I. LUCAS: We are seeing the early signs of what many of us have been trying to warn is on the way in relation to competition as a result of the national electricity market. It is fair to say that these are just the early signs. Because of the peculiar circumstances in the South Australian electricity market we will see the most intense competition commence from probably the end of next year, when Pelican Point Power Station, with National Power as its operator, comes on stream.

So, whilst we will see significant competition—and the early signs of that are already being commented upon by the media in the beginning of the national market—because we have such a tight balance of supply and demand, it is difficult for competing retailers to write back-to-back contracts in the South Australian marketplace. What we need is an excess of supply over demand, and we can get that through either additional generation or additional transmission.

As the Parliament knows, the Government has chosen the quickest—and it believes the most efficient and effective—route, which is new generation. However that is to be accomplished, it is that extra supply and capacity which this market needs which will lead to the intense competition that we will see in our marketplace from the end of next year.

What the honourable member and the media are highlighting are the already significant signs of competition and the fact that the biggest customers are being targeted by competing retailers. As the honourable member has highlighted for all members to bear in mind, we had a monopoly on the electricity marketplace prior to December last year. That no longer exists. Sadly, we will see customers other than Western Mining lost to our South Australian electricity businesses.

This is what we have been warning the Hon. Mr Rann, Mr Foley and the Hon. Mr Holloway about for the past 12 months or so. Sadly, they have continued to ignore the warnings from Government and other independent commentators about the reality of the national market. People such as the Hon. Mr Holloway, Mr Foley and Mr Rann claim that the taxpayers of South Australia will continue to see this $200 million to $300 million a year flowing happily into our budget, money that we got in a monopoly market with no competition.

It is disappointing that Mr Holloway has to be mentioned in the same phrase with Mr Foley and Mr Rann in this respect, but they are continuing to push this concocted story that, in some way, having moved from a monopoly where you can dictate everything to a cutthroat national market, as a State we will continue to enjoy the same flow of dividend and money from the electricity businesses into our budget. That is the story—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Holloway is not answering the question. What he has been talking about—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Don't try to divide it into parts. Mr Holloway says, 'I'm only talking about this bit or that bit.' Unless he wants to distance himself from the statements made by the shadow Treasurer and the Leader of the Opposition, what he is supporting is that the aggregate of the money coming from the electricity businesses will continue at the same level. So, I say to the Hon. Mr Holloway: do not talk about this bit or that bit.

Members interjecting:

The PRESIDENT: Order!

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: That is an interesting commentary. I am sure that the media will take up this issue but, so far, Mr Foley—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No. It will be interesting to see whether Mr Foley is prepared to promise to resign if under a Labor Government—if there is ever to be a Labor Government—

The Hon. A.J. Redford: Let him do it under us. That's unlikely.

The Hon. R.I. LUCAS: No—there were to be any privatisation of electricity businesses or assets in South Australia. I would be interested in the response from Mr Foley—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —and Mr Rann in relation to that question.

The Hon. L.H. Davis: Well, he won't, will he?

The Hon. R.I. LUCAS: Time will tell. I am sure that the question will be put. The reality is that the only people in South Australia who believe that we will continue to have the same amount of money coming into our budget as we did under the monopoly situation are the three people I have mentioned, that is, Mr Rann, Mr Foley and Mr Holloway. They are the only three people in South Australia who believe that or continue to state that. Everyone else you talk to will at least concede that the money coming into our South Australian budget from the electricity businesses will start to decline. What the Hon. Mr Davis is cautioning us all about, as the commentary in the media is highlighting, is how the process will develop. We are seeing the early signs, and when we see the extra capacity available at the end of next year we will see the most intense competition for electricity business in South Australia that we have ever seen in this State.

The Hon. NICK XENOPHON: By way of supplementary question, what is the actual retail margin loss as a result of the WMC contract of $12 million? Is it in the order of 1 per cent to 2 per cent? What has been lost by ETSA after transmission and distribution charges are taken into account with respect to the WMC contract?

The Hon. R.I. LUCAS: I will not comment on individual commercial contractual arrangements and profit margins on an individual customer. I am surprised that the Hon. Mr Xenophon would seek that sort of information in relation to a particular named customer. The reality is, as I indicated in response to the earlier question, that we are seeing the first signs of the loss of major customers to our electricity businesses. If the Hon. Mr Xenophon wants to start supporting the position of the three Labor members I have mentioned, that is a judgment call for him. I will certainly not comment publicly on the individual profit margins of our electricity businesses with individual named customers in a public forum like the Parliament.

RETAIL TENANCIES

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, as Minister for Consumer Affairs, a question relating to retail shopping centre leases.

Leave granted.

The Hon. IAN GILFILLAN: Recently the ABC Radio National program *The Law Report* highlighted problems facing tenants in retail shopping centres, particularly when it comes to the renewal of leases. One of the speakers on the program was Bill Griffiths, a lawyer from Frankston in Victoria, who represents many shopping centre tenants. He said:

> The problem with the tenure issue is that at the end of five years a small retail tenant will have invested probably his house, five years of his life, working 60 to 80 hours a week, and will have. . . probably made [only] a small living out of it. Then at the end of five years, he suddenly, at the landlord's whim, can lose everything, [including] the goodwill in his business. The tenant's problem is that he is absolutely at the whim of the landlord, he has no legal right,. . . and [is] in a very weak and poor negotiation position because [he] will have invested, in most tenants I see, somewhere between $80 000 and $200 000 of [his] money in the tenancy. . . It seems to me heavily weighted in the landlord's favour. He'll end up with the tenant's investment, the tenant's goodwill, and he can put another tenant in there tomorrow.

In South Australia in 1996 this Parliament enacted amendments to the Retail and Commercial Leases Act designed to protect tenants against just this sort of thing. The Act gives existing retail tenants a preferential right to renew when their lease expires, subject to protecting the legitimate rights of landlords to deal with their property fairly.

However, there are two problems which together are combining to prevent retail tenants getting the benefits of the 1996 amendments. First, the Act applies only to new leases commenced after the date of the 1996 amendments, so many existing leaseholders will have no protection when their lease expires.

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: No, they did not. Secondly, my information is that in the past two years many retail landlords are choosing not to enter new leases with existing tenants at all but merely extending on a month to month basis the provisions of the existing lease. By indefinitely extending the provisions of the old lease landlords can avoid ever giving tenants the preferential rights that this Parliament decided they should have.

I have in my possession correspondence of 8 February this year which demonstrates the burden this situation is placing on one small retailer in South Australia. This person, who has asked to remain unidentified because of fears of landlord victimisation, is operating in an Adelaide suburban shopping centre. The tenant wishes to sell her business and has had an offer of $150 000 to buy her stock, trading name and goodwill, but the prospective new owner understandably wants to take over a business which has some security of tenure. The would-be purchaser is insisting on getting a standard lease of five years.

The landlord is not willing to offer the existing owner anything more than six months, and therefore the sale has not proceeded. Leases of six months or less do not attract the preferential renewal provisions in the Act. So the existing owner, the small business person, has missed out on a sale of $150 000. In effect, she is unable to capitalise on the goodwill she has built up in her successful trade and, even though the landlord is apparently acting within the letter of the Retail and Commercial Leases Act, surely he is not acting within the spirit. My questions are:

1. How long will the Government allow existing tenants to be exploited in this way before extending the protection of part 4A of the Act to existing leaseholders?

2. Will the Attorney recommend to his colleagues in another place that they support changes to the Retail and Commercial Leases Act passed by this Chamber last year to extend the provisions of part 4A of the Act to existing leaseholders?

The Hon. K.T. GRIFFIN: We went like an express train through the explanation, didn't we? I think I caught most of it. The answer to the second question is 'No.' The answer to the first question is that, in relation to the legislation we passed dealing with what happens at the end of a term of a retail shopping centre lease, it was clear that it should only apply prospectively and not retrospectively. That has always been the argument about retail shopping centre lease legislation: should it apply regardless of the commercial agreement between the landlord and tenant or should it apply only to those transactions entered into after the legislation comes into operation?

The general principle when we legislate is that we do not apply legislation which imposes significant changes to the commercial arrangements of parties retrospectively. The honourable member has been through this argument and obviously he is trying to beat up a bit more interest in this notwithstanding that the Bill is in the House of Assembly, because what the Victorian lawyer has said applies only to Victorian legislation and not to the position in South Australia. Perhaps that was the hook upon which he wanted to hang this question to revive a bit of interest in it. What the Victorian lawyer was advising may have been right in relation to Victoria but it is not right in relation to South Australia.

I draw attention to the fact that we have provisions in our legislation in relation to the end of the term of a retail shopping centre lease regarding those leases entered into after the date of the enactment of the legislation, and that is unique in Australia. The Commonwealth's amendments to the Trade Practices Act dealing with harsh and unconscionable conduct have come into effect, and I notice from one of the reports recently that there is a case dealing with a retail leasing dispute in respect of which that provision will be interpreted. We also have in our Act a unique provision dealing with vexatious conduct.

There are a lot of pluses in our legislation. I guess we will never satisfy everybody in relation to what is a contentious issue. I will check the rest of the explanation, but I think that answers the questions. If there is anything I have omitted I will bring back a reply.

The Hon. IAN GILFILLAN: As a supplementary question, does the Attorney agree that the refusal of the landlord to extend a lease any more than on six monthly terms avoids the intention of Parliament that lease renewal would make available the five year right of renewal?

The Hon. K.T. GRIFFIN: I will take that question on notice and check it.

EMERGENCY SERVICES LEVY

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about the application of the emergency services levy.

Leave granted.

The Hon. J.F. STEFANI: South Australians have been receiving notices for insurance renewals from various insurance companies and brokers advising them that the Government has increased the fire service levy and stamp duty, as well as imposing a $6 Ash Wednesday loading on existing insurance premiums. In addition, people have been advised that the Government will review the levy charges from 1 July 1999 with a view to removing the fire service levy currently collected with insurance premiums and imposing a new levy through the payment of council rates. My questions are:

1. Will the Minister advise what steps are being taken by the Government to refund the portion of the fire service levies applicable from the period 1 July 1999 and paid on insurance premiums renewed prior to 30 June 1999?

2. Will the Minister advise whether the Government will refund the amount paid through the insurance companies and brokers who are currently collecting the levy on behalf of the Government?

The Hon. K.T. GRIFFIN: I will refer that question to my colleague in another place and bring back a reply. I can say that, in respect of the payment of the emergency services levy, it is not expected to be a levy paid on council rates but independently of that. In terms of the adjustments between insurance companies and their imposition of fire service levies and the commencement of the new emergency services levy on 1 July 1999, there are transitional arrangements in place to avoid double dipping. The precise detail of those I will endeavour to obtain.

STATE SUBSIDIES

The Hon. T. CROTHERS: I seek leave to make a precied statement before asking the Attorney-General, the chief law officer of South Australia, a question about section 92 of the Federal Constitution.

Leave granted.

The Hon. T. CROTHERS: A recent article in *Time* magazine on the subject of corporate welfare dealt with United States companies which had made a profession out of playing one State off against another relative to where they would locate a new business. A major player named in this practice was Seaboard Corporation. A giant of agribusiness, this company has interests in piggeries, strawberries, chickens, shrimp, salmon, flour and wine. Its operations span four continents and almost two dozen countries. These operations, in addition to the foregoing, embrace cargo ocean liners through to sugarcane. I will not go into all of the villainy ascribed to this company in the article. Suffice to quote from the article, as follows:

> The corporate welfare that flows to the Seaboard Corporation on agribusiness with annual revenues of $1.8 billion extends from Ecuador to Minnesota, from Oklahoma to Haiti. Where Seaboard is, there are Governments tossing money at it.

The article goes on to say that thus far in the 1990s Seaboard has managed to attract over $100 million in United States Federal and State Government subsidies. According to the article, this company is only one of many—and I have another question on that—who are playing the same game. The individual approach to grappling with this enormous swindle using taxpayers' money is thought to lie by the use of five preferred solutions. However, it was preferred solution No. 2 which caught my eye. I shall quote the first two paragraphs thereof. Headed 'A lawsuit to have incentives declared unconstitutional', it states:

> Legal scholars believe the practice violates the Constitution's commerce clause. Indeed, the Supreme Court has said as much in several cases. In 1977, for example, the court struck down a New York law that provided for lower taxes on security transactions processed by brokers in New York. The State pleaded that it needed the tax break to keep brokerages around. The court didn't buy it.
>
> Even groups that usually oppose Federal oversight of local affairs are calling for it in this case. The nonpartisan John Locke Foundation, a libertarian think tank in Raleigh, North Carolina, is a case in point. 'We are a sort of right-of-centre conservative organisation, and what we are basically arguing is that the Federal Government should intervene,' says John Hood, President of the Foundation, which [itself] is readying a Federal lawsuit to challenge State subsidies as violations of interstate commerce.

Drawing on the foregoing, I ask the follow questions:

1. Does the Attorney-General believe (and I want him to think even more carefully than he always does) that South Australia, because of its subsidies paid to industries to attract them to this State, may put us in breach of Section 92 of our Federal Constitution?

2. Does the Attorney agree that since the 1960s our higher courts are more and more turning to the higher courts of the United States for judicial precedent?

3. What impact could the precedents already set by the American Supreme Court—both past, present and, potentially, future—have if a challenge is mounted in the Supreme Court both in this State and elsewhere on industry subsidies being a breach of section 92 of the Federal Constitution?

The Hon. K.T. GRIFFIN: The honourable member has demonstrated that he does read widely and that he does think deeply—

The Hon. L.H. Davis: He should be their legal spokesman.

The Hon. K.T. GRIFFIN: Maybe he ought to be their shadow Attorney-General.

Honourable members: Hear, hear!

An honourable member: He'd have to cross the floor if he—

The Hon. K.T. GRIFFIN: I draw the line at welcoming the honourable member on this side of the Chamber. I welcome the honourable member's question, even though, to a very large extent, it is hypothetical and requires an answer which involves giving legal advice, which I am not normally permitted to do in this Council—either to give legal advice or to give advice on hypothetical cases.

In terms of the United States experience, their constitutional provisions about freedom of interstate trade and commerce are different from ours. There is no doubt that the High Court does have some regard to the decisions of the United States Supreme Court, but probably less so now than it used to about 15, 20 or 25 years ago, when the United States Supreme Court seemed to be held in some awe in this country.

I think our own judges, since the abolition of appeals to the Privy Council, have tended to look more widely. They certainly have regard, as I say, to the United States Supreme Court cases. They also have regard to the Canadian Supreme Court cases, although there, of course, the Canadian Constitution contains a Bill of Rights, which has resulted in all sorts of strange rulings about normal everyday behaviour.

The High Court of Australia has tended to look with some favour upon the decisions of the Canadian Supreme Court in relation to native title matters. Some of the influence in native title comes from that jurisdiction, although the circumstances of the North American Indians, in terms of their relationship to the non-Indian population, are somewhat different from the relationship between indigenous Australians and other Australians in this country.

In terms of the State subsidies and the American Federal law suit to which the honourable member referred, inducements are offered to companies to set up in particular jurisdictions. There is competition between the States in particular to attract business. We do it ourselves, our predecessor Government in this State did it and, as a result of being able to offer incentives, we have very significant back office operations.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: That's what I said.

The Hon. T. Crothers: But two wrongs never make a right.

The Hon. K.T. GRIFFIN: I don't say that it's a bad thing. I think it is necessary, particularly in a State such as South Australia, if we are to get the business activity going that will provide employment, to provide incentives to get business to come to South Australia. It is a good environment to come to, anyway. Regrettably, there are some who come from overseas who do not see those benefits immediately, but once they have been carrying on business here they do. Those who provide back office facilities in this State say that South Australia is a top place for carrying on that sort of business activity.

As to whether or not it is constitutionally invalid, I would be surprised if it is. I do not think it is a restraint on trade and commerce under section 92 of the Federal Constitution, but undoubtedly some innovative and entrepreneurial advisers will perhaps convince a company that it ought to take that issue to the High Court, with perhaps the costs all fully tax deductible, with benefit likely to come only if they were to succeed. If that were to occur, I think every jurisdiction would seek to intervene in order to argue that they are not in breach of section 92. I cannot add anything to what I have said about the issues. To a very large extent they are hypothetical. I note the points that the honourable member made. I do not think it is a problem in Australia under the Australian Constitution, but I guess time will tell.

The Hon. T. CROTHERS: As a supplementary question, does the Attorney-General agree that, as things stand at present, there is the potential for a challenger to mount a challenge to the subject matter under section 92?

The Hon. K.T. GRIFFIN: There are always prospects for challenges to just about anything. I cannot speculate as to whether or not there will be a challenge in respect of this area to which the honourable member has referred. As I have said, I do not believe that, if any such challenge occurred, it would succeed. However, ultimately that is a decision not for me but for the courts.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: There are a lot of cases. Alan Bond was taking action—

Members interjecting:

The PRESIDENT: Order! The honourable member has asked his question and a supplementary.

The Hon. K.T. GRIFFIN: —when we came to government in 1979. He was taking action in the High Court using section 92 to challenge the Santos shareholding legislation that was enacted in this State. They are all innovative and entrepreneurial issues that some people will want to raise. If they have the money to raise it, they will raise it. Certainly, we cannot stop it. We would not want to stop them doing it. However, I cannot make any prediction. I do not have a crystal ball that will enable me to make the sort of prediction about what may or may not occur in this area. Sometimes the sorts of cases that are taken to the High Court surprise me, but that is life.

NATIONAL HIGHWAY ONE

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the major road junction on National Highway 1 just north of Port Wakefield.

Leave granted.

The Hon. J.S.L. DAWKINS: Members may be aware that the Y-shaped junction of National Highway 1 and the major road leading to Yorke Peninsula underwent a significant realignment a little over 12 months ago. Since that work was completed, there has been some community concern about the manner in which the junction operates. However, after some previous events of road trauma, this concern was exacerbated by the unfortunate recent death of a young woman at this junction.

As a result, I am informed that Transport SA engaged a road accident research team to investigate why crashes have occurred at this intersection. I understand that portable flashing warning lights were installed at this junction during the most recent holiday period, and this action was well received by the local community. I also understand that Transport SA intends to repeat this temporary installation during the forthcoming series of holiday weekends. Can the Minister indicate whether Transport SA will consider the permanent installation of flashing lights at this junction and whether any other action has been carried out on, or is planned for, this junction?

The Hon. DIANA LAIDLAW: Concern has been expressed on this matter publicly by the press and in this Council by the local member and the Hon. John Dawkins. In addition—

The Hon. Carmel Zollo interjecting:

The Hon. DIANA LAIDLAW: I have acknowledged that in this place in the past, and I have replied to the Hon. Carmel Zollo. In addition to the one death, I can advise that there have been 10 accidents at this site.

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: Since the reconfiguration of the intersection, Transport SA has reported 10 accidents and one death. All the accidents that have been reported have involved the southward movement of traffic as people come from the Kadina-West Yorke Peninsula area and merge with the northern traffic. After the recent death, Transport SA took immediate action by installing portable lights for peak periods, and it will certainly make them available for this coming Easter. I want to make a distinction between the flashing lights to which the honourable member referred and the portable traffic lights.

Transport SA has also cleared some more vegetation and put up a further hazard board. It has also ordered a reflective backing for all the traffic signs in the area, and they will be installed on 12 March—in three days. This is not standard stock within Transport SA, so they have had to be made especially.

The honourable member is correct: in addition to those immediate measures and after consultation with South Australia Police, Transport SA has commissioned the Road Accident Research Unit, headed by Dr Jack McLean, to look at the accident record and configuration of this intersection. I understand that Dr McLean will report by the end of this month. Upon receiving this report, I am keen to assess whether we should be installing flashing lights on either a 24 hour, seven days a week basis or at other special times such as weekends, and so on.

The honourable member would be aware that we have these flashing lights with 'Prepare to stop' signs coming up to traffic lights at Smithfield on the Main North Road, and on Port Wakefield Road coming into the city. There may be some merit in installing that sort of flashing light system. However, we will not be exploring that further until we receive Dr McLean's report. I thank the honourable member for his assistance in providing me with further feedback about this intersection and with advice about road safety measures generally.

The Hon. SANDRA KANCK: As a supplementary question, will the Minister advise the Council what was the cost of reconstructing that intersection; was any consideration given, for instance, to the construction of an overpass; and what were the rates of death and injury at that intersection on an annual basis prior to reconstruction and post reconstruction?

The Hon. DIANA LAIDLAW: As the honourable member would appreciate, this is part of the national road system, so the cost for the reconfiguration was met from the national highways budget; but I will obtain that information. I do not believe that an overpass has ever been mooted for that junction, but as part of the national highways upgrade three options were commissioned by the Federal Government about 2½ years ago to bypass Port Wakefield. The honourable member may recall that there was local opposition to bypassing the township, from the council, from farmers and from almost everyone. It was almost universal that those options not proceed. Therefore, the Federal Government has spent a considerable amount of money providing medians, service roads and much clearer delineation for trucks, cars and pedestrian travel through the Port Wakefield area.

One of the options for the bypassing of Port Wakefield, which included an overpass, was at a cost of $17 million, and I saw no point in advancing something at $17 million when there seemed no real joy in the local area for that expenditure. So, a much lower sum has been spent, after consultation and agreement with local people. I will obtain the costs and the death and injury figures for the honourable member.

GOVERNMENT ENERGY CONSUMPTION

In reply to **Hon. J.F. STEFANI** (9 February).

The Hon. K.T. GRIFFIN: The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information:

1. In 1997-98, South Australian Government departments and agencies were directly billed $63.5 million for electricity, and $7.1 million for natural gas.

2. As part of the continuing effort to reduce energy use, greenhouse gas reduction targets for all South Australian Government agencies were launched by the honourable Dorothy Kotz, Minister for Environment and Heritage, and the honourable Rob Kerin, Minister for Primary Industries, Natural Resources and Regional Development on 28 April 1998.

It is anticipated that this program will produce annual cost savings in the order of two to three million dollars, or around ten percent of building energy use. This should translate to a reduction in carbon dioxide emissions of 15 to 20 thousand tonnes per annum.

3. To date, the agency targets program has focussed on awareness programs that promote 'good housekeeping' within agencies. The government is continuing to explore ways to build upon the success of this program.

SERVICE STATIONS, WORKER SAFETY

In reply to **Hon R.R. ROBERTS** (18 February).

The Hon. K.T. GRIFFIN: The latest published figures (for the 1997-98 financial year) show that there were a total of 71 robberies at service stations, comprising 17 robberies with a firearm, 39 with a weapon other than a firearm and 15 unarmed robberies.

No statistics are collected relating to questions 2, 3 and 4. Anecdotal evidence from the police is that the usual level of staffing of the places where robberies have occurred is one person only and that where surveillance equipment is in place it is frequently subject to one or more defects of maintenance, type of equipment chosen or placement. As a result the video record is often of no assistance to investigators.

The honourable member may be able to obtain the information he seeks from the Motor Trades Association or the Petroleum Industry Association, but inquiries suggest that any information they may have is incomplete, as it is based on the voluntary contribution of reports of such incidents, and this is not universally done.

COOBOWIE BAY

In reply to **Hon. CARMEL ZOLLO** (16 February).

The Hon. DIANA LAIDLAW: The Minister for Environment and Heritage has provided the following information:

Aquaculture of molluscs in marine waters does not require a licence under the Environment Protection Act 1993. Accordingly, the Environment Protection Agency (EPA) cannot require monitoring as a licence condition.

The EPA does not carry out independent monitoring of aquaculture leases. Monitoring is carried out by SARDI and is funded by a levy on oyster growers.

There is no evidence that the changes to the beaches or amounts of seaweed on the beaches are other than natural cycles in the environment. Similarly, monitoring carried out by SARDI shows that oxygen levels in the water are normal and above that found in areas where algal growth is excessive. Excessive growth of algae depletes oxygen levels in the water.

Some feral oysters have been found in small numbers in other parts of the State but not at Coobowie Bay.

DRUGS

In reply to **Hon. T.G. ROBERTS** (16 February).

The Hon. DIANA LAIDLAW: The Minister for Aboriginal Affairs has provided the following information.

1.

- Aboriginal communities have been battling the effects of substance abuse, initially alcohol-related and later other drugs such as petrol, marijuana and heroin for a significant number of years.
- South Australian Aboriginal people (aged 13 years and over) see their major problems (in order of concern) as alcohol, marijuana, other drugs, petrol, other dangerous substances and glue. (1994 NATSIS Survey).
- Rigorous empirical evidence is difficult to obtain because of the very nature of the activity, being covert and illegal and therefore not readily quantifiable. However, the pattern of usage gleaned from data reported by health practitioners, morbidity and mortality collection systems and law enforcement authorities indicates a significant problem.
- An increase in potency levels resulting from a combination of alcohol and other drugs (possibly heroin) was a direct cause of a number of early deaths which were the subject of public meetings in Adelaide and country areas in 1997, supported by the Division of State Aboriginal Affairs and the Aboriginal community.
- The police Operation Counteract in early 1998 found 6 per cent of offences involved Aboriginal offenders, and 23 per cent of offences related to drug use. Suggested contributory factors include increased entry of drugs into Australia, a reduction in costs to affordable levels ($5 for heroin) and targeting by dealers.
- Another form of drug use, which can start at very early ages, and continue well into adult life, is petrol sniffing. This is of particular concern on the Anangu Pitjantjatjara Lands.
- The Justice Executive Forum comprising Chief Executives of Criminal Justice system agencies, commissioned a Working Group in December 1998 to investigate issues around the increasing use of heroin by young Aboriginal people, as it is thought this was the cause of a number of drug overdoses and involvement in serious crime in recent months.
- The Working Group is working toward understanding the dynamics of the problem, its causes, how it can successfully be addressed and current strategic gaps. The South Australian Police Department is also collecting statistics on nature and incidence of serious offences involving Aboriginal/non-Aboriginal people, drugs frequently being a contributory factor.
- An Integrated Responses Indigenous Drug Issues Symposium was held in November 1998 jointly by the National Centre for Education and Training on Addiction and the Aboriginal Drug and Alcohol Council. State and community agencies participated in describing their concerns and the need to focus on rebuilding the community, traumatised by grief and loss. The health and psychological effects of injecting drug use was reported through a survey of 100 Aboriginal people in the lower Murray region to investigate self harm and risk taking behaviours.

2. Partnership Action

- The South Australian Police Department has recently conducted a clean up operation at Arndale. This relied largely on the Zero Tolerance model and separate community consultations and awareness sessions in the Western metropolitan area. This approach has been useful, and has contributed to the development of coordinated action by the community and human services agencies.
- The Aboriginal Drug and Alcohol Council (ADAC) is currently providing an outreach service to ex-prisoners which focuses on educating people to live without drugs. ADAC has conducted a similar program in prisons for some time, with State funding.
- Drug and Alcohol Services Council (DASC) has been working with ADAC to address particular problems existing in the Western metropolitan area.
- The Aboriginal Justice Inter-Departmental Committee, convened by the Division of State Aboriginal Affairs has established an Alcohol and Drugs Working Group to address drug related issues.
- Representatives of the judiciary have recently visited the Anangu Pitjantjatjara Lands and are developing strategies to address issues related to substance misuse.
- The Department of Justice convenes an Alcohol, Drugs and Crime Committee Chaired by the Drug & Alcohol Council, which DOSAA is a member of.

Treatments

- The South Australian Illicit Drugs Strategy document, *Time to Act*, states that 'South Australia operates one of the most innovative methadone treatment programs in the world' and makes a commitment to alternative treatments.
- In respect to heroin use, a combination of misinformation and geographic mobility presents a barrier to some Aboriginal people accessing the program and this is being addressed. Federal government funding has recently been provided to Nunkuwarrin Yunti Community Centre to link Aboriginal people to such treatment programs.
- In addition, Doctors at the Parks Community Centre will undergo a methadone prescriber's course at DASC.
- The Parks Community Centre, Adelaide Community Health Centre, DASC, and Aboriginal Prisoners and Offenders Support Services are developing a home detoxification kit to assist with such treatment.
- State Government continues to support programs to address underlying issues that precipitate drug use in the Aboriginal

community, including the Wardang Island Restorative Program and Frahn's Farm for juveniles, and current developmental work on the proposed Community Healing Centre.

- The Department of Human Services is currently implementing the SA Aboriginal Health Regional Plans which focus on addressing substance abuse issues.
- The Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council has recently received Federal funding to address petrol-sniffing issues on the AP Lands.
- The Division of State Aboriginal Affairs continues to work with the Department of Human Services, Aboriginal communities and key stakeholders on issues related to alcohol abuse and dry area provisions in places such as Coober Pedy, Ceduna, metropolitan Adelaide, Pt Augusta and Yalata, to ensure strategic approaches are coordinated by community and human service agencies.

GOVERNMENT NURSERIES

In reply to **Hon. M.J. ELLIOTT** (16 February).

The Hon. DIANA LAIDLAW: The Minister for Environment and Heritage has provided the following information:

1. The honourable Rob Kerin MP, has previously stated in a media release of 29 January 1999 that an extensive private sector market has evolved over recent years and it is considered timely for the Government to withdraw from producing and selling native plants.

Whilst State Flora is acknowledged as having attained high standards of integrity and quality in the source of its native plants, it should also be recognised that the private sector nurseries, together with organisations such as Greening Australia and Trees for Life, have also sought and attained very high standards in the quality of plants they provide.

It will be in the commercial interests of a future operator to maintain the current wide diversity of species now available through State Flora Nurseries.

2. The new owners will be encouraged to maintain the diversity of species currently available, however the conditions and nature of the sale contract have not yet been determined.

3. The Government recognises the historic nexus between Belair National Park and the Government native plant nursery, and believes that where a new owner is able to maintain the current standards and level of community service without adversely impacting on the integrity of Belair National Park, there should be no barriers to a private operation being based within the park.

The National Parks and Wildlife Act 1972 indeed makes provisions for allowing commercial operations within reserves, where such activities are not at variance with the management plan of the reserve.

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Transport a question about speed camera fines and demerit points.

Leave granted.

The Hon. T.G. CAMERON: Under legislation to be introduced by the Government in May, motorists caught by speed cameras will incur demerit point penalties. When we consider that 450 000 people were caught by speed cameras in 1998 and that that will increase by more than 100 000 this year when the new high-tech cameras are introduced, potentially thousands of people will be attracting additional demerit points. On 1 June last year I wrote to the Minister for Transport asking whether the Government had undertaken any studies on the social impact and cost resulting from the proposed changes to the law. The Minister in her response stated:

> No estimates have been made of the potential number of drivers that may offend and may be caught and the points they may lose if and when the points demerit system was extended in South Australia to include offences detected by radar operated cameras.

It is all very well to have a national standard: most people can understand that concept. However, considering the potential impact of such a move, the Government should be in a position to let the public know just how many people could potentially lose their licence when the new scheme comes into effect. I am very concerned that families may be forced to break the law and will turn to pooling their demerit points in order to keep mum or dad at work. My question to the Minister is: considering that thousands of people could lose their licence and possibly their livelihood due to the proposed measures, before she introduces her Bill will she undertake to investigate what social and economic impact such legislation will have on South Australians?

The Hon. DIANA LAIDLAW: There is a lot of assumption in the honourable member's question. I have indicated that the Government has a responsibility—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: No, that is unfair and not accurate.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Just listen. You have made some very bold statements; most of them are inaccurate. Let us just go through this. The Government is obliged to introduce national driver licensing legislation, and I expect that most members of Parliament would support the effort made across Australia to introduce national consistency. Any driver, whether moving from interstate to this State, or to New South Wales, or coming in as a visitor, should expect to have (as they have in other nations, even of bigger size than Australia) a driving licence law that applies across that country. One matter in terms of national driver licensing laws, which I have already acknowledged and which has been run with headlines through the *Advertiser*, is the proposal for the national demerit system, which proposal has been around since 1992.

The proposal specifically is that for a speeding offence, however it is detected—whether by laser, radar or camera—we should have the same penalty system. We should not have, as we have in South Australia, two different penalty systems for the same offence. Nowhere else in Australia, other than in the Northern Territory, do they tolerate—

The Hon. T.G. Cameron: Western Australia?

The Hon. DIANA LAIDLAW: No, nowhere else in Australia. This is the advice I have from the National Road Transport Commission.

The Hon. T.G. Cameron: It is different from the advice you gave in your letter.

The Hon. DIANA LAIDLAW: But that letter was last year, was it not?

The Hon. T.G. Cameron: It is five months old.

The Hon. DIANA LAIDLAW: That is as I understand the advice through the National Road Transport Commission and Transport SA: that South Australia is the only State, together with the Northern Territory, that has two different penalty systems for the same offence of speeding. I have indicated publicly that I have yet to take this matter to Cabinet, to the Party room and to the Parliament for consideration as part of national driver licensing laws, which is why I have indicated to the honourable member that much of what he has stated—

The Hon. T.G. Cameron: I haven't stated anything.

The Hon. DIANA LAIDLAW: You made a long statement before you asked the question. A lot that the honourable member has stated may well be presumption.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I always listen to you.

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: The assumption that we are introducing legislation with this proposition, because as I said I have not taken the Bill to Cabinet or further into the Party in terms of national driver licensing legislation. I can highlight to the honourable member—and I will do the research for him if he so wishes—the potential impact of such a measure, because in every other State plus the ACT this measure has been in place for quite some years. As soon as they introduced camera technology in those States they also applied demerit points as well as expiation fees. So, on the basis of experience—

The Hon. J.F. Stefani interjecting:

The Hon. DIANA LAIDLAW: Who's answering the question?

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: On the basis of interstate experience I can provide a profile for the honourable member of what the potential impact in South Australia would be if we proceeded in this way. I should also highlight that, in respect of the demerit points system, the experience in South Australia is that the first offence which incurs a demerit point is generally the only offence that a person commits. Most people do not keep on incurring demerit points because they learn from that experience. That is the great importance—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: Yes. They may be caught once, but most people—unless they are your friends—do not go on to accumulate a number of points and lose their licence. I can provide the facts for the honourable member, not the exaggerated position that he wants to present to the Council. As part of the national driver licensing law, there is also a good behaviour system which can enable a person to reduce their demerit points, but they go onto a conditional licence. That might help the honourable member to overcome some of the difficulties that he seems to have with this proposal.

BELAIR NATIONAL PARK

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about Belair National Park.

Leave granted.

The Hon. M.J. ELLIOTT: The Government has announced the development of 100 cabins, tripling the size of the camping area, and a 300 seat convention centre for Belair National Park. A recent assessment of the park, which was conducted in 1997, revealed that the caravan park precinct consists of temperate grassy woodlands (Eucalyptus leucoxylon, as I understand) which includes areas of high conservation value based on the integrity of the vegetation association and the high number of species with a conservation rating.

The report states that the conservation value of the area is higher than most members of the general public would appreciate in the first instance. It states that temperate native grassy woodlands have been largely neglected and misunderstood in South Australia as a vegetation type. My questions are:

1. Will the Minister advise the Council what area of grassy woodlands (in particular, Eucalyptus leucoxylon) in the Adelaide Plains and Mount Lofty Ranges still exists? I understand that on the plains there is none.

2. What area of these woodlands is currently situated within the park? I note that those parts of the park which have been developed and degraded are mostly remnant blue gum woodlands.

3. Why is the Minister prepared to put at risk such an under-represented vegetation type within the State and our national parks?

The Hon. DIANA LAIDLAW: That question was directed to me, but I understand that it is meant for the Minister for Environment and Heritage. I will refer the question to the Minister and bring back a reply.

EVIDENCE (MISCELLANEOUS) AMENDMENT BILL

In Committee.

(Continued from 18 February. Page 736.)

Clause 8.

The Hon. CAROLYN PICKLES: When we last considered this Bill, I was not in a position to deliberate on the way in which the Opposition would vote on these amendments. The Opposition has carefully considered the amendments moved by the Hon. Mr Gilfillan and the response by the Attorney-General. The Opposition will not support the amendments.

The Hon. K.T. GRIFFIN: I have already made some comments in my second reading reply and subsequently, but I want to reinforce the view of the Government that these amendments are unacceptable. They are overly inclusive, they apply to every situation in which a child may be called as a witness, but not every situation calls for special measures. For example, a child who is a witness to a schoolyard mishap or a plaintiff in an injury claim may not require the use of special measures.

The honourable member referred to the Australian Law Reform Commission report No. 84, which recommends a presumption of the use of closed circuit television in all matters involving child witnesses. However, from the tenor of the discussion that surrounds that recommendation, I suggest that it is clear that the commission had in mind a situation where a child may be intimidated by having to face a party, especially an adult, of whom that child may be in fear. It is in those circumstances that closed circuit television would be used. It is important that it should not be assumed that all children are always in fear or at a disadvantage in giving evidence, because to presume that restores an age-based test. Rather the wishes and needs of the particular child in the particular case should be taken into consideration.

The amendments go beyond creating a presumption and create a compulsion and effectively rule out any use of judicial discretion. The amendments are unnecessary because they assume that all children require protection from appearance in court and that the courts are not presently providing that protection. My very strong view is that the premise is not correct.

In many cases in-person evidence by the child is the best approach and will not present a difficulty for the child. In those cases where the child fears giving evidence in person, for example, where the child gives evidence in criminal proceedings against his or her alleged abuser, an application should be made and will be considered by the court in accordance with the principles laid down in Question of Law Reserved No.2 of 1997. Those principles are to the effect that a plausible request for the use of special measures will

ordinarily be granted. It is important to note that this decision was handed down some months after the Australian Law Reform Commission Report and has achieved for South Australia very much the result the Australian Law Reform Commission may have had in mind in recommending a presumption.

The Government's advice from the DPP is to the effect that applications for the use of special measures in criminal prosecutions are commonly successful, although in many cases screens are used, that is, one-way screens to screen the child witness from the accused. They are used rather than closed circuit television. The DPP has provided a comment along the lines that the DPP can appreciate the intention of the honourable member in relation to the amendments, but adds:

> It is our submission that many of the sections misconceive and misconstrue the proceedings that occur in the courts when children are called upon to give evidence. There is no doubt that it is necessary to protect children from trauma, that is, in addition to the criminal offences that have been perpetrated upon them. However, consideration must also be given to the most appropriate way in which this can be achieved.

He later states:

> A mandatory order by the court to restrict contact, including visual contact between any other person or persons, is an impractical solution and infers that the child must not have visual contact with any other person in the court. Presumably it is referring to the defendant, but it is certainly unclear in relation to this and a literal meaning of it would have the child isolated from any other person in the court. This legislation applies to children giving evidence in any proceeding in any court at any time. It is impractical and also unnecessary. There are many occasions when a child can be called upon to give evidence of something that could not be said to be personally traumatic to that child. This legislation does not restrict the order to use closed circuit television to occasions when a child is a victim or a potential victim of any criminal offending.

There are a number of other observations I could make about the legislation. However, we can deal with it clause by clause if the honourable member's first amendment is successful, which I doubt that it will be now that the Opposition has intimated that it will not support the amendments.

I will deal with one other issue, namely, the position in other jurisdictions. It is not to correct to suggest, as did the Hon. Mr Gilfillan, that these amendments are comparable to measures already legislated and working in other States. It is true that the wording of the amendments has much in common with the wording of the New South Wales Evidence (Children) Act 1997, Part 4. However, those provisions are limited to proceedings for assaults, apprehended violence orders and victims' compensation claims in section 17. They do not—and I emphasis do not—mandate the use of closed circuit television in every case in which a child is called as a witness. Moreover they give a child a free choice not to use closed circuit television and also give the court a discretion to disallow closed circuit television in the interests of justice or in cases of urgency.

Likewise in the Western Australian Acts Amendment (Evidence of Children and Others) Act 1992, there is provision for the mandatory use of closed circuit television, but only in cases of violence or sexual offences and not in every situation. Where closed circuit television is not available, it is not mandatory and screens may be used. In the ACT the Evidence (Closed-Circuit Television) Act 1991 makes similar provisions but again limits these generally speaking to criminal matters and those involving violence. Again, closed circuit television is mandatory only where facilities exist.

It needs to be recognised that there is a variation in each jurisdiction. In South Australia we already have legislation in place that provides flexibility, and so far as the Director of Public Prosecutions is concerned—and others with whom we have consulted—there is no concern about the current state of the law in South Australia; and it is for that reason, and the fact that the amendments proposed by the Hon. Mr Gilfillan are so inflexible and not in the interests of children as witnesses, that we oppose the amendments.

The Hon. IAN GILFILLAN: With due respect it is unfortunate that the Attorney has not properly analysed the amendment. He indicates inflexibility, but if one looks at the text of my amendment relating to the protection of children giving evidence in proposed new section 13A(1) the presumption is that the child will have the availability of closed circuit television. However, proposed new subsection (2) provides:

> (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—

and this is very significant because the judge has total discretion—

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

and this is in contrast to the Attorney-General saying that this would apply to all courts, as it says quite specifically—

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

In that case it does not apply. Further, the amendment in proposed new subsection (5) provides:

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

If the court does not grant automatically closed circuit television coverage, my amendment envisages the possibility of other measures similar to the ones the Attorney outlined to show sensitivity to the child's situation in using screens or planned seating arrangements. It is a very sympathetic amendment and a very real interpretation of what happens in a court. It is not an arbitrary determination bringing down a fiat to say that under all circumstances a child giving evidence will be required to do so using closed circuit television.

I can understand that there may be a viewpoint that says that under the circumstances it may be better if it is applied only on application of the court, and I would have more sympathy with that situation if I had any evidence at all that it is being used. I do have evidence, however, that lawyers working in the court situation are motivated to avoid it for arguments that I outlined in my second reading speech. They want to manipulate the child witness in many cases because it will produce what they regard as a positive result for their client.

I have heard that from eminent legal people currently working in the courts. Therefore, I can have no confidence that the current law is making closed circuit television available to a lot of the young people who, if they had their choice, would prefer to give evidence in that way. The amendment puts the balance on the other end of the scale so that there is a better expectation that a young witness will have use of closed circuit television.

It is quite inaccurate to interpret this amendment as being mandatory on the courts to provide it. I have tried to outline in my few remarks that the amendment is drafted to be quite

flexible, but the presumption is that the child will have the opportunity to use closed circuit television unless the decision is made contrary to that reversing the implication of the current law which provides that a child will not have access to closed circuit television unless it is argued on that child's behalf that it be made available.

The Hon. NICK XENOPHON: I indicate my support for the Hon. Ian Gilfillan's amendment. I do so with some reservation but, on balance, I believe that the amendment proposed by the Hon. Ian Gilfillan is meritorious and that it seeks to protect the interests of the child in these situations. I have heard what the Attorney has said and read the Government's position and its concerns about the amendment but, on balance, I believe that this is a worthwhile amendment that ought to be supported. I can see that it does have some difficulties but my preferred course is to support the Hon. Mr Gilfillan's amendment rather than the Government's position.

The Hon. K.T. GRIFFIN: It is interesting that this Bill started off by removing discrimination on the basis of age in relation to whether evidence is sworn or unsworn and we are now into a whole range of amendments that deal with processes in the courtroom. Members have every opportunity and every right to move those amendments, but it is a different area from that which the Bill was originally intended to address.

I come back to the point I made earlier and that is that, on the basis of the Court of Criminal Appeal's decision about the way in which the present law should operate, if a request is made for the use of a screen or closed circuit television ordinarily that would be granted, but there is still a discretion. I do not have the same feedback that the Hon. Mr Gilfillan seems to have, that the court is not granting these applications. In fact, the DPP is satisfied and, after all, it is the DPP that is prosecuting cases involving children as witnesses and victims.

A whole range of things happen with the DPP, things which I am sure the Hon. Mr Gilfillan does not know happen—witness assistance officers provide support to the child, there is a publication to assist young people to deal with the courtroom situation, and a run-through of the court processes is provided along with a visit to the court. In all those circumstances the Government believes very strongly that the present situation properly serves the interests of justice and particularly the interests of justice in so far as it affects a child who will be a witness in the criminal justice system.

The amendments are very broad: they do not just cover certain types of criminal behaviour that is being prosecuted but extend right across the board. It is fair to say in relation to the Youth Court that proposed new section 13A (3) leaves the whole issue fairly much up in the air. However, putting that to one side, we are focusing upon the interests of children, and the Government's very strong view is that the law as it is, the practice as it occurs, properly serves the interests of children in the criminal justice system.

The Committee divided on the amendment:

AYES (5)

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

NOES (15)

Crothers, T.	Davis, L. H.
Dawkins, J. S. L.	Griffin, K. T. (teller)
Holloway, P.	Laidlaw, D. V.

NOES (cont.)

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 10 for the Noes.

Amendment thus negatived; clause passed.

Clauses 9 to 12 passed.

Clause 13.

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

Page 4, line 6—Leave out 'when' and insert: 'entailed in'.

I have already explained this amendment in relation to amendments to clause 5. It is also of a technical drafting nature.

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

Amendment carried; clause as amended passed.

Remaining clauses (14 to 21) and title passed.

Bill read a third time and passed.

RACING (DEDUCTION FROM TOTALIZATOR BETS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 820.)

The Hon. CAROLINE SCHAEFER: I rise to support this Bill, which is aimed at increasing the competitiveness of racing within South Australia by varying the amount of commissions that can be taken from various bets either by the TAB or the South Australian Racing Club. As many members know, I have a long association with country racing in particular; in fact, I attended the Clare Cup on Sunday with members of my family. My mother and father travelled from Kimba, and several others of my family were also there.

I am pleased to note, at least anecdotally and by observation, that in the past couple of years there has been something of a resurgence in country racing, particularly in regional places such as Port Lincoln, Naracoorte, Mount Gambier, Clare and Balaklava. I do not quite know why this resurgence has occurred, but I do like to think that it may be because the South Australian Government, together with the various racing codes, has taken some steps to treat racing perhaps a little more as a business and to promote the racing codes on television and generally throughout the State. Racing does employ a lot of people in this State, and a day at the races can be a very pleasant family outing.

Perhaps South Australians have moved on from what might have been part of their early heritage, that is, some considerable wowserism, if you like, to a stage now where they know that they can enjoy a day at the races without the fear of falling into the grips of compulsive gambling or anything like that. This is merely a Bill—

The Hon. T.G. Roberts interjecting:

The Hon. CAROLINE SCHAEFER: True, the Irish Catholics never had much problem with this. This is merely a Bill which seeks to improve our competitiveness in South Australia with that of other States. There has been some threat, as I am sure the Hon. Angus Redford will mention, to racing in border districts close to Victoria in particular where they have a far greater population and racing pool to draw from. It has been very difficult to compete with them in a

number of areas, particularly in terms of commissions paid. This Bill seeks to rectify that anomaly. I support the Bill.

The Hon. A.J. REDFORD: I, too, support the Bill. This change has been caused by the differences in commission rates between States and enables the TAB and other betting providers to change commission rates quickly and react quickly to the marketplace. It does that by establishing a committee to set commission rates and, if the object of the legislation is to be carried out, the committee should meet fairly regularly and be able to make fairly quick decisions in response to the marketplace. Indeed, it is pleasing to see that a public sector agency is given the ability to do that. Changes such as this are inevitable.

A public sector agency such as the TAB, which has provision for gambling, has to compete in a national marketplace. I know the TAB currently competes not in a national marketplace but only in South Australia. However, given the availability of technology and telephone betting, there is, to some extent, some competition between the State owned South Australian TAB and the privately owned New South Wales and Victorian TABs. I know that the privately owned New South Wales and Victorian TABs, in competition with the State owned South Australian TAB, have made inroads into some of the larger gambling markets, that is, the larger gamblers who gamble to the extent that a small difference in commission rates payable is significant enough for them to take the trouble to use modern technology to place their gambling bets in another State. I acknowledge that the Hon. Terry Roberts is agreeing with what I have just said.

That is exactly what the Government is on about in relation to the privatisation or the sale of ETSA assets: that the privately owned SEC in Victoria will be able to react quickly to market changes, whereas the publicly owned ETSA Corporation will not be able to react quite as quickly to the market. Indeed, this is an example of why the Government is on the right track with its policy in relation to the sale of ETSA.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Roberts is obviously excited, because he is now starting to interject. In his contribution, the honourable member said that the TAB led the way in technology in Australia in recent times and that that is no longer the case. I happen to agree with that. Then he went on, in a cry from the Left—and it is a cry that could come only from the Left—and said that he believes some central authority ought to be set up. I know that over the past 100 years the Left has flirted in all jurisdictions and in all fields of endeavour with central authorities, and it is pleasing to see that it has not resiled from that. It is pleasing to see that the Left, unlike some elements within the Australian Labor Party, has adopted at least a consistent line now that it does hold the numbers in the caucus in the ALP convention; and we are starting to see the thread of Left ideas re-emerging from the murky 1980s.

The Hon. T.G. Roberts: Where from?

The Hon. A.J. REDFORD: From the honourable member himself, in his clear embrace of a central authority in relation to the setting of commissions and things of that nature. If that is what the honourable member meant, I do not agree with that, because at the end of the day competition will prevail. It is inevitable that at some stage in the future betting products will be available across the nation and will be offered by different agencies. Inevitably, that will lead to a Government making a decision that the management at least, and inevitably the ownership of the TAB, will be in private hands.

Exactly what form that will take remains to be seen. Whether the Government ought to take a tax at a very low rate and maximise the capital payment in the event of a sale of the TAB or alternatively seek to maintain a high taxing regime, thereby diminishing the sale price of the TAB, is a matter for the Government's judgment, and I know that the Government is currently undertaking a sale process.

I will provide one example of the effect that competition is currently having, even at that higher level. I have had some discussions with Mr Pitt who, given the constraints of running a Government agency—that is, the TAB—is doing an excellent job, and I have raised with him the issue of whether or not TAB facilities should be incorporated in the South Gambier Football Club. I know that the Hon. Terry Roberts was approached to see whether he could achieve something. The current member for Gordon (the emphasis being on 'current'), Rory McEwen, was approached to see whether he could do something about it. The former member for Gordon, who retired at his own instance, was approached on the issue, and I must say that they were all unsuccessful in their endeavours. At the risk of being accused of blowing my own bags, it took a series of meetings involving myself and, much to the surprise of some of my political enemies, I was successful where others failed. The advent of competition from interstate had some part to play in that.

The Hon. G. Weatherill: Rory will find out about it.

The Hon. A.J. REDFORD: I would hope that the current member for Gordon is right up to speed with this and would know about it already. Indeed, I gleefully buy the *Border Watch* on a daily basis looking for his comments congratulating me on my input in managing to broker the arrangement so that the TAB facilities would be offered to the patrons of the South Gambier Football Club, one or two of whom vote for the ALP.

The Hon. T.G. Roberts: It is about five years from start to finish.

The Hon. A.J. REDFORD: What's this?

The Hon. T.G. Roberts: From the first application to receiving the licence.

The Hon. A.J. REDFORD: That might have been when you were involved. It took me only a matter of weeks to achieve what the honourable member, the current member for Gordon and the former member for Gordon failed to achieve. As I said, I do not wish to blow my own bags in relation to this success, but I am sure that those who follow me in this debate will acknowledge the important change in attitude from the TAB.

An honourable member interjecting:

The Hon. A.J. REDFORD: It is. I will not go on any further. In this small Bill, I have exhausted the possibilities. I look forward to the contribution of the Hon. Terry Cameron. I know that he and I have been invited to attend meetings together in relation to issues confronting the TAB. I have to say that we agree quite often on the topic. I well remember that the last time the Hon. Terry Cameron rose to his feet to talk about racing we were entertained for many hours. I commend the Bill.

The Hon. T.G. CAMERON: The Racing Act currently allows for the TAB in South Australian racing clubs to deduct commissions from bets at rates set out in the racing regulations. The commission rates for bets vary from State to State and between racing clubs. South Australian racing clubs are

finding the regulatory process of varying commission rates to be a restriction which hinders their ability to compete effectively and to maximise profits.

The South Australian TAB is concerned that, without this ability to vary commission rates, punters will vote with their feet and bet interstate. The proposal before the Council provides the TAB and the South Australian racing clubs with the flexibility to vary their commission rates subject to approval from persons or bodies appointed by regulation.

Clause 2 amends section 68 of the principal Act to allow the regulations to appoint the TAB and the racing clubs as persons to fix the amounts to be deducted from bets accepted by them. The current commission rates, which are set out in the regulations, are set between 14.25 and 20 per cent. This Bill will allow commission rates to be varied between 12 and 25 per cent, thereby increasing the flexibility of the South Australian TAB to vary its rates in order to meet competition. Currently, both TAB Limited in New South Wales and TABCORP in Victoria can set their own rates within set limits. The amendment will allow the TAB and South Australian racing clubs to react quickly and effectively to market forces and to maximise profit returns to South Australia.

As I see it, this move will improve the financial desirability of the TAB as an asset. I suspect that some people will interpret this as a move towards getting the TAB ready to be privatised. However, whilst that may be something that flows out of this Bill, quite clearly the intent of the Bill is to allow the South Australian TAB to compete by having a flexibility with commission rates in order that it can compete with the privatised TAB in New South Wales and TABCORP in Victoria, which has also been privatised.

I would ask: has the Minister consulted with the racing industry about these changes? Does the Government have any idea what quantum of money will be taken out of the system by an increase on the commission, and what effect will that have on the punter? And will the South Australian TAB be allowed to advertise to promote the new rates? I indicate my support for the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. One of the great joys of dealing with racing Bills is that mostly they are unopposed. Being of such knowledge about the racing industry, I appreciate that I do not have to bring my talents to bear in explaining all the intricacies of the system.

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

SECOND-HAND VEHICLE DEALERS (COMPENSATION FUND) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 2 March. Page 763.)

The Hon. T.G. CAMERON: The Second-hand Vehicles Compensation Fund was established under section 28 of the Second-hand Motor Vehicles Act 1983 and is administered by the Commissioner for Consumer Affairs. Currently, only licensed second-hand motor dealers have to pay into the fund. However, as the Kearns case proved, auction house customers were able to recover money from the fund even though auction houses did not pay into it. Quite clearly, this is an inequitable situation and one that was not anticipated, I suspect, by either the Government or the second-hand motor vehicle dealers when the fund was set up. As I understand it, the Kearns case just about cleaned out the fund, which of course meant that people who purchased vehicles from second-hand vehicle dealers may not have been able to access the fund on the basis that it had been cleaned out. As a result of the Kearns case, the Government undertook a review of the operations of the fund and held consultations with the industry, including the MTA, the RAA and vehicle dealers.

The fund ensures that persons who have suffered loss during a transaction with a second-hand vehicle dealer and who have no prospect of recovery of their money are able to be compensated. This Bill strikes out clause 2 of schedule 3 of the Act and substitutes a new clause 2. Under the new clause, claimants must satisfy a magistrate that they have a claim against a dealer in order to gain payment of compensation from the Second-hand Vehicles Compensation Fund. A claim is able to be successful even though the dealer is not licensed. Claims on the fund are limited to transactions with persons who are licensed dealers or whom the buyer reasonably believed to be a licensed dealer at the time of the sale. Where a person has bought a car from an unlicensed dealer, he or she will have to satisfy the court that they had reasonable grounds for believing that they were dealing with a licensed dealer.

I fully support the intent of the legislation. Rory McEwen, the member for Gordon, introduced a similar Bill in the other place, the principal purpose of which was to correct schedule 3 of the Act, which sets up a compensation fund under the Second-hand Vehicle Dealers (Compensation Fund) Act. Under that Bill, to gain compensation from the fund a person would have to establish an act of omission against someone who was a licensed vehicle dealer or whom he genuinely believed to be a licensed vehicle dealer. The Bill before the House corrects the previous situation where the fund was cleaned out by clients of an auction house, which had not even contributed to the fund. No wonder the second-hand motor vehicle dealers were cheesed off about the fact that money they had contributed to the fund was subsequently cleaned out of it. Our office has spoken to the MTA: it is comfortable with the proposed changes, and I indicate my support for the Bill.

The Hon. A.J. REDFORD secured the adjournment of the debate.

STATUTES AMENDMENT (LOCAL GOVERNMENT AND FIRE PREVENTION) BILL

Adjourned debate on second reading.
(Continued from 16 February. Page 681.)

The Hon. T.G. CAMERON: This Bill rationalises the provisions of the Local Government Act relating to fire protection by transferring necessary powers to Acts which cover those fields and replacing obsolete provisions. The Bill repeals the part of the Local Government Act containing fire prevention provisions which are either covered in the SA Metropolitan Fire Service Act 1936 or the Country Fires Act 1989 or are obsolete. It also repeals related powers to make by-laws under the Local Government Act and ensures that councils can make necessary orders relating to the presence of inflammable undergrowth and storage of inflammable materials under the relevant fire legislation.

The Bill also contains some minor amendments that cover the storage of inflammable materials and the steps to be taken

in the service of notices to owners where the notice has gone to an occupier of land. The Bill also provides for an appropriate order making power for councils to parallel that provided for in the Country Fires Act. Overall, the changes contained in this Bill make council powers more consistent and improve rights in relation to orders issued in metropolitan areas. I indicate my support for the Bill.

The Hon. T. CROTHERS: I rise to make a contribution to this Bill. On many occasions, I have been the victim of an incapacity to act in respect of inflammable material hanging over the back fence of several of our strata title units. I have approached the person in question on many occasions, even to the extent of my offering to pay for the removal of inflammable material. I have a report from the Chief Inspector of the Metropolitan Fire Brigade relating to fire protection and the manager of our strata titles units, Whittle's, has been given a copy of that report, which mysteriously went missing after I had raised the matter with our strata titles secretary as to what was happening. The Executive Officer of Whittle's, acting on behalf of the strata titles units, said that he had rung the council. This is a most serious matter regarding the report of the Chief Inspector of the Metropolitan Fire Brigade.

This is absurd. I find from speaking to other members of Parliament that there are hundreds if not thousands of people throughout the metropolitan area involved. The Hon. Dean Brown in another place has seen fit as the Minister responsible for the Housing Trust to ensure that trust tenants are well informed as to their rights in respect of the removal of inflammable, dangerous or life-threatening material that hangs over their fence.

This is an idea whose time has come. I do not know whether it is because they are petrified of the greenies that they refuse to act. I have certainly been pursuing the matter with my usual vigour. I have managed to unearth a copy of the inspector's letter regarding the safety or otherwise of our properties—and he found otherwise. As I have said, this is an idea whose time has come. Certainly, once it has been gazetted we will see just how well it fills the void in the current Act and enables councils to have loopholes through which to wriggle. I am all for environmentalism; I am not for 'environmental lunaticism', which, unfortunately, we have witnessed—

The Hon. T.G. Cameron interjecting:

The Hon. T. CROTHERS: I attack lunatics. That's why I always have a go at you.

The Hon. L.H. Davis: He called you a friend.

The Hon. T. CROTHERS: That's why I have the odd go at you too—you lunatic. So, there is much to be said in favour of this legislation. The Government is to be congratulated on the finetuning of this matter which will give councils more teeth than has hitherto been the case. Dare I suggest that it will save three or four lives a year in this State in respect of the matters with which this Bill deals. I commend the Bill to the Council.

The Hon. IAN GILFILLAN: On behalf of the Democrats I rise to support the Bill. We are fortunate in South Australia that we are not exposed to some of the unpleasant natural phenomena that beset other parts of the world: sizeable earthquakes are a very rare occurrence here, cyclones are unheard of, and snow is a very infrequent delight. However, as much as we love our natural environment and climate in South Australia, we do realise that, like every other place on earth, there are drawbacks to living here as well.

One of the few things that prevents our State from ever becoming a physical paradise is the perennial summer danger of bushfires. It is our curse and, as we know only too well from the experiences of the 1980s, we ignore it at our peril. Amending any legislation which deals with fire prevention, therefore, is of crucial importance to South Australians. Other Bills may affect livelihoods. A Bill which affects the Country Fires Act or the Metropolitan Fire Service Act may, in future, prove to be a matter of life and death.

Members may think I am exaggerating the position. After all, this Bill does not seek to make large changes to the law. When introducing the Bill in another place, the Minister for Local Government explained that, for purposes of clarity and coordination, this Bill transfers necessary powers from the Local Government Act to other Acts which cover those fields and repeals obsolete provisions. That certainly does not sound like matters of life and death. However, while we are engaged in the task of legislative tidying up, we must also turn our attention to the provisions which we are transferring.

This Bill amends three Acts: the Country Fires Act 1989; the Local Government Act 1934; and the SA Metropolitan Fire Service Act 1936. It removes from the Local Government Act councils' power to make by-laws for fire prevention, and it removes from the Local Government Act councils' power to take measures for prevention and suppression of fires. Instead, both councils and the State Government are to find their powers concerning fire prevention contained solely within the other two Acts: that is, sections 40 and 41 of the Country Fires Act and new section 60B of the South Australian Metropolitan Fire Service Act. These sections contain order-making not by-law making powers.

The Minister in his second reading explanation said that some councils prefer making orders to making by-laws. I approached the LGA to inquire whether, in fact, some other councils preferred to make by-laws. The LGA did not choose to make an issue of this. The LGA did raise another objection, though, and I will return to that in a moment. For owners of private land who fail to take steps to prevent or inhibit fire, this Bill increases maximum penalties. Fines in division 5 and division 6, $4 000 and $8 000 respectively, are to become $5 000 and $10 000 (a 25 per cent increase).

I note that, according to the Minister, one of the intentions of the Bill is to 'make councils' powers (in respect of fire prevention) more consistent over the whole State.' This is to be achieved by the insertion of new section 60B in the South Australian Metropolitan Fire Service Act. This section is to be very similar to section 40 of the Country Fires Act (as amended by this Bill). However, under this proposed regime, there will be a notable difference between country property owners and metropolitan property owners. Country property owners will be liable to a fine of up to $5 000 without warning, or up to $10 000 if they have failed to comply with a notice.

Metropolitan property owners are, for the first time, also to be at risk of a fine. However, for them there is to be only the latter type of fine as an option: that is, a metropolitan property owner must first be warned by being given a notice to clear up the fire hazard on the property, and only if the warning is ignored are they to then be liable for the larger fine of up to $10 000. However, a country property owner (unlike those in the city) will still be liable to a fine (albeit the smaller $5 000 fine) without any warning or notice. When I put this to the LGA and asked for its comment I received the following reply from Brian Clancey:

We do not have a position [on this] but I guess an argument can be made that the level of risk is generally much higher in the country.

That may be so. I merely make the point that I am surprised that there is this difference between city and country in so far as the same behaviour or lack of behaviour can lead to a fine without any prior warning notice in the country but not in the city. I accept that the risk of fire damage is greater in country regions, so the distinction may be justified. However, it was the Minister himself who said that one of the purposes of the Bill was to make councils' powers with respect to fire prevention more consistent over the whole State.

Before we deal with this Bill in Committee I would like some guidance from the Government as to the boundaries between city and country for the purpose of these fines. Where is the dividing line drawn? Persons on one side of the line are at risk of a $5 000 fine without notice and those on the other side of the line are not. The location of that line on the map presumably will be of great interest to those who live on either side. To return to the Local Government Association, I received correspondence on this Bill from the association on 12 February, the day after it had been dealt with in the other place. The correspondence states in part:

The LGA sought comments from its membership in relation to this Bill and some concerns were raised. [However] being mindful of the time frame for passage of this Bill, the LGA has chosen to pursue only one of the issues raised. Our concern is that provision should be made for an expiation fee to apply in relation to the owner failing to take reasonable action. We wrote to the Minister for Local Government advising him of this and the LGA has suggested an expiation fee of not less than $200 should apply. The ability of councils to expiate the offence would be in addition to recovering the costs incurred by council for undertaking the work on behalf of the owner/occupier. The Minister is not prepared to accept the LGA recommendation.

I ask the Government: why not? If councils can expiate this offence they are much more likely to take up the option of tackling the issue. Issuing $200 expiation notices will be much less onerous administratively than trying to pursue someone through the courts to get a fine of up to $5 000. If this is so, councils can be expected to take more seriously the task of fire prevention and pursuing property owners who have failed to do the right thing. This must be good for the community as a whole.

Those who go to the trouble of ensuring that their property is properly cleared of undergrowth and fire fuel will, I believe, wholeheartedly support any campaign to ensure that others do the same. Empowering councils to issue $200 on-the-spot fines will lead to much more activity by private property owners to make their land safe. It may even, in the end, save lives.

I have on file a simple amendment to give effect to what was the LGA's recommendation, and I urge the council to support it. Just prior to concluding my remarks I will dwell momentarily on the justification for the distinction between what may be metropolitan and rural in that it is incumbent on people who live in fire prone areas—and that would embrace most rural dwellings, except in the larger country towns—to be constantly alert to what are fire hazards on their properties. I do not have any qualms that those who do not do so, and are found by their councils to have been deficient in applying reasonable diligence in removing fire hazards from their properties, should face the risk of an immediate expiation fee of $200. However, to leave it so that those same people, if found to be in default of cleaning up their property, are suddenly hit with action which could fine them $5 000 is in my view an excessive up-front impact which is likely to be counterproductive because councils will be reluctant to follow it through.

In some ways it is reasonable that in the metropolitan area people with properties with fire hazardous material on them should also have the same obligation. It is an unreal provision to expect that there is a clear line that divides some of the hills suburbs and some of the areas where there are now houses from the rural areas of South Australia. To our cost the most tragic fires have occurred in the Adelaide Hills. I commend the emphasis being placed on landholders to be ever mindful to clear fire hazard material from their properties, but on reflection I believe that the Government may see the wisdom of introducing an expiation fee. In my opinion this is much more likely to be followed up quickly early in the season so that we minimise the amount of flammable material left unattended on fire prone properties. With that amendment in mind I indicate Democrat support for the second reading.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank honourable members for their contribution and support for this Bill. A number of issues were raised by the Hon. Carmel Zollo and I advise as follows. The issue of trees on private property creating a hazard to neighbouring private property is primarily a common law issue. An excellent booklet *Neighbours—Trees and the Law* has been produced by the Community Mediation Services of South Australia, with the support of the Law Foundation of South Australia, and it explains this matter in full and provides advice on dealing with such problems. The Local Government Act comes into play when public land is involved.

First, the Local Government Bill, which has been introduced and is being debated in another place at this time, contains powers for councils to issue orders to deal with hazards on land adjoining a public place, including overhanging or overgrown vegetation. Secondly, the Bill sets out revised provisions relating to vegetation planted on, or authorised by councils to be planted on, roads and deals with issues of council responsibility and liability. In terms of the contribution of the Hon. Ian Gilfillan, I am not sure whether he wants me to explain now; it may be preferable to wait until he moves his amendment to explain why the Government does not support his initiative.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4.

The Hon. IAN GILFILLAN: As I indicated in my second reading speech, I move:

Page 1, after line 25—Insert:
Expiation fee $200.

Its aim is to recognise that an upfront hazard of a $5 000 fine for people who have had no warning that they are at risk of infringing this requirement is, quite frankly, illogical and virtually cancels any opportunity for a council to take action, unless it does so on a vindictive basis. It is most unlikely that councils would institute proceedings to deal with what could be the tens of landholders who have infringed this requirement. It is short sighted of the Government to so abruptly turn down this matter. It obviously has not taken the advice of the LGA, which is much closer to the action. It is very hard to diagnose whether the Government reacts from stubbornness and the fact that it did not think of it, whether it does not

listen to the arguments of people who put forward amendments or whether it genuinely has thought it through and has reasons for opposing it.

The Hon. Diana Laidlaw: The last one.

The Hon. IAN GILFILLAN: Well, I have not heard evidence of that yet. I have pleasure in moving the amendment and hope that it is successful.

The Hon. DIANA LAIDLAW: Out of all the options presented by the Hon. Mr Gilfillan, the Government has a very genuine reason for not supporting the amendment. It is a well considered reason and, I hope, persuasive. The focus of the Bill and the existing provision in the Country Fires Act 1989 is to encourage rectification of a dangerous situation or community hazard, and where an owner-occupier fails to do so it provides power for the council to take action and recover its costs.

I have further advice from the Minister for Local Government that a significant offence provision is provided where a person fails to maintain their property free of fire hazards. Making it expiable could trivialise the hazard and treat it as a behavioural problem, such as dropping litter, which could be dismissed by payment of an expiation fee. The Government in no way wants to see the issue that the Hon. Mr Gilfillan has raised trivialised in any way, and that is our considered view of the matter. We believe that the approach taken by the Hon. Mr Gilfillan in this amendment would trivialise the matter.

I have further advice from the Minister that the preferred response is for the owner or councils to take action to remedy the situation. If it is a hazardous or dangerous situation we believe that action should be taken, and that is what is provided for in the Bill that is before us without the amendment of the Hon. Mr Gilfillan. The existing and proposed fire prevention provisions parallel existing order-making provisions passed by the Parliament, and it involves authorities taking urgent action in the event of a person failing to do so. Examples include the emergency and enforcement orders under the Development Act. Similarly, these provisions do not provide for an expiation of the offence.

There are other provisions in other Bills—and I highlight the Development Act—where there is an emergency situation that requires enforcement—it may be dangerous and requires rectification, as is the hazard that has been identified here—and the emphasis is on taking urgent action and not on treating the matter in terms of an expiation for an offence. That is why, based on precedence in other Acts for dangerous or emergency situations and the enforcement of urgent action, we do not believe it appropriate in this instance to advance the proposition of expiation notices.

The Hon. CARMEL ZOLLO: We oppose the Hon. Ian Gilfillan's amendment and support the Government. We regard the offences as being very serious and we agree that having an expiation notice would tend to trivialise this very important matter.

The Hon. T.G. CAMERON: I have a question for the Minister. I am trying to understand the intent of the amendment moved by the Hon. Ian Gilfillan. In clause 4(a) the Bill provides a maximum penalty of $5 000, and in clauses 4(c) and 4(e) there is a maximum penalty of $10 000. Does the Minister have any idea what fine a court would impose for breaches of those provisions? Generally speaking, maximum penalties are not followed and fines are levied of only a few hundred dollars when in fact there is a maximum penalty of $10 000. Therefore, I have a reservation about the trivial nature of an expiation notice. It may well be that an expiation notice of $200 is similar to the fine levied by the courts. Will the Minister clarify what fines the courts have been imposing for breaches of sections such as this?

The Hon. DIANA LAIDLAW: I am unable to do so. I do not know whether the honourable member wants me to seek leave to report progress and obtain such information. Being familiar with fines in other Acts, in the Development Act and the Local Government Act, and now this one, the fines would seem to be of a reasonably high nature and not unreasonable in terms of the court imposing the maximum penalty. I do not have that exact information about court practice. Does the honourable member want me to report progress so that I can obtain the information?

The Hon. T.G. CAMERON: I do not think there is any need to hold up the Bill because it appears that, with the Labor Party voting with the Government, the numbers are there for this amendment to be defeated. Perhaps the Minister could get back to me at some future stage with clarification of the level of the fines. I indicate at this stage that it is my intention to support the amendment moved by the Hon. Ian Gilfillan in the absence of any information as to the likely range of fines that could be imposed for breaches under this legislation.

The comparison between offences under this legislation and the litter problem is strange. If one looks at this section of the legislation it can easily be seen that people could be in breach of the Act in a minor or major way, and one would have thought that the courts would exercise their discretion in that case. It may be that somebody has not acceded to an order that they got from a local council, that it is not of major concern and does not impose any immediate threat to the individual, his property or a neighbour's property. I know that from time to time some council inspectors are somewhat officious in the way they perform their duties, particularly on matters such as this, and I think that is what the Hon. Ian Gilfillan is talking about here.

For the Government and the Labor Opposition to assume that councils will irresponsibly issue expiation notices I believe is wrong. The Hon. Ian Gilfillan has moved a sensible amendment, and it is one that I think would be exercised responsibly by local government. I do not anticipate that we will have hundreds of these breaches. It seems to me that expiation notices have been introduced by the Government to try to free up the courts. I know that it is having problems with them in certain areas, but I think the amendment moved by the Hon. Ian Gilfillan should be given proper consideration. It is wrong to assume that it would be treated in a trivial manner either by the councils or by the owners of property.

The Hon. T. CROTHERS: I support the Government's position in respect of the quantum of the fines. I have no qualms whatsoever about supporting this matter. I sat on the select committee that inquired into the Ash Wednesday fire. The previous speaker should have seen some of the people who appeared before that committee as witnesses and who were absolutely scarred for life. I do not know how many people died—I think it was 27—simply because people would not look after the profusion of flammable material on their property.

My disappointment with the Government is that it has left it only to those owning private property, because home dwellings in the Hills are just as flammable. If you want to take that to common law, that is fine; but what do you do if you go to your neighbour repeatedly and say, 'Take that down,' or if you get reports from the Chief Inspector of the

Metropolitan Fire Authority, who says, 'This is an entirely inflammable situation'? My disappointment with this Bill is that the matter has been left to private property owners, because fire knows no boundaries between private property and dwelling places.

In fact, if members recall Ash Wednesday, they will realise that a lot of the houses that were then in the foothills were, if you like, the walking trail for the fire and enabled it to go on longer and to cause more and more devastation. I have no qualms whatsoever with the size of the fines that the Government wishes to impose.

I flew into Adelaide on the night of the Ash Wednesday fire. We were at 32 000 feet and you could not have seen your hand in front of you; that is how bad the bush fire was. As far as you could see from 32 000 feet across each horizon, both from the port and starboard side of the aircraft, there was just a mass of fire.

This Bill attempts to limit the number of people who could be killed during that type of tragedy. I do not think the councils, if they have any sense, will impose this fine willy-nilly but, rather, will use this option for people who own vacant blocks or properties which are not inhabited and who offend annually. One need only refer to the history of the cause of bushfires within this State, within Australia or indeed within the global company of nations, and I refer specifically to California or the States of Indonesia, where there were those terrible bushfires in North Borneo and Kalamantan.

These things happen because of a lack of management by the people who are supposed to look after the areas where the fire starts. I do not need to tell members that part of the finding was that there was an electrical arc from power lines on the overhanging trees and that that was, in part, one of the reasons why the bushfires here on Ash Wednesday were so widespread and so deep-seated.

I am sure that the Hon. Mr Cameron, had he seen the burnt and scarred people whom I saw during some 85 meetings of that select committee, would not at all in respect of the quantum of the proposed fines. The honourable member may now wish to get up and utilise a piece of smart wordsmithing; but it just will not do. If he wants the courts to have some discretion, I am sure the Minister would look at that. However, at the end of the day, there has to be a very severe penalty.

We are not dealing just with property that can be burnt. I can remember some people who are now members having to spend many thousands of dollars fireproofing their properties in the Hills. Of course, I will not name them because they may wish to participate in the debate or, indeed, may already have done so; I am not a name dropper in that respect. But I do find it strange from time to time when people, for whatever reason, get up and put forward a particular point of view when, as I said, if they had had the personal, first-hand experiences that I had in consequence of sitting on that select committee, they may want to see the penalties even higher than they are. If the Hon. Mr Cameron thinks the penalty is too high, he may well say to the Minister, 'All right, here is a position. It may well be that the—

The Hon. T.G. Cameron: I never said that.

The Hon. T. CROTHERS: You did say that there was no—

The Hon. T.G. Cameron: No, I didn't.

The CHAIRMAN: Order!

The Hon. T. CROTHERS: You did say—

The Hon. T.G. Cameron: I did not.

The CHAIRMAN: Order!

The Hon. T.G. Cameron: You check the *Hansard*.

The Hon. T. CROTHERS: I do not need to check it: I remember what you said. You said that there is no provision for the local courts to use their own discretion.

The Hon. T.G. Cameron: No, I didn't.

The Hon. T. CROTHERS: Yes, you did.

The Hon. T.G. Cameron: No, I didn't.

The Hon. T. CROTHERS: Yes, you did. That is in *Hansard*.

The CHAIRMAN: Order!

Members interjecting:

The Hon. T. CROTHERS: He certainly can, but he had better be careful what he says. I do not need to peruse *Hansard*, I remember what you said.

The Hon. T.G. Cameron: I'm just like you: I say what I like.

The Hon. T. CROTHERS: You said—and I repeat it for your advice—that in respect of fines the magistrates had no discretion.

The Hon. T.G. Cameron: You've got it wrong.

The Hon. T. CROTHERS: I have not got that wrong at all; that is what you said. I am saying to you that if you think the fines are too heavy you may well suggest to the ministry that that is what you put up in your debate: that the magistracy of the judiciary be given some discretion in respect of the application of the fine. That's the point I am making.

The Hon. T.G. Cameron: They have got discretion.

The Hon. T. CROTHERS: Well, that's not what you said. That is not what you said.

The Hon. T.G. Cameron: Oh, I give up.

The Hon. T. CROTHERS: Well, it is about time you did.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: Order! I support the Hon. Mr Cameron giving up!

The Hon. T. CROTHERS: I have no problem supporting the quantum proposed by the Government. I am pleased that the Australian Labor Party is accepting its responsibilities to the public in doing the same. I am sorry that other members, for whatever reasons I cannot define, do not support the proposition.

The Hon. T.G. Roberts: Shame!

The Hon. T. CROTHERS: I think it is a shame. I recommend the Government's proposition to the Committee.

The Hon. T.G. CAMERON: First, I would like to correct the Hon. Trevor Crothers. At no time did I complain about the quantum of the penalty set out under clause 4(a), etc., and I indicated that I intended to support the Bill. I rose to my feet to raise some questions about what I considered to be a very sensible amendment moved by the Hon. Ian Gilfillan. I believe that some of the assertions made by the Hon Mr Crothers were directed at me.

If there is a suggestion that I might in some way or other go light on the penalties to be imposed on people for not keeping their property in order, I remind the Hon. Trevor Crothers that when the Ash Wednesday fires broke out, my house, which was situated in Upper Sturt, was only partly completed. So, whilst I have not had the Hon. Trevor Crothers' advantage of sitting on the rather extensive inquiry that looked into this whole matter.

I can assure the honourable member that I was as concerned as anyone about the dangers of fires in the Adelaide Hills. In fact, I spent many a day up there worried about further outbreaks. I think the fire stopped at the edge of the now Senator John Quirke's place, at Mount Lofty, which is

only a matter of kilometres away. Had it got across the road and spread into the Cleland National Park, I suspect that my property, although it was only half completed, would have been swept away as well.

I make my position quite clear: I am not complaining and did not complain. I refer the honourable member to the transcript and, when he has read that, we can talk tomorrow about the size of the maximum penalties. I asked the Minister whether she aware of the quantum that the courts were awarding in cases such as this. I then queried whether an expiation fee might be seen as a sensible way of collecting what could be small fines that could be levied by the court. If there is a maximum penalty of $5 000 it is not the practice of the courts to impose a fine of $5 000. I do not resile from my remark that any suggestion by any member of this place that I might want to go soft on people who do not look after their properties and place other people at risk, considering where I have lived for the past 15 years, is quite simply arrant nonsense. I repeat what I said before: it is a sensible suggestion that has been put forward by the Hon. Ian Gilfillan. I am supporting the Bill, and I think he is, too. The amendment asks the Government to give consideration to allowing expiation—hardly something new. We expiate fines all over the place.

Amendment negatived; clause passed.

Clauses 5 and 6 passed.

Clause 7.

The Hon. T. CROTHERS: Clause 7(2) of the Bill provides as follows:

> If a council believes that conditions on private land in a fire district are such as to cause an unreasonable risk of the outbreak of fire on the land. . .

If someone in a private dwelling place has land which obviously constitutes a fire hazard, does that then mean, despite the fact that you have said it was only for private land-holders, that any council can go the proprietary owner of that private land about a fire hazard existing on their land?

The Hon. DIANA LAIDLAW: The answer is 'Yes, any building structure on that private land.' However, the honourable member would appreciate that, further into that clause, the following conditions are listed:

> . . . due to the presence of inflammable undergrowth or other inflammable or combustible materials or substances. . .

So, only if those conditions applied would the honourable member's proposition apply.

The Hon. T. CROTHERS: What constitutes a fire district? The Bill provides 'on private land in a fire district'. Who declares a fire district? How is it declared, and how is it recognised?

The Hon. DIANA LAIDLAW: I am advised that under the South Australian Metropolitan Fire Service Act 1936 various fire districts are declared by proclamation. Section 6 provides:

> (1) The Government may, by proclamation—
>
> (a) constitute a fire district;
>
> (b) alter the boundaries of a fire district; or
>
> (c) abolish a fire district.

Clause passed.

Title passed.

Bill read a third time and passed.

PARLIAMENTARY SUPERANNUATION (ESTABLISHMENT OF FUND) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 821.)

The Hon. T.G. CAMERON: The main change sought in this Bill is the establishment of a formal fund which would hold assets to meet the liabilities under the scheme. The assets would reflect the balance of both member and employer contributions and investment earnings on those contributions necessary to fund the entitlements under the scheme. The amendments included in this Bill will not formally establish a parliamentary superannuation fund but require the Parliamentary Superannuation Board to establish and maintain member contribution accounts for all members. The fund will also provide for a more appropriate basis for crediting interest for members' contributions and will bring the scheme into line with the normal member contributory superannuation scheme. The Bill also amends section 22A of the Act, which clarifies the amount of the employer component preserved for a former member who elects on leaving Parliament to take an immediate payment of the employee component. I support the Bill.

The Hon. R.I. LUCAS (Treasurer): I thank members for their contributions to the second reading of this Bill.

Bill read a second time.

In Committee.

Clauses 1 to 6 passed.

Clause 7.

The Hon. M.J. ELLIOTT: Outside this place I raised with the Treasurer the implications of clause 7. I did not find that the second reading explanation adequately covered its intent and how precisely it would work. The language is fairly convoluted, although I think it was seeking to fix up some other language that was perceived to be so. The Treasurer has shown me a far more detailed explanation and I would ask him now to incorporate that response into the *Hansard*.

The Hon. R.I. LUCAS: I thank the honourable member for having raised this issue. As he has requested, I will read onto the *Hansard* record the detailed explanation of clause 7.

This clause seeks to make a minor technical amendment to the wording of section 22A of the Act. Section 22A deals with the benefit payable to those members of the 'new scheme' who leave the Parliament with less than six years service and do not qualify for a pension. The proposed amendment does not alter the original intention of the Act, and does not change the benefit entitlements of members affected by section 22A. The existing provision provides an entitlement for the former member of:

(a) an amount equal to the member's own contributions paid into the scheme, together with interest on those contributions;

(b) an employer financed benefit equal to the amount under (a);

(c) a dislocation benefit calculated in accordance with section 22A(6).

Section 22A also provides that the amount under (a) may be either taken immediately or preserved until age 55. The employer financed benefit under (b) is automatically preserved until age 55 where the member is under that age on leaving the Parliament. The dislocation entitlement under (c)

is not involved in this amendment. The existing problem comes from the current wording of section 22A(2), which states that each of the components. . . is equal to the balance standing to the credit of the former member's notional contribution account.

What this is saying is that (b) above is equal to the balance under (a). However, where the member has elected to take his or her own contributions on leaving the scheme (which is an option), the balance under (a) is zero. This immediately means that the amount under (b) cannot technically be calculated, although we know the intention of the Act. The wording of subsection (2) should have gone on to state something like:

> . . . and where the member has already received the balance of his or her own contributions and interest, the balance of the employer component shall be equal to an amount that would have remained in the employee account if the member had not already been paid the balance of that account.

The wording on page 4, lines 1 to 7, of the Bill seeks to correct the technical problem. An opportunity is also taken, whilst addressing the technical problem, to provide an option for former members who have a preserved amount to either preserve the amount in the parliamentary scheme or to roll it over to another scheme approved by the board. A rollover facility is now a standard option in all superannuation schemes and simply enables people to keep their accrued superannuation benefits together. In accordance with Commonwealth law, an 'approved scheme' will have to be a 'complying scheme,' and the Parliamentary Superannuation Board will require that the rolled over benefit be preserved until age 55—as it would have been in the parliamentary scheme.

That was advice that I have had provided by a senior officer in the department today, and I am happy to place that on the record.

Clause passed.

Remaining clauses (8 to 10) and title passed.

Bill read a third time and passed.

STAMP DUTIES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 821.)

The Hon. P. HOLLOWAY: The Opposition places on record its opposition to the Bill; we believe that this Bill is bad public policy. The Bill seeks in part to extend the current stamp duty exemption for intergenerational transfer of the family farm from the owner of the farm to a niece or nephew of the transferrer. While the Opposition has not opposed that a son or daughter should be exempted from the requirement to pay stamp duty, it is our belief that it should not be extended in this way. Indeed, one might well ask the question: where would we end up? How far should we go if we go beyond sons and daughters in terms of intergenerational transfer?

The Government's position on this matter is that it is responding to particular concerns of the rural community. The South Australian Farmers Federation, in a letter to my office dated 20 November 1988, stated—

Members interjecting:

The PRESIDENT: Order! One honourable member has been called.

The Hon. P. HOLLOWAY: The letter stated:

> The proposal will be welcomed by the rural sector as it will, in many cases, provide a further reduction in the costs that can be associated with transferring the family farm between generations and therefore encourage more farming families to address the issue of succession planning.

The Government and the Farmers Federation are saying that this further exemption will encourage 'the ownership of family farms within the family group'. Whilst the Opposition and I agree that succession planning is vital to the continued operation of the family farm, we do not believe that this amendment will further encourage such planning. As an aside, I think it would be useful if the Minister could place on record the number of families that will be affected by this amendment. Obviously, that number would be very small. We already know that the ownership of a farm can be transferred to a niece or nephew under a will. This Bill simply brings it forward. That transfer under a will would exempt the family from the payment of stamp duty.

The main point that I wish to address today is the Government's continued dereliction of its duty to support and sustain rural Australia. This Bill serves to assist only a small part of the farming community, let alone the rural community in general. If we are to make an exemption for farms along this line, why would we also not exempt those many small businesses in country areas that are suffering the same problems as farms? What is good for the goose is good for the gander. Many family owned rural businesses do not benefit from stamp duty exemption upon intergenerational transfer of their asset. The rural sector continues to believe that it has been abandoned by the Government. This Bill does nothing to address that belief. Succession planning—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: If the Hon. Angus Redford believes that it is good public policy, it is rather interesting that, at this very moment, his colleagues in Canberra are debating the issue of a GST. Regardless of what one might think of a GST, the question will arise during that debate as to how extensive the tax base should be. His Federal colleagues say that we should have a GST on food and everything to spread the tax burden as widely as possible. What they are trying to do, of course, is—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford is trying to exempt stamp duty for one small sector of the community. The Opposition believes that that is bad public policy. This Bill does not address the real problems of farming families when they face a transfer of ownership. Studies have been carried out into the problems faced by farmers. On the whole, these studies have found that programs which target the financial aspects of succession planning do not adequately address the needs of farming families. A number of these studies have been conducted recently, and they are on the Internet. Many of them have been funded by the Federal Department of Primary Industries.

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: The Hon. Angus Redford is welcome to join this debate. Perhaps he would like to address the points I make when I have finished rather than seek to play politics.

Elaine Crosby of the Welfare and Support Services for Farm Families, Rural Development Centre, University of New England sees that the problem with most Government programs is that they avoid the welfare dimensions of farming families. There are gaps in rural services which are widening every day, including the lack of legal advice and

counselling. These are the sorts of areas where family farms need assistance.

The Rural Development Centre has concluded that money spent to assist farming families has not improved the efficiency of the farming industry and that there is a growing feeling within the rural community that Government assistance should no longer be directed at propping up struggling farm businesses but should be aimed at treating the financial and other traumas of farm people.

I will quote directly from a report which was presented to the Sixth Australian Institute of Family Studies Conference held in Melbourne in November last year. In a report entitled 'Succession and Inheritance on Australian Family Farms', which was prepared as a result of a study of succession and inheritance issues facing farm families, Elaine Crosby states:

> . . . over 20 per cent of families have found farm transfer to be extremely or very stressful. We found that the major factor contributing to stress is the difficulty families experience in discussing succession. As mentioned earlier, taxation and related issues only become critical when family members are unable to communicate easily with each other about taxation and succession. This suggests that changes in Government policy relating to taxation, gifting provisions and assets and income tests will have only a limited impact on the stresses families experience when succession planning. In our opinion, such policy changes are unlikely to promote more effective succession planning.

This conclusion, realised after a study of over 1 000 farmers across Australia, is at odds with this Government's reasoning for extending the stamp duty provision. Whilst financial hardship is often the cause of stress, farming families need more than the kind of assistance promoted in this Bill.

This Bill looks only at a small part of the succession planning process and does nothing to assist the stresses associated with such a complex and difficult issue. It is made even more difficult because it involves the added emotional element of wanting what is best for the family.

The Hon. A.J. Redford: Stamp duty?

The Hon. P. HOLLOWAY: We are talking about only one part of it here. Obviously, the study to which I have referred relates to the major costs involved with intergenerational transfer, which, of course, are Commonwealth issues. Here, when talking about stamp duty, we are talking about a relatively small part of the overall problem, but the principle is the same. What we are doing is setting a very bad principle for very limited gain. It is often a matter of 'sink or swim' for families considering transfers to children, and this issue is complicated by a lack of communication.

It is about time that this Government recognised that farming families require a whole range of assistance programs from legal and counselling services to mediation assistance. The most useful way to assist in succession planning is to ensure that these services are available and that people are educated to use them fully. However, this Government is intent on slashing and burning in the bush, cutting services back to the bare minimum. Whilst this continues, farming families and rural communities as a whole will continue to suffer.

The Opposition believes that rural communities are being neglected and that this Bill serves no useful purpose. Very few, if any, people will benefit from it, given as I said earlier that you cannot—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Perhaps the Hon. Angus Redford does not understand that, even under the current legislation, under a will, a property can be transferred from the owner of a farm to a nephew or niece without the payment of stamp duty. That ability already exists within the system. This Bill will assist only a very small part of the farming community. It neglects the real problems facing rural South Australians.

For that reason, the Opposition and I do not believe that this Bill is good public policy, and we therefore express our opposition to it. However, as I indicated during the course of my speech, the number of people who will be affected by this measure is relatively small. Our opposition is based solely on the principle that we believe that, if we are to have theses measures—we could discuss the merits of stamp duty, but we have very few taxation measures open to us as a State Government—they should be imposed as fairly and equitably as possible. Giving selected exemptions is not, in our view, good public policy.

The Hon. A.J. REDFORD: I did not intend to speak, but having heard the Hon. Paul Holloway's contribution I would like to make a couple of comments. I understand that the Australian Labor Party's position is that it believes that stamp duty should be applied across as broad a base as possible to make it fair. I invite the Hon. Paul Holloway to interject if I have misunderstood the broad concept of his argument.

The Hon. P. Holloway: We supported the exemption in respect of children several years ago.

The Hon. A.J. REDFORD: The honourable member says that he supported the exemption in relation to children but he does not support this exemption. So, from his own mouth—unfortunately, the Hon. Paul Holloway seems to be descending lower and lower—he acknowledges that, on occasion, there is scope for Government to provide exemptions to stamp duty. In his mind it is a question of degree not a question of principle as to whether or not exemptions should be applied.

The fact is that, although he purports to dress this up as some sort of a broad principle to be applied, that is simply not the case. That has come from his own mouth. The question from the ALP's point of view is how far this exemption should be extended. At the end of the day, the Opposition says that it wants to draw the line, that it does not want it to go any further. That is a pragmatic response on the part of the ALP, one which I must say escapes me, but that is its right and that is its lot. But to stand up and say, 'We believe in a broad taxation system, and the Government is adopting bad public policy' is absolute rubbish.

The honourable member obviously has to feel uncomfortable in saying, 'This is bad public policy. We agree with exemptions for children, but not for nieces and nephews.' At the end of the day Governments make decisions, and it has made a decision in this case. The Hon. Paul Holloway has not come screaming into this place with a series of amendments exempting small business. He cannot even get his Leader to say that, if in the unlikely event they should finish up on this side of the Chamber after the next election, they will repeal the tax announcements made by the Treasurer last week. He could not even do that with his own Caucus.

The Opposition's whole tax strategy is in total disarray. When the honourable member goes to a Labor Party conference and they get on to broad issues like the GST, they argue for exemptions on food, and all sorts of complex statements are made in relation to the GST. They will support the Australian Democrats in the Federal Parliament in that regard. There is simply no consistency in relation to the position taken by the Hon. Paul Holloway on the part of the Australian Labor Party. He then goes on and says that we

should not be doing things like this, and what really stuns me is that he rolls back into the old 1960s and 1970s Lefty mentality of saying that we should be providing counselling, mediation and welfare. This is the sort of policy that we get from members opposite in this policy free zone. They scramble back to the 1950s and 1960s, pull out the old Lefty policies, dust them off and come into this place and think it is all something new or something that would work.

When I interjected, 'Can you give me an example of how welfare might help these people in the longer term?' the honourable member did not respond. The reality, in relation to our rural constituency, is that the reduction of taxes and costs is the only long-term and effective policy Governments can pursue while at the same time encouraging the true entrepreneurial spirit of our country people to improve their incomes. This stuff about welfare, legal counselling and mediation is code for running up the white flag in rural South Australia and saying, 'We have nowhere to go.' At the end of the day that is where you are coming from.

The Hon. P. Holloway: You were using as justification for this measure the need for succession planning. I was just debunking the argument based on reports to the Federal Government.

The Hon. A.J. REDFORD: The honourable member also completely misunderstands the problem in rural South Australia because he did not allude to it at all. The problem is that the average age of owners of primary enterprises is around the sixties and in some industries it is in the seventies. The reason for that is that the tax impost on transferring assets from one generation to another is prohibitive and tends against that process. If the Hon. Paul Holloway really wants to get rural South Australia going, he has to understand that we need new ideas and younger people, and as a Government at the State level we need to ensure that younger people can get into the industry—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order! This is not the time for debate across the Chamber.

The Hon. A.J. REDFORD: At the same time I urge our Federal colleagues to take a leaf out of our book and facilitate the giving of old age pensions and the like to older primary industries without some of the hindrances associated with transferring substantial amounts of rural capital to the younger generation. That is the way to improve the lot of rural enterprises. It is not counselling or mediation and not welfare. At the end of the day the bottom line in terms of the whole of our rural economy is the securing of markets, and the best people to achieve and secure rural markets are younger people within primary industry. This Bill goes some way towards that. It will not solve all the problems and no-one is suggesting that.

I am sure the Hon. Paul Holloway, garnered by the ideas from the Lefties of the 1950s, will come bowling in here with a series of welfare Bills for our rural people. I will be delighted to circulate in rural South Australia the 1950s' Lefties ideas the Hon. Paul Holloway is forced by the numbers in Caucus to come into this place and espouse. I had some confidence in the honourable member. I thought that to some extent he had some economic qualifications and understanding, but his last contribution indicates to me that the Left is utterly, totally and completely dominant in the Labor Caucus. I commend the Bill.

The Hon. M.J. ELLIOTT: I rise to support the Bill, with some reservations. The Hon. Angus Redford could be accused of mildly overstating the case in that I would expect that there are no hordes of nieces and nephews lined up—in fact, there would be very few. In terms of the real impact across rural South Australia, the effect would be fairly minimal. The effect would be much greater on those individuals in that before we were exempting sons and daughters and now we are looking at exempting nieces and nephews, and the linkage can be a little more tenuous. The proof of the pudding will be in terms of the application of this principle as applied to the exemptions.

The exemption is not automatic, and what we will see over the next couple of years is whether it is being granted to nieces and nephews with tenuous links to the land, the only link being the fact that there is a familial relationship as distinct from cases where properties have been held in joint names where perhaps a couple of brothers or a brother and sister have been running a property jointly and one of the two may not have had any children and a nephew or niece has been working on the property. In those circumstances, where the person has been working full-time on the property and made a full investment through their labour in the property, one would not begrudge this.

It is possible that the Commissioner could in some cases grant an exemption where the link was that they went back once a year and helped with mustering, which could be acceptable under the wording. It is a question of how it is interpreted and how the discretion is used. If the Commissioner does not use it as one would reasonably expect, that is, in relation to a person who has made a genuine investment in a property in terms of working almost full-time on it, we would support a change at a later time that would take away the discretion.

The Hon. A.J. Redford: The problem is with drafting it so that you don't get people abusing the system.

The Hon. M.J. ELLIOTT: I agree with that. The proof will be in the final application. It will not have any major bottom line impact on the State coffers. On that basis the Democrats are prepared to support it. We will wait to see how it is applied.

The Hon. R.I. LUCAS (Treasurer): I thank honourable members for their contributions to the debate. The earlier contributions from my colleagues the Hon. Mr Dawkins and the Hon. Caroline Schaefer, from first-hand experience of farming in rural communities, highlighted the real world examples. I agree with the Hon. Mr Elliott that we are not likely to see thousands of these examples, but there are real world examples where this provision will prove of value to rural communities. I commend the contributions of my colleagues to those members who did not hear them.

On a number of occasions the Farmers Federation has put similar pleas to the Government. I think that most members, if they heard some of the arguments put forward in the past where assistance has not been able to be provided, would be prepared to concede that the circumstances provided to the Government should have been such that something could have been provided. I thank members for their indication of support for the Bill whilst acknowledging that the Labor Party has indicated that it will not support it.

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

TRANS-TASMAN MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 16 February. Page 683.)

The Hon. P. HOLLOWAY: The Opposition will support the Bill, which fulfils the intent of the Trans-Tasman Mutual Recognition Agreement which was signed by Australian heads of Government and the New Zealand Prime Minister in 1996. This Bill is based on the Australian mutual recognition model. The Commonwealth, New South Wales, Victoria and New Zealand have similar legislation in place, with other States having legislation before them. It allows for South Australia's participation in the new scheme.

Mutual recognition agreements aim to remove barriers to trans-Tasman trade in goods and impediments in the mobility of labour. Therefore, producers of goods need only ensure that their products comply with the laws in the place of production, even though those goods may not comply with all regulatory standards in the place to which they are to be exported.

The agreement also allows for greater mobility of labour by providing that Australians employed in registered occupations can automatically seek to practice an equivalent occupation in New Zealand or vice versa. This agreement incorporates an exemption mechanism whereby jurisdictions have the right to ban unilaterally, for 12 months, the sale of particular goods in that jurisdiction in the interests of its citizens or the environment.

The advantages to this Bill are fairly obvious. It will go some way to producing a free trade zone between Australia and New Zealand, and even at that size it will still be a relatively small market by world standards. It is interesting to note the background of this Bill. This Government was disinclined to accept even an interstate mutual recognition agreement when it was first mooted. When we debated the extension of the sunset clause for the Mutual Recognition Act in February last year I reminded members of the attitude of some of those sitting across from us at the time the original Bill was brought before the Parliament in 1993. I believe it is important to recollect the views then, because it gives us some idea about how far this debate has moved on since those days.

Just like this Bill, the original Mutual Recognition Bill sought to remove artificial barriers to trade in goods and the mobility of labour. The Bill in its original form was defeated because of a perception by the then Opposition that it would somehow lower standards across Australia. I well remember attending a conference between the Houses, when I was a member of the House of Assembly, back in 1993 which considered this matter.

An example of how far we have moved on in those six years is that we do not hear any argument about the quality of goods in New Zealand. At that time, members of the Liberal Party stated quite clearly that they believed the standard of goods interstate did not match that in South Australia. Our Attorney-General, the Hon. Trevor Griffin, even went so far as to say (*Hansard*, 30 April 1993):

> The Liberal Party wants to put South Australians first.

That is an interesting political slogan. He continued:

> It does not want to become part of an amorphous mass of lowest common denominator standards across Australia.

When picked up on this point by the then Attorney-General, the Hon. Chris Sumner, the current Attorney-General repeated his point, as follows:

> This is what it means: lower standards.

I am happy to say, however, that this Bill is supported by the now Opposition, following on as it does from the original Bill introduced back in 1993.

In my concluding remarks it is fair to recognise that there is a downside to mutual recognition—that the powers of this and other State Parliaments in a number of areas are being reduced. I think we need to be realistic and accept that. However, in my view—and it was my view at the time this Bill was first introduced and remains my view—to meet the economic challenges of globalisation, we must increase the scale of our economy. We really have no choice, and mutual recognition is one way that we can do it. I believe that the extension of the Australian market to include New Zealand is another way of doing it. So even though there is something of a downside I believe the benefits outweigh the costs.

It is interesting to note that at the moment in Great Britain there is debate on whether it should join with Europe and have one standard currency—the euro—or whether it should retain its traditional currency, the pound sterling. So, within that European community, which involves 15 or so nations with different languages and different currencies, they have gone even further than we in gaining one trading community. As far as this Bill is concerned, the Opposition supports the free flow of trade between Australia and New Zealand. Therefore, we are happy to support this Bill, which is really an extension of the original Mutual Recognition Act that was passed in 1993.

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

SECOND-HAND VEHICLE DEALERS (COMPENSATION FUND) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 843.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. I note the observations made by members. The Hon. Mr Gilfillan made some observation about its being strange that 'we had to wait for an Independent member of the Lower House to pick this up and introduce his own legislation before the Government dealt with it'. I think that is an unfair representation. If the honourable member had read my second reading contribution when I introduced the Bill into this Council as a Government Bill, he would have noted that I indicated that during 1998 the Government had been reviewing the operation of the compensation fund. We had developed a series of proposals, taking into account responses to a comprehensive issues paper, which was the subject of wide industry and public consultation. We did that after the Kearns issue, where we introduced legislation into the Parliament and dealt with it quickly.

That legislation sought to limit the access to the fund to those who had purchased motor vehicles at auction. We indicated at that stage that we would take the next step, namely, look at the issue of backyarders and related matters and at those who were deemed to be backyard dealers on the

basis that their customers had access to the fund, even though the dealers themselves had not been contributors to the fund.

So, the work was being done. There had been wide discussion throughout the industry on the basis of the issues papers which we released. We did all the work on it. There had been consultations with the Motor Trades Association. I had at least one meeting with the board of that association at about the time of the Kearns Brothers issue arising. We had developed the proposals for reform of the law and made the direction in which we were moving and the proposals known to the industry.

The member for Gordon then slipped in his Bill which was not as comprehensive as the Government's Bill but which picked up some of the essential ingredients of the Government's proposals. Rather than the stand-off which occurred in the other House, I indicated that we would pick up his Bill as a Government Bill and amend it in this Council.

The Hon. T.G. Roberts: Do you think he was being a bit opportunistic?

The Hon. K.T. GRIFFIN: I do not make any observation about the member for Gordon: I merely put the facts on the table. People can make their own judgment about what may or may not have happened. The fact is that, on the advice which I had received, the Bill was a money Bill in any event and that, under the Standing Orders of the House of Assembly, it should only have been introduced by a Minister. It would have needed to be accompanied by a Governor's message.

I arranged for a Governor's message to deal with the Government Bill and, by virtue of the way in which it was expressed, it actually dealt with the subject matter which was in the private member's Bill. So, we got over that technicality. In view of the stalemate which developed, I have sought to facilitate consideration of this Bill. I wanted to put that on the record, because there seems to have been some misunderstanding about that.

Putting that to one side, there are now some further issues that have to be addressed. I do have some suggested amendments on file, and I suppose there may be some debate as to whether or not they are amendments or suggested amendments. But the legal advice which I have is that the Bill is a money Bill and, regardless of the way in which it is being dealt with in the House of Assembly, it is my view that we must adhere to that legal advice.

Again, I thank members for their consideration of the Bill. I think it will be welcomed by the motor vehicle dealers industry and that it will help to address some of the anomalies. It will not address all of them, because the industry has wanted a lot of things which I do not think one can justify and which I do not think anyone in the House would support.

Bill read a second time.

In Committee.

Clauses 1 and 2 passed.

Clause 3.

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

Page 1, line 17—Leave out 'by striking out clause 2 and substituting the following clause' and insert:

(a) by striking out clause 2 and substituting the following clause:

Page 2, lines 7 to 9—Leave out this paragraph and insert:

(b) applies to a claim relating to a transaction that occurs on or after the commencement of this paragraph only if the dealer was licensed, or the person making the claim reasonably believed the dealer to have been licensed, at the time of the transaction;

These suggested amendments provide for transitional matters arising out of the amendments to clause 2 of schedule 3 to be effected by the Bill. Clause 2(2)(b) of the Bill is currently drafted such that clause 2 will apply to a claim referred to in clause 2(1) only if the dealer was licensed or the person making the claim reasonably believed the dealer to have been licensed at the time of the transaction. The suggested amendments will provide that clause 2 will apply to a claim relating to a transaction that occurs on or after the commencement of this paragraph only if the dealer was licensed or the person making the claim reasonably believed the dealer to have been licensed at the time of the transaction. The suggested amendments provide clarification.

The Hon. CARMEL ZOLLO: Since my second reading contribution, I have had the opportunity to study the amendments filed by the Attorney-General, and I indicate that the Opposition has no objections to the amendments filed by him. Again, I congratulate the member for Gordon on introducing this Bill, which expressed concerns that were outlined, I guess since 1997, by the Opposition. This Bill will be a worthy change to our statute law.

The Hon. K.T. GRIFFIN: Clause 3 of schedule 3 provides for payments into and out of the fund. Currently, the Treasurer is required to certify the payment out of the fund of expenses incurred in administering the fund. The suggested amendment to clause 3 will provide that such administrative expenses can be paid out without the Treasurer's having to certify them.

All amendments are to clause 3 of the Bill. The suggested amendment to clause 5 of schedule 3 will make it clear that, on payment out of the fund of an amount authorised by the Magistrates Court, the Commissioner is subrogated to the extent of the payment to the rights of the person to whom the payment was made in respect of the order or claim in relation to which the payment was made.

Further suggested amendments to clause 5 will provide that, if the Commissioner is subrogated to rights arising from an act or omission of a body corporate occurring on or after the commencement of this amendment, the persons who were directors of the body corporate at the time of the act or omission will be jointly and severally liable together with the body corporate for any amount recoverable by the Commissioner from the body corporate in pursuance of those rights. However, a director will not be liable in respect of an act or omission of the body corporate if he or she can prove on the balance of probabilities that the act or omission occurred without the director's express or implied authority or consent.

Currently, clause 7 of schedule 3 provides that schedule 3 will expire on a day fixed by regulation for that purpose. It is suggested that clause 7 be amended by adding a new subclause to make new provision for the regulations to provide for transitional matters that may arise from the expiry of the schedule such as the payment or distribution of any money remaining in the fund.

Suggested amendments carried.

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

Page 2, after line 20 Insert:

(b) by striking out from clause 3(2)(b) 'certified by the Treasurer as having been';

(c) by inserting in clause 5 'to the extent of the payment' after 'subrogated';

(d) by inserting after the present contents of clause 5 as amended by this section (now to be designated as subclause (1)) the following subclauses:

(2) If the Commissioner is subrogated to rights arising from an act or omission of a body corporate occurring on or after the commencement of this subclause, the persons who were directors of the body corporate at the time of the act or omission will be

jointly and severally liable together with the body corporate for any amount recoverable by the Commissioner from the body corporate in pursuance of those rights.

(3) A director of a body corporate will not have a liability under subclause (2) in respect of an act or omission of the body corporate if the director proves, on the balance of probabilities, that the act or omission occurred without the director's express or implied authority or consent.;

(e) by inserting after the present contents of clause 7 (now to be designated as subclause(1)) the following subclause:

(2) The regulations may provide for the payment or distribution of money remaining in the fund on the expiry of this schedule and make any other provision that the Governor considers necessary or appropriate in consequence of the expiry of this schedule.

Suggested amendment carried; clause as suggested to be amended passed.

Clause 4.

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

To strike out this clause.

Clause suggested to be struck out.

Title passed.

Bill read a third time and passed.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

In Committee.

The Hon. K.T. GRIFFIN: When I replied to the second reading debate I indicated that, if any unanswered issues were raised during that debate, I would address them in Committee. The purpose for resolving ourselves into a Committee on this Bill is to enable me to address two issues that were raised by the Hon. Angus Redford, in respect of which I was not in a position to respond last week. Then I intend to report progress and move that the Committee have leave to sit again.

First, the honourable member asked for examples of where an application for a listening device had been refused. I indicated that I know that judges take their responsibility seriously and that I would endeavour to obtain information about what applications have been refused, if possible. The annual reports indicate that, over the seven year period from 1 July 1991 to 30 June 1998, 143 applications for a listening device warrant, including applications for renewals and telephone applications, have been made. On average, just over 20 applications have been made each financial year over this period. The maximum number of applications in any one year has been 26 in 1994, and the minimum number was 13 in 1993. Last year 20 applications and renewal applications were made, one of which was withdrawn before consideration by a judge. In this seven year period, four applications have been refused and one application has been withdrawn prior to determination by a judge. Information regarding the reason for refusing an application is not provided, due to the confidential nature of applications for warrants.

Secondly, the Hon. Mr Redford raised concern about the scope of section 7 of the Act. Section 7 of the Act allows a person who is party to the private conversation to record the conversation where it is in the course of duty of that person, in the public interest or for the protection of the lawful interests of that person. This exemption is open to use by a member of a law enforcement agency and to members of the public. The section 7 exemption was enacted in the original legislation in 1972, and it appears that a similar exemption has been adopted in many other Australian States. It is interesting to note that some States do not prohibit the use of a listening device where the person using the listening device is a party to the private conversation, regardless of the purpose for making that recording. Those States focus on restricting the disclosure of information obtained by such means.

This Bill will replace the current publication and communication provision with new section 7(3), which I believe will tighten the provisions relating to the disclosure of information obtained by use of a listening device under section 7. The Hon. Mr Redford has questioned what is meant by lawful interest. I believe that the determination of whether information is obtained or disclosed in the public interest, in the course of duty or for the protection of a person's lawful interest must be left to the discretion of the trial judge to be exercised on the facts of each individual case. The courts have dealt with this issue on a number of occasions to date. In the case of *Giacco v Edginton* and the case of *Smith v Turner*, the full court held that the evidence was obtained and disclosed in the public interest because it will always be in the public interest to bring persons engaged in conspiracy to murder and murder respectively to justice. In both cases there were reasonable grounds to suspect the defendants of the respective crimes before the private conversations were tape recorded.

By comparison, in *T. v The Medical Board* the court was asked to assess whether a tape recording made by a practitioner's patient was made under the section 7 exemption. The evidence was tendered as evidence during a hearing in which the practitioner was charged with professional misconduct on the ground that he committed three separate incidents of sexual misconduct. The court found that on the facts of that case the recording had not been made in the public interest and was not for the protection of the lawful interests of the patient.

Progress reported; committee to sit again.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

WINGFIELD WASTE DEPOT CLOSURE BILL

Adjourned debate on second reading.

(Continued from 18 February. Page 738.)

The Hon. T.G. ROBERTS: The Opposition supports this Bill. This is the first stage of an integrated waste management proposal that the Government has put forward. It is indicated in the second reading explanation that it is the Government's intention to move as stage 1 a proposal for the closure of the Adelaide City Council's dump at Wingfield and then to progressively move into the northern regions of the outskirts of the city to a number of proposals that have been put for the siting of other landfills, recycling depots and collecting stations. It is clear to everyone who has visited the site at Wingfield that the base on which the site was first built is not adequate for today's standards in relation to preventing leachate from moving into our underground water supply.

The site is certainly in a very sensitive area environmentally, although our forefathers (and foremothers) did not see the area as being significant. There were a lot of land use abuses in that area. Most of our residents, up until the late 1960s or early 1970s, probably saw the site as a wasteland

and believed that a dump or a depot would be the appropriate way in which an area like that would be used.

It was not until we moved into the 1970s and looked at the MFP site in the late 1980s that it became clear that something would have to be done with that region. Not only the city dump, which was administered by the City Council, but also the other two dumps in that area were involved. It was realised that something would have to be done to make the area safer in regard to any potential for pollution and that there would have to be a clean-up of the Gillman-Wingfield area where for years in some cases toxic materials had been buried and not documented.

The Penrice salt program had impacted on the mangroves in that area. It was clear to all those who had an interest in environmental and waste management that the health of the estuarine area within the Port Adelaide-St Kilda-Gawler area would have to be protected and that fisheries for breeding in that area would have be managed much more successfully than had been done in the previous 30 to 40 years.

The conservation movement, the Liberal Party, the Labor Party and the Democrats were aware of pressure from people in the metropolitan community who were not prepared to put up with waste depots in the inner metropolitan area. Also, people in the outer metropolitan fringe where waste depots had been sited in the 1960s and 1970s told us that, with urbanisation and bearing in mind the size of the depots at, in particular, Highfield, Garden Island and Eden Hills—there is now pressure on the one at Pedlar's Creek—it was not acceptable in the 1990s to increase the size of waste management depots in the outer metropolitan area.

If the current Government had not listened to the residents of the Highbury area, it is possible that the outcome of the last election might have been different. We won a seat in that area through the hard work of our candidate and the Labor Party team, but there was anti-Government feeling about the handling of the Highbury dump issue which reinforced the view of the people who were watching the waste management situation closely that the siting of metropolitan dumps was becoming totally unacceptable.

Both the Government and the Opposition needed to have a waste management proposal. The Democrats' proposal was to phase out the inner-metropolitan area dump sites (including the Adelaide City Council dump and other sites on the outer metropolitan fringe) which were being impacted upon probably by poor planning and management. All that contributed to the current Government's policy of the phasing out and non-renewal of licences. This is an example of time catching up with the Adelaide City Council site.

I thank the Adelaide City Council for the briefing that it provided to members on this side of the Council. I understand that it provided that information to anyone who wanted to avail themselves of it. I also thank the Port Adelaide Enfield Council for its briefing, because the debate about the technicalities, differences and variations of the proposals for closure was confusing.

The briefings from the Adelaide City Council were very professional. When we visited the site, the height of the dump and the problems associated with capping were self-evident. It was obvious that the Adelaide City Council was managing the Wingfield dump in a professional way. It was being managed in an environmentally sensitive manner although it had got off to a bad start. However, it did not matter how well the dumps were being managed in those areas, they would always have an impact on the immediate vicinity.

The fear that I have in relation to the finalisation of the capping and the sealing of the three dumps in that area is that I suspect that not too many people are alive today who know exactly what those dumps contain. I suspect that some toxins have been buried in those dumps. Some of the dumping that was done in those early days would perhaps have been legal at the time, but it would be illegal now. Without expensive drilling and exploration, it would be difficult to find out exactly what is in those dumps so that they can be rehabilitated properly.

I understand that the base upon which those three dumps are built, whether accidentally or incidentally, is acceptable as regards maintaining or keeping some of those dangerous toxins *in situ*. The level of rainfall and underground leachate is also regarded by experts as acceptable, and the underground water movement is very slow. I think this is all accidental rather than planned, but the conditions where those dumps have been sited in that area can be managed in the future.

Local government, State Government and anyone who has any responsibility for dumps now or in the future will find that those dumps will have a price tag on them. A system needs to be worked out for the future by the State Government in conjunction with local government in terms of the benefits of reclaiming those three dumps. There will be financial benefits for those people who are able to work over those areas. In fact, I think there is a proposal by one proponent to mine the Wingfield dump and perhaps even the other two dumps to try to accrue some of the benefits from those dumps, particularly those which contain green waste.

There was a program on *Landline* for those watching the ABC on Sunday that showed a Western Australian entrepreneur who was transferring a dump into cash by a method that is not new. He had perfected the technology associated with preparing that dump for recycling by placing a lot of the putrescible and green waste matter that had broken down into a mix with additives which he then put out on agricultural land. I suspect the Government has visions of those sort of things happening in future.

The Hon. Diana Laidlaw: We cannot get any of them up while dumping continues.

The Hon. T.G. ROBERTS: That is right. I am not sure about the Borrelli site with the recycling structure that will go on top of that and how easily it will be rehabilitated in the short term. I suspect that if it becomes a collection and sorting centre in the short term it may be able to be rehabilitated at a later date.

The Hon. Diana Laidlaw: If it is not required already it will have to be required.

The Hon. T.G. ROBERTS: So the Government's intentions, by way of interjections and second reading speeches, indicate that the Minister has addressed the issue through the Environment, Resources and Development Committee, which took up waste management as a pet project at one stage. The Government is heading in the same direction as is the Opposition in relation to waste management with the closing of the fringe metropolitan waste disposal and dump centres and the setting up of outer metropolitan area waste disposal and recycling centres, separating out green waste and monitoring the entry of all other material that is to be placed into the dump. So, there is an inventory or history of what is being dumped and where it is being placed in that dump.

In Brisbane, Queensland, it was done with cameras. Trucks were monitored entering the dump, and loads were

viewed on screens by internal monitoring services. There are other methods of staff manually checking loads, particularly in respect of hazards associated with some of the hard fill being dumped. I am not sure of the Government's intention in respect of a monitoring process, but those recycling centres that were monitoring dumped material were certainly making sure that they had a position where dumping was impossible or very difficult unless done illegally, and those people who had dangerous waste to either store or dispose of had to do it through the appropriate authorities. If there were no alternatives to storage and/or safe disposal, it certainly was not going to be put into landfill.

The message we need to send in this State is that no longer will it be acceptable to illegally dispose of dangerous materials such as asbestos or toxic chemicals in landfills. America has built up an industry around the unsafe disposal practice of dumping illegally, particularly liquid wastes, into sewers or landfills. The EPA needs to keep an eye on it because, as landfills become more manicured and better managed, it dissuades people from using them as illegal areas for dumping, and those people who want to take the easy way out look for other ways of disposing of their waste. Similarly, if the cost of disposing of household rubbish becomes too high, people start to look for simpler solutions such as finding bare blocks or roadsides to dump rubbish.

With education and with the Government flagging its intention in relation to its integrated policy of waste management and dump closures, we will get people in the community to cooperate because most people are environmentally minded and recycling is one of the things that most people will contribute to and assist with. A lot of work has been done on Clean Up Australia where people are now taking pride in not only cleaning up their own backyards but also assisting to clean up public waterways, roads and highways. I notice signs around the place which indicate that schools are now taking responsibility for roadside sections, and even in isolated areas such as the Nullarbor and the Stuart Highway clean-ups are being carried out. Governments need to assist communities where that sort of cooperation is being indicated, and encouragement needs to be given, with an award process set in place. Certainly school children will cooperate.

I notice in the second reading explanation reference to an integrated waste management collecting service, of which most councils are starting to avail themselves, or have been for some time. Some have been quicker than others in putting kerbside management programs in place but, unfortunately, with the volume and levels of kerbside recyclable material that waste management collection services have picked up, the marketplace has not been able to consume all of it. One of the problems is matching the efficient pick-up services with an efficient market for those recyclable materials. It appears to be cyclical, which is difficult for local government and State Governments to manage.

I use the example of waste cardboard and paper, where people cooperate and put it out on the kerbside. In some cases there will be a market for it and everybody will be vying for it. The market price for recyclable cardboard and paper products is such that there is a return for those handling it, particularly local government. However, there are periods when no-one wants nor can use or dispose of waste cardboard and waste paper because the market is saturated. People then need to store it, so the responsibility generally goes back to local government to find large areas to store it and it becomes a waste management cost to local government that does not bring it an entrepreneurial return to offset the cost of kerbside recycling.

With an integrated management service to meet the marketplace for the waste management of paper and cardboard products, or even scrap metal and other products that have been recycled, it is very difficult to match collection services and volumes with the rate of marketplace disposal. The view of some experts is that you can put those sorts of products into temporary storage, either in bales or landfill, and reclaim them later, but I think that putting them into landfill for reclaiming would be a very expensive way to go. The Borrelli people showed us one of the dumps in the northern region out by Dublin where it was proposed to bale it and put it in above ground storage, a bit like haystacks. That proposal seemed to have merit but would require a large storage area to meet the marketplace.

When the Asian markets fell in, I think that the avenues for disposal of many of our recyclables that were mounting up were going to make it much harder for us to get markets in the future. The suggestion that pulped goods made from paper and cardboard could be recycled and put back into land use programs for rehabilitating and value adding to waste land, such as rebuilding cropping land that has lost is zest, is a good idea. By doing this you are not relying on external markets and you can use the product in the outer metropolitan area. The Mid North would be a good area to use these products to revitalise a lot of the wheat country.

The Hon. Caroline Schaefer: Even the South-East!

The Hon. T.G. ROBERTS: The Upper South-East, I think, could probably—

The Hon. Caroline Schaefer: What about all those bog pits in the Upper South-East around Millicent?

The Hon. T.G. ROBERTS: I think there is a good market, probably in the rest of the State. Transport costs start to get a bit high when you are looking at 400 kilometres as opposed to 250 kilometres.

The Hon. J.S.L. Dawkins interjecting:

The Hon. T.G. ROBERTS: A proposal was put to the committee that we truck all our waste to the northern regions north of Port Augusta. Rail 2000 had the costings down to what appeared to be an acceptable figure, but it was more a matter of storage and disposal rather than recycling and reuse. The future for waste disposal is to turn waste into acceptable products that can be used, and reusing and recycling can be built into integrated waste management proposals.

The Opposition supports the Bill. We do not want to get into any of the arguments that are occurring between the two councils in relation to their proposals. We believe that 27 metres, settling at 25.5 metres, is a good compromise in the current Bill, and that the EPA's assessment, along with the Government's assessment, is accurate. We could call for any number of reports and get any number of proposals in relation to whether it should be 22, 32 or 42, but I think the Bill before us gives us a chance to start phasing out the Wingfield dump and moving towards a new integrated policy that includes the siting of at least three dumps in the northern outer metropolitan area.

The Hon. Diana Laidlaw: And landfills.

The Hon. T.G. ROBERTS: And landfills, yes. We are not certain that the Government has chosen the right sites. It is our view that the EPA should choose the sites rather than the proponents of any landfill program, but I think the horse has bolted on that, because the applications have been made and accepted. We will wait to see whether the sites that have

been chosen are acceptable. I think that there are still some environmental impact statements to be done on one of them.

The Hon. Diana Laidlaw: None of them has been licensed.

The Hon. T.G. ROBERTS: So the licence procedures still have to be finalised. With those supportive statements and perhaps some observations, we support the Bill.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

TOBACCO PRODUCTS REGULATION (SMOKING IN UNLICENSED PREMISES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 822.)

The Hon. P. HOLLOWAY: The Opposition supports the Bill. Its purpose is to amend section 47 of the Tobacco Products Regulation Act to permit the Minister to make exemptions for non-licensed public dining or cafe areas. In debating this Bill we need to go over the background of it. The restrictions to smoking in dining areas came about several years ago when we were discussing amendments to the Tobacco Products Regulation Act. At that time the Government was seeking to amend the Act to deal with what was then an upcoming challenge in the High Court over the legality of the imposition of State franchise fees on the sale of tobacco.

What the Government sought to do at that time was to alter the manner in which the tobacco franchise fee was levied to relate it to the tar content of cigarettes. In that way it was hoped that it would be seen as a health measure and, therefore, it would not be struck down by the High Court because it was seen to be a tax, and we know that under the Commonwealth Constitution the States cannot impose taxation.

The history of the matter is that the case in the High Court—brought by a couple of tobacco dealers in New South Wales, an appeal against the tobacco regulations in that State—was upheld and, as a result, all the tobacco products regulation legislation as it relates to the raising of fees was struck down and the States came to an agreement with the Commonwealth Government to transfer the tax raising powers to the Commonwealth. That was the context in which this matter originally arose.

While we were debating these technical regulations concerning the imposition of a franchise fee on tobacco, almost as an afterthought the then Minister for Health launched this smoke free dining push. It was very interesting when the debate occurred in the other House. You had the then Treasurer, Stephen Baker, handling the Bill in relation to the franchise fees and the then Minister for Health, Dr Armitage, handling the amendments concerning the smoke free dining issue.

That process was a disgraceful episode in terms of parliamentary democracy because those amendments—and there were two or three pages of quite detailed amendments—were given to the Opposition only several hours before they were debated in the House. The then Opposition had no opportunity to consider those amendments at its Caucus meeting, because the Government itself had only just been able to reach agreement within its own ranks as to the final approach that should be taken. So, the Opposition in the House of Assembly, in protest, opposed the manner in which those regulations were rushed through. Of course, when that Bill finally reached the Legislative Council there was much more discussion on the measure, namely, to restrict smoking in areas where dining was taking place. At the end of the day, the Opposition and other Parties in this place supported the final position that was reached. It was a compromise; it was certainly not like the original amendments that Dr Armitage introduced to the House of Assembly.

I have provided that rather lengthy description of the background of this Bill to indicate just how messy the whole process was and just what little consultation occurred in the passage of those original measures. Is it any wonder that, with such little discussion on that Bill during its passage, some errors were made? Some two years later, when the measures finally came into effect, as they did in January this year, we found that there were some real anomalies. One could say that, if there had been much more substantial discussion on this matter before it was introduced in 1997, there is a very good chance that we could have avoided those problems.

The anomaly is that, whereas the Minister can exempt licensed premises from the provisions of section 47 of the original Act, the Minister cannot do that for unlicensed premises. The Minister referred to these concerns in his contribution, as follows:

> . . . concerns have emerged in relation to coffee shops, bowling alleys and roadhouse cafes, particularly truck stops. These premises, many of which are small businesses, are not licensed premises and, as the legislation currently stands, cannot apply for exemption under section 47 of the Act for an exemption.

We are told in the Bill that operators are now bypassing roadhouse and truck stops, particularly those in the South-East, and continuing over the border where they can stop for a break so that they can eat and have a cigarette. They obviously feel that this issue of smoke-free dining is the latest in a series of issues which are impacting on their business.

Really, the amendment before us seeks to put those unlicensed premises on the same basis as licensed premises. According to the relevant section of the Act it will mean under this amendment, if it is carried, that the Minister can exempt unlicensed premises in this way. In his second reading explanation the Minister said:

> . . . the general prohibition on smoking in an enclosed public dining or cafe area will not apply in relation to—
>
> an area within unlicensed premises (whether being the whole or part of an enclosed public area) that—
>
> (i) is not primarily and predominantly used for the consumption of meals; and
>
> (ii) is for the time being exempted by the Minister for Human Services.
>
> Conditions may be placed on such exemptions, as they can be for licensed premises.

Basically, this Bill will just bring the treatment of unlicensed premises into accord with that which is now given to licensed premises. Clearly, that is an anomaly that should have been dealt with two years ago when the Bill was originally introduced.

When this Bill was debated in the House of Assembly a number of questions were asked by my colleagues. I will not seek to repeat those points, because they were answered by the Minister for Human Services in that place. I refer anyone who wishes to understand this Bill better to the debate that took place in the House of Assembly.

From the questions that were asked by Opposition members in the House, we can conclude that there still are

some uncertainties and that there will still be some concern on the part of licensed premises in particular situations as to how this legislation will affect them. Clearly, small businesses in particular situations will face difficulties, even with the passage of these amendments. If members look at some of the debate in the House of Assembly they will see examples, such as that of Westfield Marion and large shopping centres of a similar ilk, where there are some special cases that will create difficulties for those particular premises. However, it will certainly not be easy to deal with such matters. All we can do here is hope that with the passage of the legislation we are at least satisfying some of the more obvious and glaring anomalies with the original legislation.

In conclusion, I make this observation: I do hope that this new legislation will be policed with commonsense. Clearly, many people still believe that it is their right to smoke in premises where food is served. There is obviously a lot of pressure on the owners of those restaurants and cafes, be they licensed or unlicensed, as to how they might enforce this legislation. I certainly hope that in its early days the legislation will be policed with some commonsense.

Perhaps it would be helpful if the Minister could tell us in the course of this debate whether any prosecutions have been launched under the new provisions. I think that will give us some indication as to how the Government sees the operation of this Bill.

We hope that this Bill will alleviate most of the problems that small business faces. Most people agree nowadays that we can no longer tolerate the situation of people smoking where people are eating unless, of course, they are in an area that is specially designated for that purpose. People do have the right to eat out without the intrusion of cigarette smoke, but at the same time we also need to be practical in dealing with the problems that arise in relation to this Bill.

The Opposition supports the Bill as a measure that addresses an obvious anomaly with the Act. We certainly hope that as a result of its passage those small business people who have suffered adversely as a consequence of the anomaly will have most of their concerns addressed.

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

CONTROLLED SUBSTANCES (FORFEITURE AND DISPOSAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 823.)

The Hon. CARMEL ZOLLO: The Opposition supports and welcomes this Bill. We obviously see it as a sensible piece of legislation which will have the effect of repealing the existing forfeiture and destruction provisions in section 46 of the Controlled Substances Act 1984 and replacing them with a new section. This new section allows for the forfeiture of property used in connection with drug offences and provides for the immediate disposal of controlled substances and dangerous materials, including hazardous chemicals often used in the manufacture or production of illicit drugs.

I understand that the need for this amendment has come about because of two recent court cases in which it was ruled that existing section 46 provided only for the forfeiture of illicit drugs and items such as syringes which had been the subject of the offence. As a result of these judgments, other items such as hydroponic equipment and other laboratory devices and equipment are liable to be returned to the offender, in spite of a conviction for the offences.

As mentioned, the amendment also allows for the destruction of illicit drugs and associated dangerous articles at the earliest opportunity, whilst ensuring that evidence is retained for criminal proceedings. Whilst as a society our first thoughts are often for the unfortunate users and the harmful effects to them, we should also bear in mind the significant occupational health, safety and welfare problems faced by our public servants who are called into dismantle, remove and store the illicit drugs, equipment and other chemicals that are found. The Controlled Substances Act does not currently provide for the destruction of these materials. Although the Opposition will ask some questions in Committee, we support the second reading. Anything that further prohibits the undesirable escalation in the growth and manufacture of illicit drugs in our society is welcomed by the Opposition.

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

ADJOURNMENT

At 6.58 p.m. the Council adjourned until Wednesday 10 March at 2.15 p.m.