LEGISLATIVE COUNCIL

Thursday 8 July 1999

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

ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Barley Marketing (Miscellaneous) Amendment,
Explosives (Broad Creek) Amendment,
Financial Sector Reform (South Australia),
Financial Sector (Transfer of Business),
Mutual Recognition (South Australia)(Continuation) Amendment,
Road Traffic (Driving Hours) Amendment.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

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

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

NATIVE TITLE

Petitions signed by 1 746 residents of South Australia concerning native title rights for indigenous South Australians, and praying that this Council not proceed with legislation that, first, undermines or impairs the native title rights of indigenous South Australians and, secondly, makes changes to native title unless there has been a genuine consultation process with all stakeholders, especially South Australia's indigenous communities, were presented by the Hons M.J. Elliott, Sandra Kanck and T.G. Roberts.

Petitions received.

HEALTH REFORM

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

Leave granted.

QUESTION TIME

ARTS SA

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for the Arts questions about Arts SA's move to Hindley Street.

Leave granted.

The Hon. CAROLYN PICKLES: It is a well-known fact that Arts SA will be moving to Hindley Street, and this is certainly a move that I strongly support. I strongly support the revitalisation of the West End of Adelaide into an arts precinct and I hope it can move apace, but I am somewhat concerned about the expense of the move of Arts SA. In an explanation to Parliament's Estimates Committee on 24 June, the Minister and one of her advisers gave details about Arts SA's planned move to Hindley Street, to the premises of the building known as West's Coffee Palace. I urge honourable members to look at that building, which has been made very beautiful, having been put back into its original form.

The Minister writes in the most recent 'Inside Art' in the July *Adelaide Review*, as follows:

Arts SA is in the final stages of negotiating its occupancy of West's Coffee Palace.

When asked how much the move from Pulteney Street would cost in terms of annual rent, the Minister's adviser, Arts SA Executive Director, Mr Tim O'Loughlin, said:

Our estimate is that the incremental costs will be less than $50 000 per year more in West's Coffee Palace.

Mr O'Loughlin then said that, even though the property owner will have to bear the bulk of the costs in terms of refurbishing the building, there will be a capital cost for the fit out of the building, something above $500 000. My questions to the Minister are:

1. Why is Arts SA, which is an administrative organisation, planning to spend more than $500 000 fitting out new offices in a shop front location?

2. Does the Minister condone the move if it will cost $50 000 more a year in rent; and has she asked Arts SA to cut the cost of this fit out?

3. The committee was told that the fit out would be financed out of a small pool of uncommitted capital funds. Does the Minister consider $500 000 a small pool, and which capital projects had to miss out on this money so that Arts SA can move to Hindley Street?

The Hon. DIANA LAIDLAW: Arts SA's lease at the current site expires in June next year. There has been a great deal of discussion in recent months about the most appropriate place for Arts SA officers to operate from in the future. Certainly, West's Coffee Palace has been identified as an ideal site, situated in the centre of what we are seeking actively to establish as a high profile arts hub or precinct for Adelaide.

This will be a unique way of focusing on the arts. Nothing similar is possible or has been contemplated interstate, and positive benefits will rub off this in terms of lifting the profile of Hindley Street. It will be exciting to see a mixture of young people associated with the University of South Australia and the new TAFE Centre for Performing and Visual Arts, which is under construction in Light Square.

I am unable to confirm the move by Arts SA for the very reasons that have been outlined by the honourable member. Some cost issues are still being considered. Arts SA has not signed off and I have not approved the move at this time, although I enthusiastically support such a move. Further negotiations will take place. That is all I can say on the matter at this time. I will examine the questions asked by the honourable member, quite a few of which are detailed, and bring back a reply.

GOODS AND SERVICES TAX

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

Leave granted.

The Hon. P. HOLLOWAY: The Opposition has been informed by senior sources within the Department of Treasury and Finance that consultants, including Arthur Andersen, KPMG, Deloitte, and Price Waterhouse, have been contracted to advise Government departments on the GST up

to 31 July next year. My sources state that up to $20 million has been allocated to pay these consultants. My question is: will the Treasurer confirm that the Government has appointed a panel of consultants to advise on the implementation and impact upon Government of the GST; and, if so, will the estimated cost to the taxpayer of these consultancies be up to $20 million?

The Hon. R.I. LUCAS: I have no knowledge of any budget line which could be used to pay $20 million for the four consultant groups which the shadow Minister for Finance announced or claimed in his question today. I suspect that, as with a number of other rumours which the shadow Minister peddles together with Mr Foley in another place, it may well be that in terms of its content this one is significantly inaccurate. Nevertheless, I will have some urgent inquiries made to see whether I can bring back a reply.

MINING PROJECTS TASK FORCE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, Natural Resources and Regional Development, a question about the mining projects task force.

Leave granted.

The Hon. T.G. ROBERTS: I received a reply to a question I asked on 10 March from the Minister for Primary Industries, Natural Resources and Regional Development relaying to me the information that improvements would be made to the negotiating process with Aboriginal people in relation to mining projects to be conducted on their land by the formation of a resources task force. The important parts of the answer to that question are noted by the Minister as follows:

> 1. As I have already noted, the resources task force will not be made up of representatives, but people who have knowledge of the issues facing the industry.
>
> 2. As requested by the Premier, the resources task force will provide advice on the effect of legislation on the mineral development industry. The Government will then consider any recommendations with respect to its impact on all stakeholders, not just the mineral development industry.
>
> 3. The resources task force will consider all legislation, including Bills presently before Parliament, for their impact on the mineral development industry.

Over the past month or so negotiations have been held in relation to access deeds in the Pitjantjatjara lease and the Anangu area of the Pitjantjatjara lands. The initial press releases that were put out—I suspect more by the mining industry than through any influence from the Government—were very ambitious in relation to the negotiations that had taken place until that time.

Chris Milne put out two major press releases in the Business Section of the *Advertiser*, one on 12 June and the other on 16 June 1999, with the headlines 'Mines Chamber aims to meet traditional land owners: Pitlands growth' and 'Joint venture to bring jobs to Pitjantjatjara lands: A dream deal'. There were photographs of the geographical location and some of the traditional owners and a light aircraft indicating that all was going well and that the negotiations that had been promised were starting to bear fruit. Once the journalist or others started to ask questions of the other negotiating parties, the Aboriginal people themselves, it became evident that there was not an agreement. There might have been an agreement among the applicants for access deeds, but there was certainly no agreement among the majority of the Aboriginal elders.

My understanding is that members on the other side, including the Attorney-General, are very sensitive to the way in which negotiations are carried out, particularly in remote areas, around mining access and exploration, and especially during this period when legislation is being altered at both Commonwealth and State level. It appears that we probably have the worst case scenario, where there are now divisions within the Aboriginal communities and amongst the applicants. I understand that legal action is being threatened in relation to one of the applicants, and I do not want to make too much of that. My questions are in relation to this unfortunate exercise, which may turn out well in the end, if that is the way the negotiations go. My questions are:

1. Were any members of the mining project task force or their staff involved in negotiations relating to this project?
2. If not, why not?
3. Is that appropriate?
4. Was it envisaged that the project task force would involve itself in these forms of negotiations?

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

UNEMPLOYMENT

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government and Treasurer, the Hon. Robert Lucas, a question about unemployment rates.

Leave granted.

The Hon. L.H. DAVIS: I noted a Reuters report late this morning which indicated that Australia's seasonally adjusted estimate of the number of employed persons rose by 62 400 people in June, which was—

The Hon. M.J. Elliott interjecting:

The Hon. L.H. DAVIS: The more people employed, the more dollars there are, Mr Elliott, but that is a point that might escape you. More importantly, the seasonally adjusted unemployment rate fell to 7.2 per cent in June, down from 7.5 per cent and, impressively, the participation rate rose to 63.1 per cent from 62.9 per cent in May. The good news undoubtedly is in the dramatic improvement in the seasonally adjusted unemployment rate in South Australia as compared with that in other States.

Certainly one accepts that one swallow does not make a summer, but if one looks at the seasonally adjusted unemployment rate State by State it can be seen quite readily that South Australia has had by far the greatest improvement of any State over the past 12 months. The unemployment rate, seasonally adjusted for Australia, in June 1998 was 8.2 per cent. It has fallen by 1 per cent in the past 12 months to 7.2 per cent for June 1999. The other States' rates are as follows: Western Australia's improvement has been 0.8 per cent, down from 7.2 per cent to 6.4 per cent; Queensland has improved by 0.7 per cent, down from 8.9 per cent to 8.2 per cent; Victoria has improved by 0.9 per cent, down from 8.3 per cent to 7.4 per cent; Tasmania has improved by 1.1 per cent, down from 10.6 per cent to 9.5 per cent; and New South Wales, down from 7.5 per cent to 6.4 per cent. Most impressively, South Australia has fallen almost 2 per cent, down 1.9 per cent in the past 12 months to 8.1 per cent for June 1999 and, indeed, now has an unemployment rate below that of not only Tasmania but also Queensland.

Has the Treasurer been made aware of these statistics and does he have any comment on the implications of this improving unemployment rate for the 1999-2000 budget and, more importantly, for the economy of South Australia as a whole?

The Hon. R.I. LUCAS: I am sure that all members in this Chamber—not just members of the Government but also members of the Labor Party, the Australian Democrats, the Independent member and the SA First and No Pokies members—would want to congratulate South Australia for its unemployment record as demonstrated in the past couple of months. I am sure that there would not be a member in this Chamber who would not be delighted at the figures released today. As the Hon. Mr Davis indicated, monthly figures bounce around a little, but the encouraging thing has been that two months ago we saw a similar figure in the low 8 per cent range—about 8.3 per cent—in South Australia and it bounced up again last month but it has now dropped to I believe the lowest level in some nine years. That was stated in a press report and I would need to have that figure checked.

It is enormously encouraging, because predictions are easily made but not always checked up on. I recall in October or November last year, when we got some encouraging unemployment figures, press coverage predicting that by June 1999 the unemployment rate would bounce up again in South Australia to 11 per cent. I was surprised at that prediction.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: No, no. I will get a copy of the statement. However, it did indicate that the projections from a number of people were that the unemployment situation would deteriorate quite significantly through 1999. As these figures bounce around in the 8 per cent range, they are starting to establish a trend. We hope from the Government's viewpoint that that trend continues.

The Government's view has been that, essentially, the major drivers for employment and unemployment are national drivers. There are, obviously, also international influences, but we do acknowledge that what State and regional governments do can impact at the margin. The Government has worked long and hard over the past six years to try to set in place a more competitive economic environment in South Australia, competitive in relation to taxation and taxes and charges, and has encouraged major investors in South Australia, such as Westpac, which now employs over 2 000 full-time equivalent staff in the western suburbs of Adelaide, as examples of the types of new industries that we seek to encourage in South Australia.

In addition, the Government has embarked on programs, and I know that the Hon. Mr Cameron, with his interest in small business, and other members in this Chamber with their interest in small business, will be delighted to see their success. In relation to the Small Business Employer Incentive Scheme, the Government has provided small incentives to encourage small businesses to take on new trainees within their small businesses. The sum of $4 000 was allocated over two years, and the first two schemes were sold off, if I can use that phrase, without advertising within weeks. In the most recent budget, we have allocated additional millions of dollars—the immediate figure escapes me—to that small business scheme because it is a way of assisting, supporting and encouraging existing small businesses in South Australia to take on additional employees in the trainee scheme and, as a result, have a significant impact on the employment and unemployment figures in South Australia.

I am sure all members will be prepared to publicly acknowledge these recent figures of the past few months, and welcome the trend line in terms of the success of the Government's economic policies in trying to bring down the 11 per cent plus unemployment rate that Mike Rann, Kevin Foley and the Labor Party left to South Australia in 1993-94 when this Government was elected. The honourable member did not refer to the youth unemployment rate. I will be interested to see what that figure shows because, as members know, that has been of particular interest to the Government. At various stages under Mike Rann it was up to 42 per cent. We are hopeful that we are nowhere near Mike Rann's figure of 42 per cent but that the figure is much lower in terms of the young unemployed in South Australia.

I thank the honourable member for his question. In terms of its impact on the economy and the budget, it is clearly important. The more people in employment, the more pay packets there are and the more encouraging it is for household approvals and retail sales, for all those sorts of investment, consumer expenditure related decisions which employed South Australians are able to take but which unemployed South Australians are not in a position to take with their impact on the State's economy.

Of course, a healthy State economy means a healthier State budget in terms of own taxation base, whether that be stamp duty or a range of other State tax bases that obviously see improved revenue flows at times when the State's economy is doing better. I thank the honourable member for his question, and we look forward to this encouraging trend line continuing over the coming months.

ATTENTION DEFICIT HYPERACTIVITY DISORDER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Education, a question about attention deficit hyperactivity disorder and schooling.

Leave granted.

The Hon. M.J. ELLIOTT: Attention deficit hyperactivity disorder is now amongst the most diagnosed of all childhood disorders in Australia and the United States. It is a disorder typified by impulsivity, hyperactivity and inattention. Expert opinion agrees that the impact of ADHD is most keenly felt in the school environment and, as a consequence, it is an important education issue needing specific educational responses. Put simply, young people with ADHD learn and behave differently. At school they often have difficulties with organisation, information processing, social skills and self-esteem.

It is worth noting comments in this morning's *Advertiser* by Professor Peter Freebody of Griffith University who said:

> In the past, economies built on manufacturing had places for kids who were not. . . critical manipulators of information and language. The future now seems not to have room for them.

In response, Professor Freebody calls on educators to question school sizes and current study programs. Clearly, students with ADHD are amongst this group for whom there is no room in our schools (and I do not mean in the physical sense), and there is a concern that increasingly they are being excluded or medicated with amphetamines.

While ADHD is a condition that requires a range of medical, social and educational treatments, recent research in South Australia seems to indicate that currently only medical treatments are accessible. I want to make clear that

I am not opposed to the use of amphetamines as part of the NH&MRC recommended multi-modal approach to ADHD, but there is a concern about its being used as the primary or sole form of treatment.

Research in the United States reveals that the current focus on medical and remedial education responses misses 50 per cent of those experiencing difficulties with ADHD in schools. It is argued that at least 50 per cent of students with ADHD do not receive the support they need in important areas such as organisation and social skills, information manipulation and self-esteem. With this in mind, I note that during the Estimates Committees last week the Minister for Human Services revealed that 2 per cent of South Australian young people were on drugs of dependence for ADHD. This figure is confirmed in a joint paper by Flinders University researcher Brenton Prosser and University of Nebraska Associate Professor Robert Reid in the most recent edition of the American *Journal of Emotional and Behavioural Disorders*.

The paper also found higher amphetamine use for ADHD in areas of Adelaide with lower income and employment. It is the second published South Australian based paper to argue that current health and education policies contribute to the growth of ADHD diagnosis and treatment with amphetamines. The Prosser and Reid paper is part of a broader doctoral study, the final report of which was released last week. This broader study finds that many difficulties are masked by medication in younger years only to become significant with the increased academic and social demands of teenage years.

The report also confirms research in the United States that demonstrates that many parents are seeking ADHD diagnosis and drug treatment because they are frustrated and dissatisfied with education authority responses. The report found that a major barrier to parents accessing specific educational treatments is that our schools are under-resourced and decisions are being made purely on economic grounds. Teachers want to help, but there are already too many demands placed on them. It is no surprise that parents of children who behave and learn differently turn to a label such as ADHD to help secure additional school resources.

The issue of inadequate ADHD services has been pursued for some time in this place by the Democrats. On 26 May and 4 August last year, we asked questions in the Parliament and expressed concern that current services were inadequate and that an inter-agency Education Department paper on ADHD, commenced in 1996, was still under ongoing review. Given the significance of this issue and the degree of public concern, it is surprising to find that the report has not been released. My questions are:

1. Will the Minister explain to South Australians why there are not the resources to cater for students with ADHD in our schools and whether this is behind the recent growth in drug use to treat the disorder?

2. In the face of mounting research that contradicts the Government's reassurances of May and August last year, does the Minister still affirm that the full range of services, including educational services, are reaching our young people with ADHD?

3. Will the Minister also explain why there has been such a long delay in the final release of the Education Department's inter-agency report on ADHD which, as I said, commenced in 1996?

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

WOOL INDUSTRY

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the Wool Task Force.

Leave granted.

The Hon. A.J. REDFORD: On 30 June last, the Wool Task Force released its report entitled 'Diversity and Innovation for Australian Wool: A Report of the Wool Industry Future Directions Task Force', in which a number of recommendations were made in relation to the future of the wool industry.

Mr President, no doubt you would be acutely aware that for many years Australia relied substantially for its foreign income on the great work of the wool industry and that many rural communities were greatly dependent upon this very important and vital industry; indeed, many communities were built around the wool industry in rural and regional Australia.

Over the past 25 to 30 years there has been a gradual decline in trading terms in relation to the wool industry to the point that from 1991 until today you could only describe the position of the wool industry, and in particular woolgrowers, as being that of crisis. The report makes a number of recommendations in relation to the wool industry, some of which are pertinent to the Federal Government but some which I suggest might well be pertinent to the State Government. The report states that there are serious concerns about the long-term profitability of wool and, in particular, talks about the problems created from enterprises in which wool is a sideline and where sheep are used for weed control on cereal farms or for prime lamb production rather than focusing on the core business of production of good quality wool. The report also talks about the competitive disadvantages of wool where synthetics can be produced at about one-third the cost of wool.

The first recommendation of the task force was that from now on the viability of the Australian woolgrowing businesses should essentially be the responsibility of the owners of those businesses. I might say that there would be some in the wool industry who think that has been the case over the past few years in any event, given their particularly poor financial position. However, in recommendation 5 the report states:

> Woolgrowers should:
> - adopt commercial business risk management strategies and consider long-term supply agreements for at least part of their clip;
> - communicate effectively with their processor customers, obtaining and responding to feedback; and
> - seek critical market mass by combining with woolgrowers producing similar wools.

Mr President, well before even you were born we had a system of marketing where the contact between woolgrowers and processors was minimal. I suggest that the ability and the experience of ordinary wool producers to engage in that practice is limited because of a lack of training and experience. The other recommendations talk about improved productivity and reduction of costs, although some woolgrowers might question that they have not done everything they possibly can to reduce costs. But the report does state that the old wool bale weight limit ought to be removed, given the introduction of equipment such as forklifts and the like post the establishment of that weight. The report goes on to say that woolgrowers should consider participating in regional or blood line marketing groups and suggests that there be a biennial conference. All these things require some

participation and involvement from individual woolgrowers, but in their industry they have not been trained or involved in that sort of activity.

The PRESIDENT: The honourable member is approaching five minutes in making his explanation; it is too long. It is not the time to debate: this is for the purpose of giving a preamble to a question.

The Hon. A.J. REDFORD: Are you asking me to sit down, Mr President?

The PRESIDENT: No, I am not: I am asking you to bring—

The Hon. A.J. REDFORD: Well, I was about to finish, and I would have finished by now, but anyway—

The PRESIDENT: Just go on with your explanation.

The Hon. A.J. REDFORD: In the light of that, my questions are:

1. Does the Government have any plans to implement any training and education programs in relation to the wool industry and, if so, what are those plans?

2. What does the Government intend to do in relation to the maximum weight that currently exists in respect of bales, and what impact will it have on issues relating to occupational health and safety?

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

TOTALIZATOR AGENCY BOARD

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about the TAB.

Leave granted.

The Hon. NICK XENOPHON: Yesterday's *Advertiser* in the TAB guide section at page 57 carried an article about the South Australian TAB. The article stated that the TAB will this week announce record turnover for the 1998-99 financial year of just over $620 million. The article went on to say that this tops last year's record of $593 million and beats the 1996-97 figure by almost $100 million. The TAB Chief Executive, Mr Geoff Pitt, was quoted as being confident that further turnover growth is possible in the future. My questions are:

1. Will the Minister indicate whether any directions have been given to the TAB to increase the amount of gambling at the TAB and, if so, what are the details of the directions?

2. Will the Minister indicate what instructions have been given by the TAB board or by TAB management to increase gambling turnover?

3. Will the Minister indicate what instructions or training have been given to TAB staff to encourage customers to gamble more at the TAB?

4. When will the Minister answer my question dated 21 July 1998 about the TAB?

The Hon. K.T. GRIFFIN: They are questions which I will also refer to my ministerial colleague in another place and bring back a reply.

BAROSSA VALLEY IRRIGATION

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about irrigation in the Barossa.

Leave granted.

The Hon. J.S.L. DAWKINS: I have recently become aware of plans by a grower controlled group to use Murray River water to irrigate vineyards in the Barossa. I understand that these plans have been formulated over a period, and it is my understanding that the group intends to purchase water from existing river licence holders. With salinity becoming a considerable concern for the Barossa, this scheme will guarantee a regular supply of water to grape growers if it eventuates.

The group hopes to pump 10 billion litres of water from the Murray River to the Warren Reservoir (adjacent to Williamstown) each year. It is planned that water will be drawn from the river during off peak winter months and stored until summer. Many in the Barossa area have a view that, without the pipeline link, grape growing in that region will not be sustainable in the long term. My questions are:

1. Will the Minister indicate what, if any, arrangements have been negotiated by this grower group with SA Water in relation to the use of the Warren Reservoir for this purpose?

2. Will the Minister also advise what plans are in place in relation to the distribution of water from the Warren Reservoir to Barossa grape growers?

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

DISCRIMINATION

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about discrimination.

Leave granted.

The Hon. CARMEL ZOLLO: Yesterday morning whilst I was drinking my coffee and looking at the *Advertiser*, I was astounded at what I saw in a full page advertisement. On one side we had a young, blonde female in a miniskirt called 'The common cold'. On the other side, we had a very stern, fuller woman with very poor dress sense, called 'Influenza'—

The Hon. A.J. Redford: Who decides on the dress sense?

The Hon. CARMEL ZOLLO: Would you like to wait, please, while I give my explanation. The caption said:

> You're more likely to go to bed with the one on the right. . .

'The common cold', that is. The caption further said:

> Your doctor can now treat influenza. Consult immediately if it hits.

The article also said:

> Because, of all the things in the world you'd want to cuddle up with in bed, influenza is not one of them.

'Influenza' being the fuller, older woman with very poor dress sense. As half the population are female—and women do not generally want to go to bed with other women—this morning I thought we would see the same advertisement in the *Advertiser* but this time depicting a tall, handsome, dark male on the left and a fat, balding, middle-aged man on the right.

An honourable member interjecting:

The Hon. CARMEL ZOLLO: Regrettably, I didn't. I saw the same advertisement.

The Hon. T.G. Cameron: But whom would they put on the right?

The Hon. CARMEL ZOLLO: I will not comment on that. Regrettably, we saw the same advertisement. We looked up the web page, and apparently this advertisement was placed there by the International Influenza Education Panel,

which is made up of five leading scientists with a particular interest in influenza. Apparently, the web site and the program are sponsored by Glaxo Wellcome, which I understand is a private company. However, I think it is one of the most blatant—

The Hon. L.H. Davis: It's a public company—the biggest pharmaceutical company in the world.

The Hon. CARMEL ZOLLO: It's a public company.

The Hon. A.J. Redford: It's just a minor error, so don't worry about it—

The Hon. CARMEL ZOLLO: Sometimes I worry about you. Not only are you patronising but also you are a bit sexist. I think it is one of the most blatant sexist and discriminatory pieces of advertising that I have seen. I was wondering whether the Minister in her capacity could investigate the matter.

The PRESIDENT: Does the honourable member have a direct question for the Minister?

The Hon. CARMEL ZOLLO: Will the Minister, or will the Attorney-General in his capacity as Minister for Consumer Affairs, investigate this advertisement?

The Hon. DIANA LAIDLAW: I am keen to pass this question to the Minister for Consumer Affairs, and I suspect that that is the most appropriate forum. In terms of conducting an investigation, I do not have any specific powers under any Act assigned to me to investigate matters such as those which the honourable member has raised.

The Hon. Carolyn Pickles: Why don't you comment then?

The Hon. DIANA LAIDLAW: I was not asked to comment; I was asked to investigate. So, regarding an investigation, I will refer the question to the Minister for Consumer Affairs to see whether in terms of guidelines—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I do things in the proper way, and what I have outlined is the proper approach. I was not asked to comment, but I did see the advertisement. I did not read it, and it did not shock me in terms of—

The Hon. K.T. Griffin: I didn't even see it.

The Hon. DIANA LAIDLAW: Yes. It did not shock me in terms of being particularly sexist but, if that is the way in which the honourable member has read it, I will have another look at it. It is interesting that, today, I was contacted by the *Sunday Mail* to do something about men in advertising and to say whether I thought men were portrayed in a favourable light compared with women in advertising generally. Perhaps those questions have been stirred up by this article to which the honourable member refers.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Well, there may be none. I have not responded to the *Sunday Mail* because I did not want to get involved in such issues without having a particular matter referred to me rather than commenting in general terms, which I think is quite silly sometimes when talking about sexist issues. I think the media generally has come a long way towards a sensible portrayal of women in the media at large.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: It may well be that it is from a very low base, but in the areas for which I am responsible—public transport and so on—we adopt a strict advertising policy in respect of the portrayal of women. To have generally accepted this advertisement, it is probable that the *Advertiser* does also. It must have found that this advertisement falls within that code. I will have a look at the advertisement if the honourable member wishes.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: I have commented, and the Attorney is studying the advertisement now.

QUEEN ELIZABETH HOSPITAL

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about the Government's recommendations for maternity services at the Queen Elizabeth Hospital.

Leave granted.

The Hon. SANDRA KANCK: On 29 June the Minister for Human Services stated in Parliament that '. . . preliminary results. . . indicate that it will be feasible to maintain Level 1 obstetrics at the Queen Elizabeth Hospital'. Again, in the *Advertiser* yesterday, he is quoted as saying:

> At my insistence, I asked for a review group to look at the feasibility of providing low-risk birthing services at the QEH. . . We now have that expert advice.

In fact, the birthing review committee met only twice and the members of that committee have yet to see the final recommendations of the report. Furthermore, the draft report was given to members of the review committee on Thursday 24 June, and any comments or changes had to be submitted by the next day. No opportunity was given to the members to look at the revised report, which was given to the Minister on Monday 28 June.

One of my staff has spoken separately to seven members of the committee, and what was of major concern to them was that no costings had been carried out on the recommendations. More worrying is that the committee members, consisting of obstetrics experts, bureaucrats and one consumer, have indicated that there was no consensus as to what was meant by a Level 1 service. One member of the committee said that they all left the table with clear recommendations to have costings done on the proposal and to define a Level 1 maternity service. It is my understanding that a meeting was held last night at the Health Commission to review operational guidelines of obstetrics services in South Australia and to bring them up to date with reference to the current review, for example, to define what 'Level 1' actually means. According to the members of the committee, the Minister was premature in announcing the feasibility of a Level 1 maternity service at the QEH when the review committee set up by Human Services did not know what a Level 1 service meant.

I have also spoken to the Australian College of Midwives, which believes that the services at the QEH should be maintained at the current Level 2 status, with development of community midwifery teams. They also say that the Minister's announcement of increasing midwifery capability was a complete backflip to the Government's position on the recent Nurses' Bill. The Government refused to recognise the status of midwives in the Bill and now expects the midwives to take on more responsibility without any legislative support or framework. My questions are:

1. Why has the Minister announced that a Level 1 maternity unit is feasible when the birthing review committee has no clear definition of what a Level 1 maternity service is?

2. Why has the Minister made his announcement when no costings have been carried out on the recommendations?

3. Will the Minister explain why the feasibility report was rushed and why the birthing review committee did not have the opportunity to look at the revised report?

4. Why has the Minister stated that he will increase midwifery capability at the QEH when he had the opportunity to increase midwifery capability and recognition in the Nurses' Bill earlier this year and refused to do so?

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

POLICE, YORKE PENINSULA

The Hon. T.G. CAMERON: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Police, questions about police operation procedures on Yorke Peninsula.

Leave granted.

The Hon. T.G. CAMERON: It has been brought to my attention that members of the public now calling for assistance to the Port Victoria police station on Yorke Peninsula are met with an answering machine if the station is unattended. Whereas previously telephone calls would be automatically redirected to the mobile telephones of police officers in the field, people are now asked to leave a message or given alternative numbers to call. Many members of the public, particularly the elderly, do not respond well to answering machines and feel much more comfortable speaking to a real person.

In times of emergency, such as a serious road accident or house break-in, an answering machine response to a call for help is just not good enough. If this is not bad enough, in response to questions I placed on notice asking for police numbers per capita, the Attorney-General recently supplied figures which show that Yorke Peninsula has just one officer for every 689 residents, compared with one for every 422 residents for the rest of the State—and that does not even take into account the longer response times required by police to attend emergencies, due to the greater distances involved. My questions are:

1. Will the Attorney-General explain why the practice of having calls automatically redirected to police officers' mobile telephones when stations are left unattended has been discontinued on Yorke Peninsula?

2. Does the Attorney-General believe the use of answering machines to be an adequate response to emergency calls?

3. As a matter of urgency will the Attorney-General ask the Minister for Police to examine the Yorke Peninsula police staffing levels to ensure that residents are adequately served and protected?

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

FISHING, RECREATIONAL

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Attorney-General, representing the Deputy Premier, a question about the recreational fishing sector.

Leave granted.

The Hon. G. WEATHERILL: In response to an article published in *Southern Fisheries* noting potential benefits of recreational fishing licences, the Minister for Primary Industries stated on 18 June 1999 that this Government would not support any such proposal. My questions to the Minister are:

1. Does the Government stand by this statement?

2. Will the Government pursue potentially costly developments of the recreational fishing industry without funding from recreational fishing licences?

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

YEAR 2000 COMPLIANCE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Year 2000 Compliance, a question on the Federal Government's Year 2000 business awareness campaign.

Leave granted.

The Hon. CARMEL ZOLLO: The Australian *Financial Review* reported on 30 June 1999 that the South Australian Government has criticised the Federal Government year 2000 industry program office forums. The forums are described as intending to get a warts and all overview of Y2K and the readiness of essential infrastructure. South Australia and Queensland will not participate in the forums, despite their being foreshadowed several months ago. The reasons cited include cost to the taxpayer and that they were too little too late. It seems to have evolved into a demarcation dispute between the Ministers. I do not necessary disagree with the Minister's comment that the forums are 12 months too late. However, any awareness campaign or forum, particularly any that encourage essential service industries such as electricity, water, health and transport, which assist to disclose and share information relating to the Y2K preparedness is desirable. Surely that was the intent of the Year 2000 Disclosure Bill, which was rushed through recently.

The Minister also said that the people attending such forums would only be locals and the intended suppliers have already been communicating with them. My questions are:

1. Why has the Minister undermined consumer confidence by excluding South Australia from the industry forums?

2. Will the Minister detail his precise objections to the federally organised forums?

3. Will the Minister give an undertaking that the programs in place will encourage industry to share Y2K-related information?

4. Will the Minister commit Government to purchasing local Y2K fixes wherever possible in preference to equivalent imported products and software?

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

MURRAY RIVER, FISHING

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries and Natural Resources, a question about inland fishing on the Murray River.

Leave granted.

The Hon. IAN GILFILLAN: On ABC radio on Monday 5 July this year the principal manager of scale-fish resources in PIRSA, Samara Miller, was interviewed about a decision to change licence conditions for the 30 commercial fishers in the Murray River. Apparently licence conditions have been changed effective from 1 July. As has been explained to me,

the existing 30 commercial Murray River fishers have had their reaches extended and are now licensed to fish in wider areas, specifically in adjacent backwaters of the Murray. This means that among the areas now opened up to commercial fishing are RAMSAR wetlands within national parks on the Murray.

This extension of licence conditions has come despite the opposition of local fishing consultative committees, local councils, representatives of the Bookmark Biosphere and the express recommendation No.9 of this Parliament's Environment, Resources and Development Committee. Not only this but, according to my informant, the commercial fishers' authority to use nets has been widened, this too contrary to the ERD Committee's report, which found that the number of gill nets currently allowed was already grossly excessive. When nets are set, there is no requirement for the fishers to check them at any set time intervals, thus fish other than targeted species may be caught in the nets and perish before the commercial fisher returns.

One of the already strange aspects of Murray River commercial fishing licences, I am told, is that there are no quota limits set for the 30 commercial fishers except for Murray cod—and then only in the breeding season. There are size limits but, unlike marine fishing licences, there are no limits on the number of any species that may be taken. The changes to licence conditions on 1 July come only four months after the Environment Minister promised that biodiversity in the Murray Mallee region would be protected with a memorandum of understanding involving South Australia, Victoria, New South Wales and the Commonwealth. My advice is that the change in licence conditions effected on 1 July was done legally. There is apparently no need for these changes to be approved by the Minister or gazetted, and therefore there are no regulations which may be disallowed.

However, the ERD Committee's report was tabled in this Parliament on 23 March this year and the Minister is obliged to respond to the recommendations within four months, that is, by 23 July. I ask the Minister:

1. Why have these changes been made contrary to the ERD Committee's recommendations, contrary to the advice of the Bookmark Biosphere and the river fishery consultative committees, and without waiting for the Minister's reply to the ERD Committee's recommendations?

2. Is it true that Murray River commercial fishers are allowed to use gill nets without any requirements that they be checked on a regular basis to avoid the death of non-target species?

3. Why are there no quota limits on species that may be taken from the Murray River?

4. What success, if any, has the Government had in catching or prosecuting Murray River poachers whose impact on the river fishery is estimated by some to equal that of the legal commercial fishery?

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

SOUTH-EAST WATER

In reply to **Hon. T.G. ROBERTS** (27 May) and answered by letter on 4 July.

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

1. The Department of Human Services has widely publicised its advice that water having elevated levels of nitrate should not be consumed. Provided that bore water users have regard to that advice there will be no health impact.

2. The report makes no specific recommendations regarding distribution and land-management practices involved with agriculture, horticulture, viticulture and silviculture in the South-East.

The report suggests that some land-use practices may have to be modified particularly if it is an area vulnerable to contamination in order to reduce the leaching of nitrate to the groundwater.

3. The SA Water supply for Mt Gambier is obtained from the Blue Lake. Most of the remainder of the SA Water supply in the South-East is obtained from bores. This water is from the confined aquifer where elevated nitrate levels are not found. Households and schools that are not on the SA Water supply frequently use rain water for drinking, and only use bore water if the tank supplies are inadequate.

The Department of Human Services has widely publicised the need for regular testing of bores, to determine the nitrate level in the water and its suitability for drinking.

The Minister for Environment and Heritage adds that the report, 'Diffuse-Source Nitrate Pollution of Groundwater in Relation to Land Management Systems in the South East of South Australia', has been distributed to many people. One hundred copies were originally printed and a second print run is about to take place. Most of the one hundred copies were distributed before the Border Watch publicised the report.

ONKAPARINGA WATER CATCHMENT LEVY

In reply to **Hon. T.G. CAMERON** (3 June) and answered by letter on 4 July.

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

The Minister for Environment and Heritage has advised that the issue of the catchment environment levy for the Onkaparinga Catchment Water Management Board has now been resolved to the satisfaction of all parties. Advice from Crown Law has clarified the roles in implementing the catchment environment levy.

In short, the Board indicates the quantum required to fund its catchment water management plan for the year in question, the Minister after consultation will choose the basis for the levy, and councils will then collect the levy. As the basis for the levy has never been in dispute, this clarification of roles has allowed a satisfactory resolution, which has been to encourage the Board to negotiate with councils regarding the method of collection. How councils choose to collect the levy is for them to decide.

The major concern of the Minister at the time was the level of community consultation.

The acceptance of the catchment water management plan is a separate matter. In any case the legislative requirements for consultation provide a strong assurance that the plan will represent the views of the whole catchment community. The catchment water management plan must also achieve the object of the Water Resources Act 1997, i.e.:

'To establish a system for the use and management of the water resources of the State:

(a) that ensures that the use and management of those resources sustain the physical, economic and social well being of the people of the State and facilitate the economic development of the State while:

(i) ensuring that those resources are able to meet the reasonably foreseeable needs of future generations; and

(ii) protecting the ecosystems (including their biological diversity) that depend on those resources; and

(b) that, by requiring the use of caution and other safeguards, reduces to a minimum the detrimental effects of that use and management.'

The Minister will only approve a plan when she is satisfied that it achieves that object.

MURRAY RIVER

In reply to **Hon. T. CROTHERS** (3 June) and answered by letter on 4 July.

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

The issue of salinity in the Murray-Darling system is recognised as one of the most greatest challenges facing resource managers and considerable efforts are being made to develop and implement solutions.

There are two main causes of increased salinity levels in our river systems. These are irrigation and increased recharge due to land clearing, which can result in an increase in the amount of salt entering the rivers.

Until recently, irrigation induced salinity was believed to be the major source of salt entering our rivers. Several major drainage schemes were installed, both in South Australia and interstate, to address this problem. Now it is recognised that salinity due to historical land clearances (dry land salinity) poses an even greater long term threat. The Murray-Darling Basin Commission, in conjunction with each of the Basin States, is now developing a Basin Salinity Management Strategy to deal with this recently recognised threat.

The very nature of these salinity problems, which will manifest themselves over the next 50 to 100 years, demands a carefully developed long term strategy for their resolution. It is likely that the strategy will identify a mix of priority actions such as irrigation drainage schemes, groundwater interception schemes and revegetation to prevent salt entering the rivers. The salt interception schemes constructed by the Murray-Darling Basin Commission over the past decade have already resulted in an average reduction in salinity at Morgan of 61 EC and have assisted significantly in meeting the target of less than 800 EC for more than 95 per cent of the time.

WOOD HEATERS

In reply to **Hon. M.J. ELLIOTT** (8 June).

The Hon. DIANA LAIDLAW: I provide the following information regarding the storage of wood prior to its use in wood heaters to ensure it is kept dry:

The requirements for the construction of open fire places including hearth and chimney construction as well as the installation of free standing heating appliances is covered in both the Building Code of Australia Volume 2 and the SA Housing Code. However, the issue of the fuel used and its storage is beyond the scope of building control.

For a matter to be considered as appropriate for inclusion in the Building Code of Australia, any issue such as this would need to be raised at a National level at the Australian Building Codes Board. It is considered the other States and Territories would be highly unlikely to entertain such a proposal.

The Minister for Environment and Heritage has provided the following information:

1. The agency advises that no such consideration has been given at this time.

2. No consideration has been given to requiring an undercover area for the storage of wood in new homes having a wood fire.

The Environment Protection Authority (EPA) has an information sheet about the installation and use of solid fuel fires. The Minister for Environment and Heritage commends the information sheet to the honourable member.

HACC FUNDING

In reply to **Hon. T. CROTHERS** (9 February).

The Hon. R.D. LAWSON: In addition to the answer given on 9 February 1999, the following information is furnished:

1. This question relates to clients which the *Advertiser* reported as being 'turned away' from the Northern Domiciliary Care Service, in an article which appeared on the 20 January 1999.

A new assessment service has been established in the northern region. This service, which is known as Support-Link, opened its doors in February and provides a single point of contact for older people in the northern suburbs needing referral to aged care and home support services. The Northern Domiciliary Care Service has not, in fact, closed the intake of clients. Clients initially seeking support and assistance are now being referred to the Support-Link service for initial assessment and then referred to appropriate agencies in the area, including to Northern Domiciliary Care.

The Government has been aware of the increasing demand for home based services across the State and especially in the Northern Metropolitan area. The Annual Home and Community Care (HACC) Plan has identified this area as a priority over the last three years and there have been increases in funding in the region each year. The Northern Metro region is a priority area again in this current year.

The Northern Domiciliary Care Service has received an increase of $420 600 (a 12 per cent increase) over that period. The total increase in funding to the northern metropolitan HACC services in the last two years has been $1.865 million.

The Commonwealth and State Governments contribute growth funding to the HACC Program each year. In 1998-99 about $1.14 million is available for new and extended services. It is expected that some of the new money will be available for service development in the current funding round.

Support Link will play an important role in contributing information about the level of assessed need for home based care services. This information will assist the Department of Human Services in future planning processes.

There have been other developments in the northern metropolitan area designed to improve the range and nature of services for older people. The GP Homelink Program, run through Helping Hand, offers a rapid response service for older people presenting to General Practitioners, and for whom a range of home help and other support services might prevent a stay in hospital. As well, the northern area is home to one of the coordinated care trials, Care 21, which provides for older people. This trial, which is run in conjunction with the Commonwealth, is assisting about 460 older people by arranging individualised packages of care for people with complex care needs.

2-5. Since the Commonwealth Government announced in its 1996 Budget that the maintenance of growth levels in the HACC Program between 1996 and 2000 would depend upon the collection of user fees at a rate equivalent to 20 per cent of the base of the program, the relative proportion of HACC funds generated from fees in the HACC Program in this State is nearer 6 per cent.

As is well known, a number of HACC funded agencies in South Australia collect fees from people using their services. The Royal District Nursing Service in South Australia has decided to charge user fees from 1 July 1999.

The issue of fee collection is a matter for individual agencies. They are in a much better position than any Government or the central administration, to develop an approach to fee collection which is appropriate for their customers. The Government insists that any fees recovered be used for service delivery within the HACC Program, that concessional arrangements are made for pensioners, appropriate measures are out in place for people who are unable to afford fee and grievance procedures are established.

With respect to fees charged by Northern Domiciliary Care, no decision has yet been made about whether and at what level fees may be charged in the future.

SHIP BREAKING INDUSTRY

The Hon. P. HOLLOWAY: My question is directed to the Attorney-General. Has the Crown Solicitor's Office been asked by the Premier or his department to provide advice on the legal implications of a letter written by the Premier to the Australian Steel Corporation on 30 July 1997, and whether or not that letter created a binding obligation by the Government to offer land on Pelican Point for the company's proposed ship breaking industry?

The Hon. K.T. GRIFFIN: I would not normally indicate whether I had or had not, or anyone had or had not, asked the Crown Solicitor for advice. I would ordinarily not even contemplate tabling that advice, and that is consistent with the practice which has been honoured and followed by my predecessor and the Parliament. I will take the question on notice and bring back a reply.

GOODS AND SERVICES TAX

The Hon. R.I. LUCAS: I seek leave to provide an answer to a question in relation to the GST asked earlier in Question Time by the Hon. Mr Holloway.

Leave granted.

The Hon. R.I. LUCAS: I have just made some inquiries from officers in my office, who have spoken to officers in Treasury. I will try to get a more detailed briefing later and bring back a more comprehensive reply but my advice, as I indicated earlier, is that there is no budget line or allocation from the Government of $20 million to be provided to agencies for consultancies on the GST. I am told that the State Supply Board, I think, is going through a process at the

moment of putting together a panel of consultants that agencies, should they choose to use a particular consultant to assist them in implementation, can use.

The honourable member listed two or three companies that he indicated had been appointed. I am not able to confirm that. The advice I have had is that they did not think the appointments had been made, that there had been consideration of a range of consultants but that final decisions in terms of advising firms had not yet been made. In relation to that State Supply Board process (which obviously does not come within my portfolio), I would need to check with it exactly how far it has gone with that process.

The thinking behind the process obviously is that if agencies are to use professional expertise in this matter it makes sense that some economies of scale are achieved for departments and agencies. I would assume that that has been the State Supply Board's thinking in this respect, but again I would need to take further advice as to its mechanism for going through the process that it evidently has gone through so far.

I have not received any advice as to the costs of the implementation of the GST, and by that I mean that I have not received any aggregate figure which indicates what the cost of implementing the GST might be. Indeed, I raised the question with Treasury officers on Monday or Tuesday this week, based on some questions that had been asked in the Victorian Parliament, as to whether we did have any aggregate figure within Treasury in relation to that, and the advice given to me at that meeting was that there was no aggregate figure that they could provide to me at that meeting, and they undertook to consult or discuss with agencies and others to see whether or not there had been any estimates done at that stage. So, I am not in a position to indicate what the costs might be.

I guess that the only other point I would make in relation to the GST implementation is that I think we have to accept, as there will be for private sector organisations, that big public sector organisations such as departments and agencies will have costs of implementation. That is acknowledged, and clearly it will need to be provided for within agencies' existing budget frameworks. Some agencies, I am sure within their existing appropriations, may well be looking to appoint consultants. That would be the reason why the State Supply Board would have evidently gone through the process that it has. There may or may not be at some later stage—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: You can take up that matter with the Commonwealth, I guess. Clearly, there will be costs of implementation for agencies, but, as has been highlighted I think in the budget papers in a number of areas, the Commonwealth Government has estimated that there will be significant savings for Government agencies as a result of the implementation of the new tax reform package, and that is that a number of the goods which agencies had to purchase at higher levels of sales tax will now be able to be purchased at the lower levels of the GST.

The Hon. P. Holloway: I thought you were exempt from sales tax.

The Hon. R.I. LUCAS: Let me stand corrected: I should not have used the example of sales tax, which the shadow Minister for Finance highlights for me. As regards the overall impact of the tax reform package, the Commonwealth has estimated in its national tax reform document that the net benefit to State Government agencies will be multi-millions of dollars. As part of its funding agreements with the States and Territories the Commonwealth has assumed, in its allocations of funding to the States, that the State Governments will make those savings and that they will be available to Governments, together with the additional moneys that we get from the GST and the Commonwealth through other sources as well, in terms of the total amounts of money available to the States and Territories.

So, yes, there will be costs, which clearly agencies are already contemplating. As to what that aggregate figure is, as I have said, I have not been given that by Treasury. But, at the same time, there will be savings, and I think we have been given an estimated aggregate figure from the Commonwealth but I do not have that figure with me at the moment.

MEMBER'S REMARKS

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a personal explanation about being misrepresented yesterday by Mr Elliott in a contribution in the Council.

Leave granted.

The Hon. R.I. LUCAS: Yesterday, the Hon. Mr Elliott in his contribution on the Education Act regulations made the following statement:

> The question of fees should be married to the Partnerships 21 program and to what the Federal Government is doing to allocate funds. The coupon system—about which Mr Lucas was so keen in the early days and then shut up—is coming through the back door. This system will favour the rich and have a great negative impact on those who are less well off.

I place on the public record that in my four years as Minister for Education I vigorously opposed the coupon or voucher system of education funding. In my seven years as shadow Minister for Education prior to that—so that is 11 years—I also opposed the coupon or voucher system in all the debates that occurred within the Liberal Party. There were a number of passionate advocates.

The Hon. Ian Wilson, the former Federal member for Sturt, was one of the original passionate advocates for the voucher system within schools in South Australia. Some of our Federal colleagues who are now in positions of authority have been advocates of the voucher or coupon system. In all my time as shadow Minister and as Minister, which is some 11 years, I was a vigorous opponent of the system. I ask the Hon. Mr Elliott to check the public record in terms of my statements on voucher systems and coupons. If the honourable member is unable to put on the record an indication of where I have supported coupon systems, I would ask him at some future stage to withdraw his statement.

NEW TAX SYSTEM PRICE EXPLOITATION CODE (SOUTH AUSTRALIA) BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a Bill for an Act to apply certain laws of the Commonwealth relating to the New Tax System Price Exploitation Code as laws of South Australia; to make a consequential amendment to the Competition Policy Reform (South Australia) Act 1996; and for other purposes. Read a first time.

The Hon. R.I. LUCAS: I move:

That this Bill be now read a second time.

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

Leave granted.

The object of this Bill is to give effect in South Australia to Commonwealth legislation aimed at preventing price exploitation as a result of the introduction of the New Tax System.

As part of the tax reform initiatives being pursued by the Commonwealth Government, the Australian Competition and Consumer Commission (ACCC) is being granted special transitional powers to formally monitor retail prices.

The new ACCC price monitoring powers are transitional, lasting for 3 years from 1 July 1999. Price exploitation is prohibited during this period, and is deemed to occur where goods or services are supplied at a price that is unreasonably high, taking into account the various tax changes and where the unreasonably high price is not attributable to the supplier's costs, supply and demand conditions or any other relevant matter. There are provisions for penalties of up to $10 million for a body corporate, and up to $500 000 for a person other than a body corporate. Actions to have these penalties imposed will be taken by the ACCC in the Federal Court.

The Commonwealth *A New Tax System (Trade Practices Amendment) Bill 1999* ('the Commonwealth Bill') inserts a new Part VB into the *Trade Practices Act 1974* of the Commonwealth ('the TPA'). The Commonwealth Bill also inserts a new Part into the Schedule to the TPA, known as 'the Schedule version of Part VB'. The Schedule version of Part VB is modified to refer to conduct by 'persons' rather than 'corporations'.

The Commonwealth Bill will be complemented by legislation to be enacted in each State and Territory pursuant to the intergovernmental Agreement on Reform of Commonwealth-State Financial Relations made at the Premiers' Conference held in Canberra on 9 April 1999. The aim of the State and Territory legislation is to apply the provisions of Part VB of the TPA to those persons and activities that do not or may not fall within the legislative power of the Commonwealth Parliament (for example, business activities of individuals or partnerships).

The State and Territory legislation does this by applying, throughout Australia, the 'New Tax System Price Exploitation Code' ('the Code'). The Code consists of the Schedule version of Part VB and the other provisions described in clause 4(1) of the proposed Act.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

This clause provides for the commencement of the proposed Act by proclamation but the date proclaimed cannot fall before the commencement of the Commonwealth Bill. The Commonwealth Bill comes into operation on the day after each of the following proposed Commonwealth Acts receives royal assent:

- the *A New Tax System (Goods and Services Tax) Act 1999*;
- the *A New Tax System (Goods and Services Tax Imposition—Excise) Act 1999*;
- the *A New Tax System (Goods and Services Tax Imposition—Customs) Act 1999*;
- the *A New Tax System (Goods and Services Tax Imposition—General) Act 1999*; and
- the *A New Tax System (Goods and Services Tax Administration) Act 1999*.

The operation of s. 7(5) of the *Acts Interpretation Act* is excluded in case the Commonwealth legislation does not come into operation within two years.

Clause 3: Interpretation

This clause contains interpretative provisions for the proposed Act. Clause 3(1) contains a list of definitions. These are as follows:

'application law', this is the same as in proposed s. 150L of the TPA, to be inserted by the Commonwealth Bill;

'Commission', this is the same as in s. 4 of the TPA;

'instrument', this is the same as in s. 3 of the *Competition Policy Reform (South Australia) Act 1996* ('the CPRVA');

'jurisdiction', means a State, which includes a Territory;

'law', this is the same as in s. 3 of the CPRVA;

'modification', this is the same as in s. 3 of the CPRVA;

'month', this is the same as in s. 3 of the CPRVA;

'New Tax System Price Exploitation Code', this is the same as in proposed Part XIAA of the TPA, to be inserted by the Commonwealth Bill;

'New Tax System Price Exploitation Code text', is the text described in clause 4 of the proposed Act;

'officer', this is the same as in proposed Part XIAA of the TPA, to be inserted by the Commonwealth Bill;

'participating jurisdiction', is a jurisdiction that applies the Code;

'Schedule version of Part VB', this is the same as in proposed s. 150L of the TPA, to be inserted by the Commonwealth Bill;

'State', includes a Territory;

'Territory', means the Australian Capital Territory and the Northern Territory of Australia;

'this jurisdiction', in this Bill means South Australia; (However, this will differ in other jurisdictions.)

'Trade Practices Act', means the *Trade Practices Act 1974* of the Commonwealth.

Clause 3(2) provides that expressions used in this Bill have the same meaning as in the TPA. Clause 3(3) provides that references to a Commonwealth Act include the Act as in force from time to time, and any Act that may replace the Commonwealth Act.

PART 2

THE NEW TAX SYSTEM PRICE EXPLOITATION CODE

Clause 4: The New Tax System Price Exploitation Code text

This clause defines the New Tax System Price Exploitation Code text that will be applied as the Code. The text consists of:

(a) the Schedule version of Part VB;
(b) the remaining provisions of the TPA (with some exceptions), so far as they would relate to the Schedule version of Part VB if it were substituted for Part VB;
(c) relevant regulations made under the TPA; and
(d) the guidelines to be published by the Australian Competition and Consumer Commission ('ACCC') under proposed section 75AV of the TPA.

The provisions referred to in paragraphs *(b)*, *(c)* and *(d)* above are to be modified as required to fit in with the Schedule version of Part VB, and in particular, so that references to 'corporation' are to include references to persons other than corporations.

Clause 5: Application of New Tax System Price Exploitation Code

This clause is the principal operative clause of the Bill. It applies the Code as a law of South Australia.

Clause 6: Future modifications of New Tax System Price Exploitation Code text

This clause sets out a scheme for the future modification of the Code text by Commonwealth legislation. The scheme provides that there is to be a least a two month gap between the modification of the text by the Commonwealth Act or Regulation, and the application of the modifications under clause 5. The modification is deemed to occur on the date the Commonwealth Act receives Royal Assent or the Regulation is notified in the Commonwealth of Australia *Gazette*. The two month period can be shortened by proclamation. Alternatively a proclamation can provide that a modification is not to apply at all in the State.

Clause 7: Interpretation of New Tax System Price Exploitation Code

This clause provides, for the purposes of uniformity, that the *Acts Interpretation Act 1901* of the Commonwealth applies to the interpretation of the Code, instead of the *Acts Interpretation Act 1915*.

Clause 8: Application of New Tax System Price Exploitation Code

This clause sets out the classes of persons to whom the Code applies as a law of South Australia.

Clause 9: Special provisions

This clause makes it clear that, subject to clause 8, the Code operates extra-territorially.

PART 3

CITING THE NEW TAX SYSTEM PRICE EXPLOITATION CODES

Clause 10: Citing of New Tax System Price Exploitation Code

This clause provides for citation of the Code, applying as a law of South Australia.

Clause 11: References to New Tax System Price Exploitation Code

This clause provides that a reference to the Code in any instrument is to be construed as a reference to the Codes of any or all participating jurisdictions, except where the contrary intention appears in the instrument or the context otherwise requires.

Clause 12: References to New Tax System Price Exploitation Codes of other jurisdictions

This clause provides that, where a law of a participating jurisdiction other than South Australia applies the Code text as a law of the jurisdiction, the Code of that jurisdiction is the Code text, applying as a law of that jurisdiction.

PART 4
APPLICATION OF NEW TAX SYSTEM PRICE EXPLOITATION CODES TO CROWN

Clause 13: Application law of this jurisdiction
This clause provides that this Act binds the Crown in right of South Australia and each other State and Territory, so far as the legislative power of the South Australian Parliament permits. In line with section 2B(1) of the TPA, the Act binds the Crown only so far as the Crown carries on a business, either directly, or by an authority.

Clause 14: Application law of other jurisdictions
This clause provides that the applications law of other participating jurisdictions bind the Crown in right of South Australia so far as the Crown carries on a business, either directly, or by an authority.

Clause 15: Activities that are not business
This clause identifies, for the purposes of clauses 13 and 14, certain activities that do not constitute carrying on a business. This is not an exhaustive list of non-business activities.

Clause 16: Crown not liable to pecuniary penalty or prosecution
This clause provides that nothing in this Act, or an application law of any other participating jurisdiction, renders the Crown liable to a pecuniary penalty or to be prosecuted for an offence. This protection does not extend to an authority of any jurisdiction.

Clause 17: This Part overrides the prerogative
This clause makes it clear that where, by virtue of this Part, a law of another participating jurisdiction binds the Crown in right of South Australia, that law overrides any prerogative right or privilege of the Crown (e.g., in relation to the payment of debts).

PART 5
NATIONAL ADMINISTRATION AND ENFORCEMENT OF NEW TAX SYSTEM PRICE EXPLOITATION CODES
DIVISION 1—PRELIMINARY

Clause 18: Object
This clause states that the provisions of this Part are aimed at promoting the uniform administration of the Codes of the participating jurisdictions, as if they were a single Commonwealth Act.

DIVISION 2—CONFERRAL OF FUNCTIONS

Clause 19: Conferral of functions and powers on certain bodies
This clause confers on Commonwealth officers and authorities (including the ACCC) the powers and functions that are conferred on them under the Code of this jurisdiction.

Clause 20: Conferral of other functions and powers for purposes of law in this jurisdiction
This clause provides that the ACCC may do acts in South Australia in the performance or exercise of any functions or power conferred on it under the Code of another participating jurisdiction.

DIVISION 3—JURISDICTION OF COURTS

Clause 21: Jurisdiction of Federal Court
This clause confers jurisdiction in all civil and criminal matters arising under the Code on the Federal Court of Australia.

Clause 22: Exercise of jurisdiction under cross-vesting provisions
This clause provides that nothing in this Part affects any law of South Australia relating to cross-vesting of jurisdiction.

DIVISION 4—OFFENCES

Clause 23: Object
This clause states that the provisions of this Division are aimed at furthering the object of this Part by providing that an offence against the Code of this and other participating jurisdictions is to be treated as if it was an offence against a law of the Commonwealth.

Clause 24: Application of Commonwealth laws to offences against New Tax System Price Exploitation Code of this jurisdiction
This clause applies Commonwealth law as laws of South Australia to offences against the Code of this jurisdiction. An offence against the Code of this jurisdiction is taken to be an offence against a law of the Commonwealth and not a law of South Australia.

Clause 25: Application of Commonwealth laws to offences against New Tax System Price Exploitation Codes of other jurisdictions
This clause applies Commonwealth laws as laws of South Australia to offences against the Code of other participating jurisdictions. An offence against the Code of another jurisdiction is taken to be an offence against a law of the Commonwealth and not a law of that jurisdiction.

Clause 26: Functions and powers conferred on Commonwealth officers and authorities
This clause provides that a Commonwealth law that applies because of clauses 24 or 25, and which confers functions or powers on a Commonwealth officer or authority in relation to an offence against the TPA, confers the same function or power in relation to an offence against the corresponding provision of the Code of this or another participating jurisdiction.

Clause 27: Restriction of functions and powers of officers and authorities of this jurisdiction
This clause provides that where a function or power is conferred on a Commonwealth officer or authority under this Division, that function or power may not be performed or exercised by an officer or authority of this jurisdiction.

DIVISION 5—ADMINISTRATIVE LAW

Clause 28: Definition
This clause identifies the Commonwealth administrative laws to be applied under this Division.

Clause 29: Application of Commonwealth administrative laws to New Tax System Price Exploitation Code of this jurisdiction
This clause applies the Commonwealth administrative laws as laws of South Australia to matters arising under the Code of this jurisdiction. A matter arising under the Code of this jurisdiction is taken to be a matter arising under a law of the Commonwealth and not a law of South Australia.

Clause 30: Application of Commonwealth administrative laws to New Tax System Price Exploitation Codes of other jurisdictions
This clause applies the Commonwealth laws as laws of South Australia to matters arising under the Code of other participating jurisdictions. A matter arising under the Code of another jurisdiction is taken to be a matter arising under a law of the Commonwealth and not a law of that jurisdiction.

Clause 31: Functions and powers conferred on Commonwealth officers and authorities
This clause provides that a Commonwealth law that applies because of clauses 29 or 30, and which confers functions or powers on a Commonwealth officer or authority, confers the same function or power in relation to a matter arising under the Code of this or another participating jurisdiction.

Clause 32: Restriction of functions and powers of officers and authorities of this jurisdiction
This clause provides that where a function or power is conferred on a Commonwealth officer or authority under this Division, that function or power may not be performed or exercised by an officer or authority of this jurisdiction.

PART 6
MISCELLANEOUS

Clause 33: No doubling-up of liabilities
This clause provides that a person who has been punished for an offence against the TPA or an application law of another participating jurisdiction is not liable to be punished under the Code of this jurisdiction for the same offence.

Clause 34: Things done for multiple purposes
This clause ensures that things given or done for the purposes of the Code of this jurisdiction are not invalid simply because they are also given or done for the purposes of the TPA or the Code of another participating jurisdiction.

Clause 35: Reference in Commonwealth law to a provision of another law
This clause provides that a reference in a Commonwealth law that is applied under section 24, 25, 29 or 30 to a provision of another Commonwealth law is to be construed as if the provision referred to was also applied under the relevant section.

Clause 36: Fees and other money
This clause provides that all fees, taxes, penalties, fines and other moneys payable under the Code of this jurisdiction are to be paid to the Commonwealth. This does not apply to any amount that a court orders to be refunded to another person.

Clause 37: Regulations
This clause authorises the Governor to make regulations for the purposes of the Act.

SCHEDULE

Amendment of Competition Policy Reform (South Australia) Act 1996

This schedule contains a consequential amendment. Under the Commonwealth Bill, the Schedule version of Part IV of the TPA (which forms the basis of the Competition Code) will become Part 1 of the Schedule to the TPA, while the Schedule version of Part VB of the TPA will become Part 2 of the Schedule.

Section 6 is amended to ensure a consistent approach is taken to the application of future modifications to the relevant code.

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

CASINO (LICENCE) AMENDMENT BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a Bill for an Act to amend the Casino Act 1997. Read a first time.

The Hon. R.I. LUCAS: I move:

That this Bill be now read a second time.

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

Leave granted.

This Bill completes the Government's major restructure of the ASER project by finalising arrangements for the ongoing management of the Adelaide Casino and establishing a regulatory regime suited to the operation of the Casino by a non-Government operator. This Bill is designed to achieve three objectives. The first is to grant the first Casino licence under the *Casino Act 1997* to the existing operator, Adelaide Casino Pty Ltd. The second is to clarify the process for future transfer of the Casino licence. The third is to make various administrative changes that will improve the operation of the *Casino Act 1997*.

This legislation grants the first Casino licence under the *Casino Act 1997* to Adelaide Casino Pty Ltd, which is owned by a subsidiary of Funds SA, a statutory body set up under the *Superannuation Funds Management Corporation of South Australia Act 1995*. The current licence, issued under the *Casino Act 1983*, is held by the Lotteries Commission of South Australia. The Lotteries Commission of South Australia has entered into a management agreement with Adelaide Casino Pty Ltd, whereby Adelaide Casino Pty Ltd operates the Adelaide Casino. As the manager of the Adelaide Casino on behalf of the Lotteries Commission, Adelaide Casino Pty Ltd effectively exercises all of the rights and entitlements and discharges all of the duties and obligations of a licensee under the *Casino Act 1997*. Therefore, the grant of the first licence under the *Casino Act 1997* to Adelaide Casino Pty Ltd formalises the current licensing and management situation by removing Lotteries Commission of South Australia as an intermediary in the licensing process.

The existing legislation deals with applications for the grant, renewal or transfer of the Casino licence but does not deal, to the same extent, with situations where the body corporate holding the licence remains static but changes of control or underlying economic interest occur. This would be the case, for example, should the shares of Adelaide Casino Pty Ltd be sold to an external party. As many acquisitions of a business of this type will occur through the purchase of an entity rather than its assets, it is important that the Gaming Supervisory Authority be in a position to exercise the same level of scrutiny in relation to that type of transaction as it would in relation to a transfer of licence where the assets are sold but the entity is not. Similarly, persons wishing to purchase the entity that holds the licence would want to have the benefit of a formal application procedure and specified criteria for approval in order that there be certainty as to the process by which such an approval could be obtained.

This Bill deals with the circumstances where a person obtains a position of control or significant influence over the conduct of the Casino business, through transactions such as the acquisition of shares in a company or units in a trust. Under this legislation, the licensee must inform the Liquor and Gaming Commissioner and the Gaming Supervisory Authority of the transaction or proposed transaction that has or would result in a person obtaining a position of control or significant influence. The licensee must inform the Gaming Supervisory Authority within 14 days of the licensee becoming aware of the transaction or proposed transaction. The licensee may apply to the Gaming Supervisory Authority to approve a proposed transaction or to ratify a transaction that has already occurred. If the Gaming Supervisory Authority does not approve or ratify a transaction, it can make an order that redresses the effect of the unauthorised transaction. A person adversely affected by such an order may appeal to the Supreme Court against the order. If the licensee is a party to an unauthorised transaction that results in a person gaining a position of control or significant influence over the Adelaide Casino without the approval of the Gaming Supervisory Authority the licensee is liable to disciplinary action.

A further issue may arise from corporate ownership of the Casino licence where the entity that holds the licence is an entity in which control or ownership is widely held. This might be the case in a company listed on the Stock Exchange or a listed unit trust. Such a licensee will generally not be in a position to control movements in shares or units that are listed on a public market. Moreover, changes in control can be affected by movements in shares of less than a majority interest or occur indirectly by changes in control in an entity that holds shares or units in the licensee. It is essential that the Gaming Supervisory Authority is able to scrutinise these transactions whilst, at the same time, not exposing other shareholders and unitholders to loss of their entity's Casino licence by reason of changes in shareholding or units over which they have no control. The procedure for approval or ratification of transactions affecting the control of the licensee proposed in this legislation will, so far as possible, ensure that the licensee is not unduly disadvantaged and that the interests of innocent shareholders or unitholders are addressed.

This legislation also deals with a number of administrative changes aimed at improving the operation of the *Casino Act 1997*, in particular, the following:

1. The Bill removes references to Aser Nominees Pty Ltd in relation to the application for the grant of the first licence and replaces them with provisions applicable to any transfer of the licence or change of control of a licensee.
2. The Bill removes any obligation upon the Gaming Supervisory Authority to give reasons for certain decisions.
3. The Bill provides for a method of consultation between the Gaming Supervisory Authority and the Liquor and Gaming Commissioner on the one hand and the licensee on the other in respect of the exercise of certain regulatory powers and functions.
4. The Bill addresses the interaction of the enforcement and supervisory processes of the *Casino Act 1997* with the powers and functions of a financier taking security over the assets of the casino by:
   - 4.1 expanding the operation of the Approved Licensing Agreement; and
   - 4.2 making various provisions for and as a consequence of the appointment of an administrator, controller or liquidator to the Casino business.
5. The Bill reallocates certain regulatory functions as between the Liquor and Gaming Commissioner and the Gaming Supervisory Authority.

This Bill introduces an Object section for the *Casino Act 1997*. The central object of the Act is to provide for the licensing, supervision and control of the Adelaide Casino. In particular, the Act is to ensure that: the Adelaide Casino is properly managed and operated; that those involved in the control, management and operation of the Adelaide Casino are suitable persons to exercise their respective functions and responsibilities; that gambling in the Adelaide Casino is conducted fairly and honestly; and that the interest of the State in the taxation of gambling revenue raising from the operation of the Adelaide Casino is properly protected.

This legislation will improve the operation of the *Casino Act 1997* and make the Act more relevant to the prevailing circumstances of the Adelaide Casino. The legislation will enable the Casino Act 1997 to better deal with new ownership of the Adelaide Casino by private interests.

Explanation of Clauses

Clause 1: Short title

Clause 2: Insertion of s. 2A—Object

The new section sets out the objects of the principal Act.

Clause 3: Amendment of s. 3—Interpretation

The interpretation section is amended to insert definitions of administrator, controller and liquidator by reference to the *Corporations Law* for the purposes of the amendment to section 29 and new section 64A.

Clause 4: Substitution of s. 5

The new section requires the first grant of the licence to be made by the Governor to Adelaide Casino Pty Ltd. Any later grant will need to be made on application and on the recommendation of the Gaming Supervisory Authority (the Authority).

Clause 5: Substitution of s. 14

Section 14 currently provides that if a person or group of persons who are close associates of each other attains a position of control or significant influence over a licensee without the Authority's approval the transactions are void and the licensee is liable to disciplinary action.

New section 14 takes a different approach to the problem. It requires the licensee to inform the Commissioner and the Authority of such a transaction within 14 days after becoming aware of the transaction. If the transaction has not been approved by the Authority ahead of time, application for ratification of the transaction may be

made. If there is no approval or ratification, the Authority may, after allowing the parties to the transaction a reasonable opportunity to be heard, make an order avoiding or 'undoing' the transaction. Provision is made for appeal to the Supreme Court. If the licensee is a party to such a transaction, the section requires the licensee to obtain the prior approval of the Authority (as in the current section).

New section 14A provides for applications for approval or ratification. It also requires the Authority to assess the suitability of any person in a position to conduct, or to control or exercise significant influence over the conduct of, the casino by applying the same criteria as apply to assessing the suitability of a prospective licensee.

Clause 6: Amendment of s. 16—Approved licensing agreement

Section 16 is amended to bind the Authority and the Commissioner to the terms of the licensing agreement made between the licensee and the Minister. The amendment also contemplates that the agreement may bind other persons who consent to be bound.

Clause 7: Amendment of s. 20—Applications

These are consequential amendments relating to the grant of the first licence being to Adelaide Casino Pty Ltd.

Clause 8: Amendment of s. 24—Governor and applicants to be notified of results of investigation

The amendment makes it clear that the Authority is not obliged to give reasons to an applicant for a recommendation that the application should be granted or rejected.

Clause 9: Amendment of s. 29—Obligations of the licensee

The amendment to subsection (3) requires the licensee to notify the Commissioner rather than the Authority about a person ceasing to occupy a sensitive position or a position of responsibility.

The amendment to subsection (5) means that the section does not apply to an administrator, controller or liquidator of the licensee and ensures that such a person may perform his or her duties without committing a technical breach of the Act.

Clause 10: Amendment of s. 38—Approval of management systems etc

The amendment empowers the Authority rather than the Commissioner to determine other systems and procedures required to be approved by the Commissioner.

Clause 11: Insertion of new Division 9

The new Division requires the Authority and the Commissioner to consult with the licensee before exercising certain powers under Division 9. Consultation need not occur if the Authority or the Commissioner considers it contrary to the public interest to do so.

Clause 12: Amendment of s. 56—Statutory default

The amendment extends the application of Part 7 (Power to deal with defaults) to the case where an event occurs, or circumstances come to light, that show the licensee to be an unsuitable person to continue to hold the licence.

Clause 13: Amendment of s. 63—Power to appoint manager

The amendments allow for appointment of an official manager of the business conducted under the licence if the licensee becomes insolvent or goes into liquidation. The amendment contemplates that the licensing agreement may contain provisions governing the basis on which the Minister's power to appoint an official manager are to be exercised.

Clause 14: Amendment of s. 64—Powers of manager

These amendments are consequential on the amendments to section 63 (contemplating appointment of an official manager in cases where the licence is still in place).

Clause 15: Insertion of new Division 7

The new Division modifies the application of the Act in a case where an administrator, controller or liquidator (within the meaning of the *Corporations Law*) has assumed control of the casino business.

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE (PENALTIES) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

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

Leave granted.

Introduction

Last year, around 2 900 Australians died at work and 650 000 were injured.

In South Australia, during 1997-98 there were 24 workplace fatalities and it is estimated that there are 50 000 work related injuries or illnesses reported each year. The annual cost of workplace related injuries to the South Australian community is considered to be more than $2 billion.

The South Australian Government established its policy in relation to worker safety in 1997 with its pre-election policy document 'Focus on the Workplace'. Linking health, safety and economic development is an integral theme of the Government's policy. In order to achieve this, the Government is committed to reviewing the existing occupational health, safety and welfare system and to continue the reduction of the incidence of workplace injury or disease.

In the Ministerial Statement of 26 March 1999 on Workplace Safety, a number of integrated initiatives of the Government were outlined to provide the framework to allow South Australia to be a truly safe, productive and competitive State. These initiatives may be summarised as follows:

- The promotion of the vision of South Australia as a State of safe and productive workplaces.
- The abolition of a number of outmoded and unnecessarily complex regulations under the Occupational Health, Safety and Welfare Act.
- The trialing by Workplace Services (DAIS) and WorkCover Corporation of industry specific approaches to occupational health and safety.
- Two information initiatives designed to improve everybody's understanding of their obligations:
  (1) WorkCover's 'Work to Live' campaign, which promotes increased awareness of safety in South Australia by drawing attention to the social and economic cost of injuries, illness and death in our workplaces, has already attracted considerable attention.
  (2) Workplace Services will also be commencing a revitalised industry liaison and awareness strategy aimed at better linkage of inspectors with industry and better dissemination of information on key safety risks to the community.
- The development by Workplace Services of a comprehensive prosecution policy for breaches of the Occupational Health, Safety and Welfare legislation.
- Finally, the Occupational Health, Safety and Welfare Advisory Committee was requested to provide advice to the Government in relation to the adequacy of maximum penalties provided in the Occupational Health, Safety and Welfare Act. At the time the Government foreshadowed its intention to increase penalties significantly, if it was supported by that advice.

In November 1998 the Advisory Committee formed a tripartite working party to carry out the task. In preparing its report, the Working Party consulted with its respective constituencies. The Advisory Committee made minor refinements to the recommendations of the Working Party and this Bill implements that advice.

Rationale for Increased Penalties

Maximum penalties under the Occupational Health, Safety and Welfare Act have remained unchanged since the inception of the Act. Since then, there has been considerable erosion of the real impact of the fines. In the intervening period, the general level of prices, as measured by the CPI All Groups Index (weighted average of the eight capitals) has risen by 52.7 per cent.

A comparison of interstate penalty structures reveals that the level of penalties in South Australia is now towards the lower end of the scale in relation to other States.

The Government considers that maximum penalties under the Act must be maintained as an appropriate deterrent and act as an inducement to bring about behavioural change in the workplace. Significant penalties and the threat of prosecution do elicit a response in the workplace. The increases in maximum penalties contained in this Bill will convey a message to the community at large as to the importance of occupational health and safety in the workplace and that all offenders, be they corporate or otherwise, who commit these offences will face substantial penalties.

Discussion of Proposed Penalties

Generally speaking, the Bill will double the existing maximum level of penalties in the Occupational Health, Safety and Welfare Act. However, the Bill will increase a number of maximum penalties even further, to rectify perceived anomalies, whilst a few will be retained

at their existing level, principally because the offences are viewed as administrative in nature.

Conclusion

This Bill demonstrates that the South Australian Government continues to view the improvement of occupational health and safety in the workforce as a top priority.

The Government looks forward to the passage of this Bill, which will send a clear message to all parties in the workplace in the promotion of workplace health and safety.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

This amendment proposes to substitute new amounts for the divisional fines set for the purposes of the principal Act.

- a Division 1 fine means a fine not exceeding $200 000 (increased from $100 000);
- a Division 2 fine means a fine not exceeding $100 000 (increased from $50 000);
- a Division 3 fine means a fine not exceeding $40 000 (increased from $20 000);
- a Division 4 fine means a fine not exceeding $30 000 (increased from $15 000);
- a Division 5 fine means a fine not exceeding $20 000 (increased from $10 000);
- a Division 6 fine means a fine not exceeding $10 000 (increased from $5 000);
- a Division 7 fine means a fine not exceeding $5 000 (increased from $1 000).

Clause 4: Amendment of s. 21—Duties of workers

Currently, subsection (1) of this section imposes a duty on an employee to protect his or her own health and safety at work and to avoid adversely effecting the health or safety of any other person through an act or omission at work. The penalty imposed for breach of this subsection is a fine of $1 000.

The amendment is not very different, substantively, from current subsection (1) but proposes to split that subsection into a number of different subsections to enable different penalties to be imposed for different elements of the offence.

New subsection (1) provides that an employee must take reasonable care to protect his or her own health and safety at work with the penalty for a breach is a fine to be $5 000.

New subsection (1a) provides that an employee must take reasonable care to avoid adversely affecting the health or safety of any other person through an act or omission at work with the penalty for a breach to be a fine of $10 000.

New subsection (1b) provides that an employee must so far as is reasonable (but without derogating from new subsection (1) or (1a) or from any common law right)—

- use equipment provided for health or safety purposes; and
- obey reasonable instruction that the employer may give in relation to health or safety at work; and
- comply with any policy that applies at the workplace published or approved by the Minister after seeking the advice of the Advisory Committee; and
- ensure that the employee is not, by the consumption of alcohol or a drug, in such a state as to endanger the employee's own safety at work or the safety of any other person at work.

The penalty for a breach of this subsection will be a fine of $5 000.

Clause 5: Substitution of s. 22

Currently, section 22 imposes a duty of care on employers and self-employed persons in respect of their own safety at work and in respect of other persons who are not employees or engaged by the employer or self-employed person. The current penalty for a breach is a fine of $5 000.

New section 22 will separate the duty owed by employers and self-employed persons to themselves from the duty they owe to others, with different penalties being imposed for breaches of the separate duties.

22. *Duties of employers and self-employed persons*

New subsection (1) provides that an employer or a self-employed person must take reasonable care to protect his or her own health and safety at work with the penalty for a breach being a fine of $10 000.

New subsection (2) provides that an employer or a self-employed person must take reasonable care to avoid adversely affecting the health or safety of any other person (not being an employee employed or engaged by the employer or the self-employed person) through an act or omission at work. The penalty for a first offence is a fine of $100 000 and, for a subsequent offence, a fine of $200 000.

Clause 6: Amendment of s. 58—Offences

This amendment proposes to substitute a new subsection (7) to provide that proceedings for a summary offence against this Act must be commenced—

- in the case of an expiable offence—within the time limits prescribed for expiable offences by the *Summary Procedure Act 1953*;
- in any other case—within 2 years of the date on which the offence is alleged to have been committed.

Clause 7: Further amendment of principal Act

The schedule of the Bill contains amendments to the principal Act in respect of penalties for breaches of the Act.

Where the amendment does not change the divisional penalty, the monetary penalty will, in fact, have increased because of the operation of new section 4(5) (*see clause 3*).

Some of the amendments insert differential penalties for first and subsequent offences.

Other amendments insert penalties where previously no specific penalty was provided.

The general penalty under section 58 will now be $20 000 through the operation of new section 4(5) (*see clause 3*).

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

AUSTRALIA ACTS (REQUEST) BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 1627.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the Bill. The Bill is designed to facilitate the ability of the State to sever its links with the Crown, should it choose to, pending the outcome of the referendum on the republic. My position on the republic is quite clear and on the public record. I am a strong republican for a number of reasons. However, the purpose of the legislation is not to debate the merits of the republic but to enable State legislation pending the vote in November. I understand that New South Wales and Victoria have passed similar legislation, which has been negotiated by solicitors-general, Parliamentary Counsel and State law officers. I support the second reading.

The Hon. T.G. CAMERON: SA First supports the second reading of the Bill. As I understand it, it relates to whether or not Australia might become a republic. It is a necessary piece of legislation in the event that the public support Australia becoming a republic at the forthcoming referendum. I support the second reading.

The Hon. R.D. LAWSON (Minister for Disability Services): I, too, support the passage of this measure, which does highlight some of the complexities of constitutional reform in this country. This Bill is really a precautionary measure, precautionary because it will not become law unless the referendum on the republic is passed in November by a majority of electors in a majority of States. It does highlight the significance of the Australia Acts (Request) Act 1985 and the Australia Acts of the Commonwealth Parliament and of the United Kingdom Parliament which followed the passage of that request Act.

The changes that were wrought to our constitutional system by that legislation were largely unmarked at the time, except for the abolition of appeals to the Privy Council; but

the changes were indeed very significant. I do not believe that they were widely understood, even by members of the legal profession, and having had occasion by reason of this Bill once again to look at those Acts I have reminded myself of how complex the system of constitutional evolution became and how important it is that there be a better understanding of the provisions of the Australia Acts.

I do not think there has been any outcry since the passage of the Australia Acts. They were seen at the time—and I think have subsequently been seen—as a milestone on the long winding road of constitutional evolution, but significant they were. Both the Commonwealth Act and also the Act of the United Kingdom Parliament—and I should say that the Act of the United Kingdom Parliament, by its nature, was the very last Act of the United Kingdom Parliament which will ever directly affect the South Australian constitution—contain provisions such as in section 10:

> After the commencement of this Act Her Majesty's Government in the United Kingdom shall have no responsibility for the government of any State.

Section 9 provides:

> No law or instrument shall be of any force or effect in so far as it purports to require the Governor of a State to withhold assent from any Bill or Act of the State that has been passed. . .

It is also provided in both Acts that the Queen would, on the advice of her State Ministers, appoint the Governor. Section 7 provides:

> Her Majesty's representative in each State shall be the Governor.

All powers and functions of Her Majesty in respect of a State are exercisable only by the Governor of the State, save only for the power to appoint and the power to terminate the appointment of a Governor. The only residual power of Her Majesty is that of appointment and removal of a Governor. Similarly, it is provided that the advice to Her Majesty in relation to the exercise of the powers and functions of Her Majesty in respect of a State shall be tendered by the Premier of the State.

It is suggested that, if as a result of the passage of the referendum the State wishes to sever its constitutional links with the Crown, it will be necessary to terminate the operation of that section. Needless to say, that is axiomatic: there would be no point in Her Majesty appointing a Governor to the State if Her Majesty had no role in relation to the State. I think it raises a question—and a question of some nicety—which may have to be addressed in the fullness of time: what happens if, in South Australia during the constitutional referendum, a majority of the citizens of this State elect to remain with the existing constitutional arrangements, however, on the other hand, the referendum is carried at a national level by a majority of electors in a majority of the States? The situation then would be that the South Australian community had expressed a clear preference for retaining the current arrangements, yet a constitutional majority would have been achieved elsewhere, so that the rest of the Commonwealth and the rest of the country, for example, might want to go in another direction.

The situation may never arise, but it has been suggested, at least by some commentators, that in those circumstances Her Majesty the Queen would be likely to decline to exercise any functions in relation to a State which actually wished, by the expression of the wishes of its citizens, to continue links with the Crown. I think that would be a most unsatisfactory arrangement. To allow or to force the Crown to have to intervene personally and to express some personal desire to relinquish sovereignty over a State would be a most undesirable result. It would also be one that not only would be unsatisfactory from the point of view of the sovereign but would be rather dangerous, because by the Australia Acts the British Crown has been limited in its power to exercise any authority in relation to the State. The authority has been limited to simply the appointment or removal of a Governor, and then only to act upon the advice of the Premier of the day.

I think it would be very unsatisfactory and invidious to put Her Majesty the Queen in a position where she had to express a desire which might be contrary to the wishes of the South Australian people expressed in the Commonwealth referendum. I think it would also be constitutionally improper, because it would require the sovereign to express a desire, whereas, under our constitutional principles, desires of the sovereign are not strictly relevant in constitutional matters: the sovereign acts in accordance with the advice of Ministers. I believe that to seek to embroil the Queen in this matter and to seek to have her exercise some personal initiative or personal wishes, in a sense, would be reprehensible.

These matters were given serious consideration by the South Australian Council of Australians for a Constitutional Monarchy in an extensive and learned submission made to the South Australian Constitutional Advisory Council—and I am indebted to Mr Michael Manetta, barrister, for drawing this matter to my attention. I think what might happen following the referendum in November is far from settled.

In the Attorney's second reading explanation he said that this Bill does not affect the constitutional procedures necessary for a State to sever its ties with the Crown, and the Attorney went on to say that it does not remove any requirement in a State constitution to hold a referendum. To the surprise of many people, the constitution of South Australia was very radically altered in 1986 without any referendum or reference to the community, and it was altered by an Act of the United Kingdom Parliament, passed admittedly at the request of this State.

However, the comments of the Attorney pose the question whether there will be a State referendum following the Commonwealth referendum and, if such a referendum were to be held, under what power, because the referendum provisions of our constitution are limited to constitutional questions, and ordinarily in this State when we have had referenda on shopping hours, daylight saving and so on there has been special legislation to facilitate such a referendum. I doubt the need for a referendum to resolve the issue to which I have referred, namely, the possibility of the South Australian community expressing a desire to retain the current arrangements whilst the rest of the country proceeds in another direction. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their support for this potentially important Bill. Since the Bill was introduced into the Council on 26 May all other States have passed an Australia Acts (Request) Act 1999 in the same terms as this Bill. This leaves only South Australia to complete the agreement made by the States to pass legislation in the terms of this Bill.

As I indicated on 26 May, the agreement between the States was made in order to avoid a possible legal challenge to the validity of any change that may be made to section 7 of the Australia Acts 1986 by the method proposed by the Commonwealth in its Bill for the Constitution Alteration (Establishment of Republic) 1999. Members will be aware

that section 7 of the Australia Acts has the effect of making the Queen the Head of State of South Australia and of each other Australian State. The passing of this Bill will also mean that, if the Commonwealth referendum passes, South Australia and each other State will be able to alter its Head of State without going back to the Commonwealth Parliament. That will be a matter entirely for the State concerned. That is something which all the States, regardless of their political persuasion, regarded as particularly important: that it ought to be the State which makes the decision, not the Commonwealth.

Also, since I introduced this Bill into the Council, the Commonwealth has introduced into the House of Representatives two Bills. These are: the Bill for the Constitution Alteration (Establishment of Republic) 1999 and the Presidential Nominations Committee Bill 1999. The Commonwealth Parliament has established a joint select committee to inquire into the Bills and to report by 9 August 1999. The Commonwealth anticipates that the Commonwealth Bills will be passed by 20 August and that a Commonwealth referendum will be held on 6 November 1999.

The Prime Minister has indicated that the clause in the Commonwealth Bill for the Constitution Alteration (Establishment of Republic) 1999 that deals with section 7 of the Australia Acts 1986 is a fall back position. It is expected that, if the South Australian Parliament passes this Bill before 9 August (which effectively means by the end of this sitting), then the Commonwealth Government will remove the existing clause from its Bill by Government amendment. This Bill will come into operation only if a Commonwealth referendum to alter the Commonwealth Constitution returns a 'Yes' vote of a majority of all Australian electors and a majority of electors in a majority of States for a republic at the Commonwealth level.

The passing of this Bill will not alter the South Australian Head of State. That is a question that may be dealt with on another occasion in accordance with our own State constitutional requirements. The Bill represents a great deal of work and cooperation by the Solicitors-General of the States. I wish to thank the Solicitor-General for South Australia who took a particularly active part in this work.

In response to the Hon. Robert Lawson, the principal issue to which he referred—namely, what will happen if the referendum passes but a State does not enact constitutional change to alter its Head of State—has been the subject of significant discussion around Australia. However, of course the Commonwealth legislation allows that to be the position. That will be one of the issues that will have to be addressed in more depth when the Commonwealth referendum has been conducted.

As far as South Australia is concerned, I expect that if the referendum is passed there will have to be legislation in this Parliament upon which members will then make their own decision. My recollection is that on the Liberal side it will not be so much a Government Bill as a matter for the conscience of each member. Ultimately, there will need to be a referendum at the State level also.

No-one has ever said that this will be an easy issue to handle. There are quite emotive positions on both sides of the argument, but also significant constitutional questions will arise if the move to a republic occurs at the Commonwealth level. Those constitutional questions will affect the Commonwealth as much as they will the States. I understand that a joint committee of the Federal Parliament is currently taking submissions. It was in Adelaide yesterday, and evidence was given and submissions were made. Again, I thank members for their consideration of this Bill.

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

ASER (RESTRUCTURE) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 July. Page 1557.)

The Hon. M.J. ELLIOTT: I note that the Hon. Ian Gilfillan will make a further contribution to the debate on this Bill at a later point. The Government says the aim of this legislation is to simplify the management of ASER to improve the prospects of sale and the value of Riverside as a community asset. Since 30 June 1998, ASER, owned by Funds SA, has been looking to improve the value of the asset before sale. The structure of ASER was originally set up as one complex but it is now divided, and different parts of the complex rely on services from other parts, for example, air conditioning. The ASER Corporation formed to manage things needs a simple, practical management regime.

In my consultations I spoke with, among other groups, the Adelaide City Council, as this is happening within its area, and the legislation in part goes beyond the site itself. The response I received from the Adelaide City Council identified one area which it felt would require some clarification, and that is in relation to clause 20(b) of the Bill. Clause 20(b) of the Bill provides:

> The corporation may main maintain and operate facilities and make provision for the safety of persons and property in areas adjacent to the site associated with the use and enjoyment of the site if authorised to do so by unanimous agreement of the stakeholders.

I am not sure what facilities the Government might have had in mind, and I would be interested if the Government indicated at the end of the second reading stage what facilities it had in mind. Certainly, when it talks about making provision for the safety of persons and property I imagine it is talking about the sort of patrols that currently operate in the Casino precinct, and this appears to authorise them. I am not sure what authorisation they functioned under previously, but again I would like some clarification at the close of the second reading stage as to the implications within this Bill regarding recognition of the provision for safety of persons and how far that authority stretches.

I note that this clause deals with the authorisation of stakeholders. When you go back to the principal Act you find that the stakeholders are those who occupy subsidiary sites, and they are defined by regulation as subsidiary sites but they do not include the Casino site. So, the subsidiary sites are distinguished from what is considered to be the common area, which again is simply defined by regulation. The stakeholders at the end of the day are those people who have subsidiary sites. This appears to require the consent—or unanimous agreement—of the stakeholders to provide these services, but it is worth noting that these services are being provided in areas beyond the site itself, because this deals with locations adjacent to the site.

We should ask the question: if the security is being provided by what is a private body in an area which goes beyond its own site, how can it be justified that it is sufficient that just the stakeholders themselves authorise the provision of such services, whether or not there should be some consent, agreement or involvement of whatever other parties

might also be interested? It is not specific: it provides in general terms for 'areas adjacent'.

There are some questions about how much authority this grants to whatever security services are provided. There are questions about what authority it gives to operate other facilities and, where they are provided beyond the site itself, what involvement is available for other parties who are affected and who are potentially owners or in some other way vitally interested in the area beyond the site. Before I decide whether or not we need to move an amendment, I await with interest the response of the Minister on that matter in particular.

The Hon. IAN GILFILLAN secured the adjournment of the debate.

CONTROLLED SUBSTANCES (FORFEITURE AND DISPOSAL) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 July. Page 1626.)

The Hon. T.G. CAMERON: This Bill seeks to amend the Controlled Substances Act 1984 to allow for the safe and efficient destruction of illicit drugs and property used in connection with drug offences and, where, appropriate, for them to be forfeited by court order. I make the distinction that what we are talking about is not the safe and efficient destruction of illicit drugs but rather that of the equipment, the chemicals and any property that may be used in connection with the preparation of these drugs. I am principally talking about hydroponics in relation to the cultivation of marijuana and the paraphernalia—both chemical and equipment—that is used in the manufacture of amphetamines and in particular Ecstasy. I place on the record at this point that, after having read the contribution of the Hon. Michael Elliott, I can only agree with him and share his concern about the manufacture, distribution and sale of amphetamines here in South Australia: and I make quite clear that I am drawing a distinction between marijuana and amphetamines.

Section 46 of the current Act provides only for the forfeiture of illicit drugs and items which have been the subject of an offence. The equipment, chemicals and any items used in the production of the drugs cannot be forfeited. As I understand it, the procedure—and in many ways it is quite bizarre—is that the police can turn up and seize the drugs, whether they are fully manufactured or fully grown; however, all the equipment can be left on site and can well be used the next day to restart manufacture. So, I make clear that, whilst I support this piece of legislation in relation to the seizure of equipment, I do have a number of concerns.

A recent court decision, the details of which I will not go into, resulted in a judgment which, in spite of convictions, meant that items such as equipment, chemical formulas, written instructions for drug production, hydroponic equipment and so on were liable to be returned to convicted persons, and I suggest that that makes a mockery of the law.

The Bill before the Council will ensure that forfeiture provisions are available so that not only the drugs themselves are forfeited but also the equipment and other material used in connection with the offence. In some cases, in relation to different drugs, the value of the equipment can run into hundreds of dollars and, depending on the size of the operation, thousands of dollars. There is no doubt that giving the police the power to seize this equipment could go some way towards dissuading people from engaging in what are viewed as lucrative enterprises.

The Bill also attempts to provide greater safety for the officers who are responsible for the removal and storage of the dangerous substances. Under clause 6(2) the Commissioner of Police will have the power to direct that certain seized property, such as drugs of dependence, poisons or property likely to be too dangerous to store, can be destroyed, regardless of whether a person has been charged with an offence relating to that property. I have some queries in relation to that procedure and how that process would take place, particularly to ensure that these chemicals or drugs of dependence do not find their way out of police hands and back into the public arena.

The current Act does not provide for the destruction of these materials. However, subclause (4) provides that samples of the property must be taken and kept for evidentiary purposes and that the defendant has the right to have a portion analysed and to be informed of that right in writing. The Bill will therefore allow for the destruction of illicit drugs and dangerous equipment, while ensuring that evidence is retained for criminal proceedings.

I support the legislation but have a number of questions that I wish to place on the record. First, when the police seize this equipment, chemicals and so on, will they be required to provide a detailed receipt for the goods they seize at the point of seizure to the person from whom they were seized? I am concerned from reports that have been handed to me that situations occur where there is a discrepancy between what was seized by the police and what was eventually accounted for. Imagine a situation where the police turn up at someone's house and find 20 or 30 plants growing and five kilograms of dried marijuana leaf. If upon being summonsed the person finds that they have been charged with only nine plants and possession of only five ounces of marijuana, I ask any member of this Council what would be the reaction of the individual? The first thing they will do is shut up about it because they know they will get only a minor fine on that charge. On the other hand, if they complained and were successful in getting the charge restored to what was taken by the police, they would end up in Yatala.

Over the years I have had incidents reported to me by people who were terrified that I might take up the complaint for them, and I had no reason to challenge their honesty, otherwise you would have to work out why they were coming to see me. However, they claimed that the amount of drugs that were seized turned out to be quite different from the amount in relation to the charge, and naturally they kept their mouths shut. I would seek some clarification on that point.

In the production of some of these drugs, the chemicals used in manufacture can be quite expensive to obtain because they are illegal chemicals, their sale and distribution is carefully monitored, or you need approval to buy them. I make the point that, when drugs or chemicals are seized, they should be weighed on site. They are not destroyed immediately, and I know that in some situations involving large crops of marijuana they are usually put in a heap and burnt under police supervision. However, in many instances drugs and chemicals, particularly in the case of amphetamine or ecstasy production, are taken away by the police and I would seek that drugs and/or chemicals when seized by the police are weighed, tabulated and the amount recorded on site, and a receipt provided to the person charged.

Another query relates to what will happen to the equipment. In particular, I am referring to the chemicals used in

amphetamine and ecstasy production. Are these items properly stored, where will they be stored and will there be proper security to ensure that these drugs and chemicals do not somehow mysteriously find their way out of police custody and end up back on the street?

Whilst it is not the substance of this Bill, Sir, I seek your indulgence to talk briefly about a related matter, namely, the recent alteration to the regulations in relation to the cultivation of marijuana. I understand that the Minister, Dean Brown, acting on advice and on information from the police, put a submission to Cabinet. Cabinet agreed, and it was subsequently affirmed by the Liberal Party caucus, I understand, that this regulation would be unilaterally changed. I would like to challenge the police evidence in relation to their claims and ask whether it would be possible for the Minister concerned to provide me with a copy of the report supplied to him by the police. I can only go on comments I have heard by police on the radio and a few brief reports that I have read in the *Advertiser*.

From my knowledge of this subject, it would appear that the police have gilded the lily and literally pulled the wool over the Minister's eyes in this regard. Having seen this regulation being altered in the manner it was by the Government and by the Minister on an important social issue, with no consultation (I understand there was no consultation with either the Australian Democrats or the Australian Labor Party), it is a question of simply, 'We have the power to do it by regulation. Bugger the rest of the world. We will accept what the police have said to us and change the regulations.' I say this as clearly as I can: it will be a long while before I support any Government legislation that seeks to remove powers on important issues such as this from the Parliament and to put them back into regulation.

Members will note that yesterday I opposed demerit points going into the regulations. There was no support for my stand on that issue, but I use that as an example of my concern. I have witnessed a number of situations in my few years in this Council where regulations are disallowed within a short time, almost with the Government's thumbing its nose at those who supported the disallowance of the regulations, and immediately they are restored, which forces the Parliament to go back through the process. I consider not only that but also the decision of the Liberal Party, Cabinet and the Caucus to act hastily without any community consultation on the question of the cultivation of marijuana an abuse of the regulations process, and I will be much more careful in future in supporting the Government whenever it seeks to move matters out of the control of this Council and back into regulations. I suppose the first opportunity I will have to show my displeasure about what I consider to be a unilateral act by the Government without any consultation whatsoever, acting only on the advice of the police, will be the Local Government Bill.

I have some further matters that I wish to place on the record. What guidelines do the police use when deciding to raid someone's property on the basis of an anonymous telephone call? If the police receive an anonymous telephone call to say that someone is a drug dealer or drug grower or they have drugs on their property, what checks do the police do? Do they merely think that someone has telephoned anonymously and dobbed in the Hon. Di Laidlaw for having a marijuana plantation in her backyard? Do the police act on an anonymous telephone call?

Members interjecting:

The Hon. T.G. CAMERON: If callers give their name and address when they telephone to lodge a complaint against a fellow citizen, do the police undertake any checks whatsoever? If they do not, that would mean that anyone could telephone to lodge a complaint that the Hon. Dean Brown has a huge marijuana plantation growing on his property at Finniss. Are the police obligated to raid that property?

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: As I understand it, to date no Liberal MP has been pulled off a plane and no Liberal member of Parliament has had their house raided under a false accusation that marijuana is growing on the property. I mentioned Dean Brown's name, because he happens to be the Minister responsible for this regulation. If the caller gives a name and address, do the police just charge off to raid the property, or do they make a check to ensure that a correct name and address has been given? Under what guidelines do the police operate in relation to when they might raid that person's property after the telephone call? I do not consider it appropriate, for example, that the police wait five or six weeks and choose some awkward moment for the person they might raid.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I thank the Hon. Angus Redford for his interjection. We are all aware of a recent case where the Federal police ended up, I suspect, with more than egg on their faces.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Could the Minister give a detailed account to the Parliament of the guidelines under which the police operate? I hesitate to use the phrase, but the South Australian police force is not a law unto itself. It is responsible not only to society but also to the Minister and the Parliament. I would like to know the guidelines that the police use when they do receive reports. Depending upon that answer, I may say more about this and other matters which have been reported to me.

Further, in order to ensure that innocent members of the public are not subject to hoax or mischievous or vexatious calls, do the police check on just who it is they are raiding? Do they check to ascertain the identity of the person? Is there any check with the person who makes the complaint as to whether or not there is any kind of relationship between them? I suspect not, judging on information provided to me.

I have one final issue I wish to raise. In my opinion, the Government was lax, deceitful and downright dishonest in the way that it changed these regulations. The regulations have been changed, and the only publicity I saw about the matter was in the *Advertiser* and a little bit on the media. We are talking about a regulation which significantly changed the nature of the offence from nine plants back to three. Under the former system, if you were growing nine plants you could incur an expiated fine of between $100 and $150. However, if you now get caught with nine plants, you could end up with a fine, as I understand it, of up to $10 000 and/or five years in gaol. In other words, by mere regulation the Government has changed what could be, at worst, described as a misdemeanour attracting a small expiation fine into a criminal offence which could land you in gaol for up to five years.

During a couple of telephone calls I have received, I have had to warn people about the new law; for example, someone could be blissfully unaware of the law change and have nine plants growing in their backyard, and without realising the law has changed they could find that they are leaving

themselves open to fines which could run into thousands of dollars; or, worse, they could end up with a gaol sentence. As I understand it, there is no court decision at this time. However, unless the Government, as a matter of urgency, undertakes some kind of publicity or media campaign to properly advertise the change in the law and, more importantly, advertise the quantum difference that now exists in the way you will be treated by the courts, then a lawyer somewhere down the track will argue a defence that his client just 'did not know'.

As we all know, ignorance is no excuse before the law, but this is a classic example of limited evidence from one section of the community only (the police force), without any consultation with other political Parties or interested groups in society, which resulted in a change to this regulation—yet we have seen no publicity or media reports at all to inform the public about what these changes might mean.

I challenged the Minister for Transport earlier today, when we were dealing with a Bill which introduces significant changes to the Road Traffic Act, and I was particularly pleased to hear that the Minister and the Government will run an extensive media campaign and that some tolerance will be shown in the first little while when the new amendments come in. I was particularly pleased to hear the commitment of the Minister because it means that every opportunity will be taken to ensure that the public are fully informed about changes of the law which could drastically affect their lives: someone could lose an extra couple of demerit points, incur a fine or find that they lose their licence, and this could impact on their employment or their employment opportunities.

In relation to the new changes it has introduced with these regulations, I call on the Government as a matter of urgency to engage in a publicity or media campaign to inform the public that the law has changed and that there are now extremely significant and harsh penalties in relation to the cultivation of marijuana in the event that one may have more than three plants growing.

I notice from the Notice Paper that the Leader of the Opposition, the Hon. Carolyn Pickles, has introduced a disallowance motion concerning these regulations. I am unsure whether or not that is the preferred course of the Opposition, and this is part of the problem with the regulation process: the power would appear to lie in the hands of the Government. In the event of any other solution to what I consider to be a mess in relation to this law now and a retrograde step by the State Government, I indicate that I will support the disallowance motion moved by the Leader of the Opposition, and I intend to have a bit more to say about it at that time.

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

LOCAL GOVERNMENT BILL

Adjourned debate on second reading.
(Continued from 7 July. Page 1627.)

The Hon. CAROLINE SCHAEFER: The aim of the Local Government Bill and the Local Government (Elections) Bill is to strengthen the role of local government, and this cannot be separated from its vision for the State as a whole, that is, for a competitive, livable State with a sound and diverse regional economy. Amongst its objectives for local government reform the State Government is aiming to enable local government to effectively participate in strategies for regional economic development in South Australia.

This local government legislation provides a consistent, coherent picture of a framework from which regional councils can develop and prepare their economic development strategies. Such an approach provides the basis to more effectively coordinate regional service delivery and improve community access and involvement. The legislation also aims to have more open and accountable local government.

The State Government has worked with local government over several years now to establish the legislative framework to make this possible. The Minister is to be commended, and I note that the Hon. Mr Gilfillan also commended the Minister, for the effort that he has put into the consultation process and the amount of time that he has taken to listen to as many people as possible. Throughout the process there has been very close consultation with all stakeholders, that is, with councils, the Local Government Association, industry, community groups, interested organisations and individuals.

The early documents produced were issued purely as discussion papers to facilitate participation and debate. The review process included the following: the identification of issues; the development of an exposure draft Bill and a period of consultation; a period of revision in the light of this consultation; public information sessions about the drafts (which were held throughout South Australia during May last year) and workshops (which were held in a number of regional areas, including Crystal Brook, Wudinna and Naracoorte, in June last year); submissions were received as a result of these consultations and resulted in the release of negotiation Bills before Christmas; and the introduction of the Bills to the Parliament earlier this year.

The Bills provide flexibility to accommodate smaller and less affluent councils in a wide range of areas from rating to contracting out provisions and to providing for the continuance of postal voting which encourages participation, particularly in areas where the ratepayers live in some isolation. It was apparent from the consultation process that smaller, remote and less resourced councils may have difficulty in implementing some of the initiatives contained in the legislation.

The Government has listened to the concerns raised by these councils and has provided a flexible framework which will allow different methods of operation to apply between large metropolitan councils and smaller regional councils. For example, the concerns about the possible resource implications of the corporate planning provisions in early drafts have been addressed by a simpler set of requirements in the legislation before us. It is acknowledged that smaller regional councils will require support to help implement some of the new initiatives. The Government is willing to look at mechanisms to support the councils most in need.

Councils will be required to prepare a public consultation policy which sets out the steps that a council must follow when it is required by legislation to consult the community on certain matters, for example, before it adopts a management plan for community land. Regional councils will be able to prepare and adopt a consultation policy that is appropriate to the community's level of interest in council matters rather than follow prescribed public consultation processes which are overly complex, expensive to conduct and may have limited relevancy to that community.

In relation to rates and charges, the provisions of the Local Government Bill clarify and strengthen the capacity of

councils to use mechanisms such as rebates, remissions and deferral of council rates to support local business development, to provide targeted assistance to special industry sectors and to assist in circumstances of hardship—all of which are of particular importance for rural and regional councils that are striving to support and stimulate local economic development and their communities.

A specific provision is introduced in the Bill regarding the application of fixed charges for farmland. The Bill provides that only one fixed charge can be applied to farmland that is part of a single farm enterprise, whether or not all pieces of land are adjoining. This remedies an anomaly in the current Act which was drawn to the Government's attention by the farming sector, and it has been acted on.

The Bill introduces a requirement for all councils from the financial year 2001-02 to provide all ratepayers with the opportunity to pay their rates in quarterly instalments. This measure has been strongly supported by the South Australian Farmers Federation as something which will assist rural communities to meet a significant annual bill. However, a number of smaller councils have raised with me concerns at the additional cost of administering quarterly invoices for their ratepayers.

Public concern for economy, efficiency and effectiveness in local government spending, reflected in compulsory competitive tendering in Victoria and the United Kingdom, has resulted in a different approach which is tailored to South Australian conditions in our Bills. We recognise the importance of its use to reduce costs but at the same time leave sufficient flexibility to enable councils to respond appropriately to local and regional conditions. This was of considerable concern in earlier consultations, again for small councils, where they may have been put under the considerable financial strain of competitive tendering when, in fact, there was only one contractor in the area capable of doing the job.

Unlike Victoria, South Australia has not gone down the path of compulsory competitive tendering. This is as a response to strong representations from rural councils which were very concerned that compulsory competitive tendering could have a negative impact on local economies and employment. Increased powers and functions of councils are being accompanied by increased expectations of accountability in the management and governance of their affairs. A flexible approach to financial and administrative accountability suitable for the range in size and capacity of local governing entities will ensure adherence to appropriate national standards and best practice without unnecessarily burdening smaller and more remote councils.

In closing, I believe that the Government has listened and paid attention to the issues raised by councils, particularly rural councils. In framing the legislation, every effort has been made to provide flexibility and support to regional councils and their communities. I again commend Minister Brindal. The Local Government Act has been like Topsy: it has grown over many years and has been an enormously difficult Act to understand, read or use, particularly for the smaller local governments. I look forward to this being a more practical piece of legislation which will take us into the next century, and I support the Bill.

The Hon. NICK XENOPHON: I support the second reading. I commend the Minister for Local Government on the very hard work he has done in relation to an extensive program of local government reform. I intend to contribute more fully during Committee and foreshadow that I will move amendments to the Bill at that stage.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all members for recognising the extensive process of consultation and negotiation that has occurred in relation to the package of three Bills before us which comprehensively revise the Local Government Act. Regarding the Local Government Bill, it is important that we recognise in this forum the time, energy and ideas which councils, local government sector bodies, business and community groups, State agencies and interested individuals have contributed in bringing the legislation to this point. I am aware that local government in particular is expressing a strong desire to see the new legislation passed and is making every effort to facilitate this outcome.

First, I address the Hon. Mr Gilfillan's assertion that this Bill provides the Minister with increased scope to undermine the process of local democracy 'for the purpose of achieving the Minister's or the State's own centrally motivated ends'. This assertion does not stand up to close examination. The Hon. Mr Gilfillan's 'material' lumps together every instance in the Bills to the term 'Minister' and every reference to 'regulations' where he can find and describe these as 127 individual ministerial discretions which threaten to subvert local democracy. The vast majority of these references are to the usual capacity to make regulations within the power set out in the principal Act in order to deal with the various administrative, operational and formal matters. Such regulations must, of course, be consistent with the purpose and intention of the principal Act and are subject to review and disallowance by this Parliament.

The Hon. Mr Gilfillan is certainly entitled to hold the view that there are some matters of administrative detail that ought to be set out in the Act rather than regulation and some administrative matters which should not be regulated at all. However, it is plainly wrong to imply, as he does, that making regulations is an exercise of ministerial discretion on a par with appointing someone to a statutory body or granting ministerial approval for a course of action. The Hon. Mr Gilfillan probably accepts that there should be common requirements for forms to be used for the purposes of an election, common basic rules for council meeting procedure and accounting standards for councils to follow. However, such regulations are part of a transparent and publicly accountable local process, yet the honourable member has not included these in his list of potentially intrusive ministerial powers.

If the power to make these kinds of regulations was removed, the result would not be to heighten a sense of civil community—just a new Local Government Act even longer than the one before us now. The Hon. Mr Gilfillan gave a couple of examples of specific regulation making powers that he regards as justified ministerial intervention, such as a council's budget that must be reconsidered during a financial year when required by ministerial regulations. Anyone unfamiliar with local government legislation and practice in South Australia could be forgiven for thinking that this means the Minister can, by regulation, overturn a council budget. It is necessary to look at how and why regulations have been made to date and at what is proposed.

In this case, the consistent advice of the Local Government Association Accounting Committee to successive Governments, at least since the introduction of the Australian accounting standard for local government, has been that

minimum provisions for periodical reconsideration by councils of their own budgets should be included in the local government accounting regulations. The current requirement is that councils must review their budget three times in the course of the financial year, and the committee is likely to recommend that this continue.

Similarly, un-alarming information is available for the other specific regulation making powers to which the honourable member refers. In relation to actual ministerial approvals, the Government agrees with the Hon. Mr Gilfillan that in each instance these need to be justified and explained.

In the process of developing and consulting on the Bill, the Government took great care to closely examine ministerial approvals and similar consent provisions in the current Act to see whether there were alternatives to those which function as checks for compliance with procedural requirements or forms of appeal for individuals and groups against council decisions. Examples of provisions in the current Local Government Act 1934 of exactly the sort the Hon. Mr Gilfillan presumably would object to on the basis that they are properly within a council's responsibility include: current requirements for ministerial approval of the kind of insurance council takes out for members, for council projects which are significant in financial terms, for council proposals which involve participation in trusts and partnerships and for particular council investments. However, these do not appear in the Bill.

The Bill envisages the role of the Minister administering the local government legislation by administering the system of local government not the operation of councils. Aspects of this role are: first, a formal role in the constitution of local governing bodies, such as in the creation of separately incorporated council subsidiaries; secondly, approvals for exemptions or extensions to powers which are otherwise fixed, such as approval to go ahead and consider a matter on which a quorum cannot be obtained by reason of the operation of the conflict of interest provisions; thirdly, matters of broader public interest than of a single council area, such as approval to revoke the classification of land as community land which allows that land to be sold; and, fourthly, dealing as a last resort with the breakdown of a council's capacity to continue to responsibly serve its community represented in the capacity of the Minister to appoint an investigator in cases of council contravention, failure or irregularity and to take action on the report of that investigator, the Ombudsman or the Auditor-General.

With one exception, it is not the case that the Bill expands these roles of the Minister. The Bill revises the circumstances in which the Minister can appoint an investigator to include council contravention or failure to comply with Acts of Parliament. The Bill also expands the remedies available to the Minister to include directing the council to rectify the matter rather than to simply ensure that it does not happen again. The Hon. Mr Gilfillan might want to argue that effective citizens could perhaps achieve this result themselves by taking action in the courts. However, understandably, most citizens do not expect to have to enforce the provisions of State Acts and many are not in the position to do so.

Despite the Hon. Mr Gilfillan's concerns, his speech demonstrates that the Government and the Democrats share common principles about the importance of local democracy, public accountability and the need to ensure that the Minister of the day does not intervene in council operations except where absolutely necessary in the interests of good government. There are some differences about what this means in practice, most of which seem to relate to the formal role of the Minister in the constitution of local government bodies and which the Government is happy to discuss further. The Hon. Terry Roberts makes the point that it can be problematic to separate local democracy from statewide democracy. Local government bodies and this Parliament represent the same people in different ways.

However, because he then goes on to refer to ministerial intervention in settling disputes and arguments over local issues, it is again important to point out that the Bill does not give the Minister for Local Government any general statutory power to intervene to resolve local disputes if no breach or irregularity is involved. The Minister and other members of Parliament can and do perform a valuable role in responding to complaints about councils made by citizens, but the Bill contains provisions specifically designed to ensure that where there is a local issue local people can take the initiative to resolve it. These include new proposals for elector initiated submissions for changes to council boundaries, composition and representative structure and provisions for a fresh election when the majority of council members resign on the grounds that relations between members are such that the council cannot function effectively—both of which I understand Labor will oppose.

I understand on the basis of amendments circulated by the Democrats and the Labor Party that both are concerned about the potential for regulations to be made setting out principles for which certain council codes and policies must apply. Such regulations would only be made should they prove to be necessary on the basis of experience in the interests of transparency and public accountability. While they oppose such regulations, the Labor Party has no qualms about the real interference in local democracy contained in their provisions to restrict the options for composition and representative arrangements available to councils under the Bill. I understand that the Democrats propose that councils must have at least three councillors per ward and that Labor proposes that councils should not be able to have a combination of area councillors and ward councillors. The Government is happy to leave these provisions to local communities, subject to regular review by councils of their constitution and representation arrangements and the capacity of electors to initiate changes.

It is disappointing that neither the Democrats nor Labor support the provisions of the Bill relating to the Adelaide parklands land bank and fund. I hope they will reconsider their position in the light of proposed Government amendments which will overcome some basic misconceptions that the provisions are designed to facilitate development of the parklands or the removal of land from parkland use by council or the State Government for redevelopment purposes. The proposed land bank consists of the area of the parklands which is open space available for unrestricted public use and enjoyment. The concept proposed by the Bill is that no land—I repeat, no land—can be removed from this category by the council or the Crown (for example, by granting new leases of the sort currently enjoyed by some sporting clubs) unless twice the area of open space proposed to be used is added to the land bank.

Amendments proposed by the Government provide that before adding land to the land bank the Crown and the council must consult with each other and must take action to ensure that the land is suitable for the general purpose and enjoyment of the public. The result will be, as the member for Adelaide (Hon. Michael Armitage) intended, that the amount

of public land open space available for unrestricted public use and enjoyment will be maintained and increased over time. The Government is pleased and proud that it has been able to complete the comprehensive revision of the Local Government Act which has been planned by State Governments since 1970. As an aside, I remember working as ministerial assistant with the former Minister for Local Government (Hon. Murray Hill) and at that time—

The Hon. Ian Gilfillan interjecting:

The Hon. DIANA LAIDLAW: I am not sure that the Hon. Mr Gilfillan was in the Parliament then, but he was active in the community. Certainly we started the process of introducing five new Bills to help reform local government. So I do know that these issues—a bit like the national road rules—have been around for a long time.

The Hon. Ian Gilfillan interjecting:

The Hon. DIANA LAIDLAW: Yes. I appreciate the approach which all honourable members have taken in circulating proposed amendments for discussion and debate, and I am sure that, as a result of discussions which occur in the non-sitting weeks—the next two weeks before we return in the last week of July—we will be able to deal productively and respectively with this important Bill. Finally, I apologise again to the Hon. Mr Angus Redford for not understanding that he wished to speak on this Bill before I summed up the second reading debate.

Bill read a second time.

In Committee.

Clause 1.

The Hon. A.J. REDFORD: I had intended to make a second reading contribution and to talk about some issues of general principle—and I will make some comments during the Committee stage—but I think I should make some general comments now. I apologise for not being in the Chamber when the Minister closed the debate. That led to some confusion, and I accept some of the responsibility for that.

Apart from being a general ratepayer over the years and involved in general fora and matters of that nature, I did not have a significant involvement with local government in any direct sense until I was elected to Parliament. It was not long before I became very interested in the issue. In 1994, I organised a number of fora under the then Minister, the Hon. John Oswald, to discuss general principles relating to the reform of local government.

At that stage, I came to realise that this Local Government Bill had been very long in coming with a very long gestation period. As I understand it, the first steps towards reform in relation to bringing in a whole new Bill on local government were commenced back in the days when the Hon. Anne Levy was the Minister for Local Government. Since then, we have had five local government Ministers (all of whom have moved on) with few resources to amend or promulgate the most substantial piece of legislation that this Parliament is likely to deal with in the foreseeable future.

The various Ministers who have been involved have been ably supported by a professional and excellent support staff who have laboured under a system where they were given few resources and an enormous task in considering the various issues. Members on all sides of politics owe them—and I will not name them—a great deal of thanks for assisting us to come to grips with the range of issues that arise in relation to local government.

Local government reform can be characterised in a number of ways. One would not find any dispute if one suggested that reform of local government is extremely difficult. There are many interests and many agenda, all of which conflict or differ. It is easy to make a name in local government simply by being negative and suggesting that any proposals or changes might cause the sky to fall in. In that regard, I freely acknowledge that both the Opposition and the Australian Democrats have approached this whole reform process in a constructive way. Whilst there might be issues upon which we will disagree in Committee, in this case at least there has been a positive response in general terms from the Opposition and the Australian Democrats.

I am reminded of a previous process in relation to local government reform. In that regard, I have one of the few remaining copies of the report by the Local Government Act Revision Committee on Powers, Responsibilities and Organisation of Local Government in South Australia, which was tabled in this Parliament in July 1970. I must say that the presentation of this document far exceeds anything that we see nowadays in Parliament. The inquiry was commenced under the then Local Government Minister, the Hon. Murray Hill, who held that office from April 1968 until June 1970. The process was continued under the then Minister for Local Government, the Hon. Geoff Virgo, and the report was finally completed in July 1970.

This volume is enormous. It is in small print on foolscap (which was the practice in those days). There are 847 pages of comment about local government as it existed in 1970. Some of the comments in the report make for interesting reading. Item 15 of chapter 1 'The Introduction' states:

> For local government to become fully effective in South Australia, it needs guidelines. Some of these guidelines can be set out in the Act itself; others need to be provided by way of personal contact and advice. There is, therefore, a need for a Department of Local Government. The primary need is for a department with a small staff of experts able to provide advice and encouragement to local authorities when they need it and able to give local authorities practical guidance on new opportunities for development. It should also be a function of the department to give ratepayers, and particularly those interested in development, the practical assistance that they are at present lacking.

The report states further at item 18:

> The existing Act is too complex and confusing. In far too many cases its provisions can only be found by engaging in a paper chase through numerous sections that are often hundreds of sections apart and that have no cross-references.

It is interesting to note that in the 29 years since this document was prepared and tabled in this Parliament very little has changed. Indeed, the existing Act, which was first promulgated in 1934, had 104 separate amendments in 69 years, which is about 1½ sets of amendments per year.

It is no wonder that there are problems in managing the Act, particularly for elected members who have no legal training. It is no wonder that when one looks at the balance of power between elected members and paid staff it probably falls on the side of paid staff rather than elected members simply because of the complexity of the legislation under which they operate.

I hope that the Bill when it becomes law improves the ability of ordinary members of the community serving as local councillors (normally in a voluntary capacity) to be able to understand the provisions of the Act. The inquiry heard from 736 witnesses and received 411 written submissions. So, even in those days the process of consultation in relation to local government was enormous, substantive and very wide. It is interesting to look at government generally in the world and the provision of government throughout the world and particular world trends.

The world trend in democracy and management, whether it be in a public or private capacity, is to push decision making down to the lowest possible level. Indeed, when one looks throughout the world, one sees that process happening. One might argue that the process of global markets and trading and open markets and things of that nature are the antithesis of local management although, if one observes the process of economic change in the late nineteenth century when the world opened up to trade and commerce at a very rapid rate, one can see that the process took place hand in hand with an increase in local autonomy in terms of government. One only needs to look at the way in which the United Kingdom was giving autonomy to its various colonies 100 years ago to see that. In relation to pushing decision making down to the lowest level, I would add that in some respects Australia seems to be defying that world trend. Indeed, Australia appears to have become far more centralised in relation to its decision making processes.

In her second reading speech the Minister put the general object of government very well when she said that the Government 'needs the advantages of carefully controlled taxation and regulatory regimes, a sound and diverse regional economy, an efficient, effective and accountable public sector, and encouragement for individual and community enterprise', and indeed local government will play a very important role in that general object of the Government. I would hope that, with full, open and frank discussion in Committee, we will go a long way towards achieving that.

I wish to address some general issues in relation to this Bill and some issues of principle. The first is the question of accountability, and I note that the Hon. Ian Gilfillan touched upon that issue in his second reading contribution. I will start by making a couple of anecdotal comments. The first is that in the past four or five years we have changed the nature of local government quite significantly, with what on the face of it might appear to be some relatively minor legislative changes. The first thing we have done is to expand the term of elected local councillors from one year to three years, and in my view that has changed the face of local government quite significantly and, although it is perhaps too early to be definitive about this, I would suggest in a positive way. However, that means that the people who used to have a say on an annual basis about the nature of their local councils now have that opportunity only once every three years.

As a consequence, we must be very serious about considering the nature and triggers of accountability that will exist in this new legislation. Under a system where you have only one year terms, you probably do not need many systems of accountability, because elected members of council are constantly going back to the people to reaffirm or re-establish their mandate and to justify and be held accountable for their decisions over the previous 12 months. We do not have that any more: it is a three year period. There needs to be fairly careful consideration of what sort of accountability should apply where elections occur only every three years.

The second matter—and this is very anecdotal—is the nature of the accountability of councils to individuals, to councillors, to members of the public and indeed to members of Parliament during periods between elections. I will give an example. After the amalgamation of various councils in 1995, the then Chair of the South-East Local Government Association, the present member for Gordon, made a couple of comments about how the amalgamations had been forced upon councils. I am not sure how it had been forced upon them, given that all sorts of mechanisms facilitated voluntary amalgamations. Ultimately, in his case, the Council of Grant was amalgamated in a voluntary fashion, so I am not sure what he was directly alluding to. I well recall his saying in a public forum that this had involved added costs for ratepayers and so on. I recall challenging him, saying, 'Identify where those costs are.' When one analysed where those costs were, one found that they derived from the fact that the council's initial calculations of its savings were incorrect and based on a false premise, and that it had not been a result of anything done by the State Government but that something caused internally had led to an increase in costs, which was otherwise not anticipated.

I also well recall 14 months ago writing to all the amalgamated councils in the South-East, and in particular the Grant, Wattle Range and Naracoorte Councils, because some people were saying that this amalgamation process that the Parliament had initiated had caused increases in costs, potential increases in rates and increases in borrowings on the part of each of these councils. I asked each of these councils whether they could outline, first, what they had predicted to be the savings as a consequence of amalgamation and, secondly, whether in fact they had managed to achieve those savings—in other words, whether they had achieved their predicted results. Despite numerous written reminders—other than the Naracoorte Council—I am yet to receive any response from either the Grant Council or the Wattle Range Council.

It begs the question: if a member of Parliament cannot get information as simple as that, what hope does an ordinary member of the public have in holding councils accountable for the promises they make? I am concerned that local government, which is very quick to bring State Governments and State Ministers to account for failures to act as promptly as they might like, totally ignores simple requests like that from members of the public.

We must understand that local government in Australia is unique in relation to the way in which it is managed. Unlike any other level of government, that is, State or Federal, it does not have any separation of powers. We all know that under the Westminster system there is a doctrine of separation of powers to the extent that the judiciary is separate and independent from Parliament and that the Executive is accountable on a day-by-day basis to the Parliament and that Ministers hold office at the pleasure of the majority of the members of the House of Assembly or, in the Federal case, the House of Representatives. No such equivalent check or balance naturally occurs in local government.

Elected local members exercise legislative power through the promulgation of by-laws and the development of planning schemes. They operate administratively through the allocation of resources through the budget process. They operate on occasions in a judicial or quasi-judicial capacity, and in that regard I refer to the application of planning laws, building laws, and the like. They are all done by the same body and there is no separation, there is no check, there is no balance. Other than the direct accountability of councillors to the public through an election process, in this case every three years, there needs to be in this Act some attempt to ensure accountability between elections.

In the Westminster system the Executive arm is accountable to the Lower House, as I alluded to earlier. In the United States, which has a strict doctrine of separation of powers based upon the principles outlined by Dicey, there are checks and balances through impeachment processes and the like to ensure that the Executive, whilst separate, is held accountable from time to time for its conduct. Indeed, the judiciary plays

a very important role in ensuring that the Executive arm of government does not Act unlawfully.

It is important that we look at this area of scrutiny in a balanced way. There are a number of options in relation to the scrutiny of local government. One is the scrutiny by the public through the voting system, through the provision of an opportunity to vote, through the provision of an opportunity to be involved in plebiscites if legislatively or in other ways prescribed through compulsory provision or availability of information, and finally through enforced consultation processes. Other options in relation to scrutiny in local government can be internal; for example, the provision of information to local councillors.

Under the current legislation and indeed to a lesser extent under the Bill, there are no traditions pertaining to the Westminster system that apply to members of council. If there is a motion of no confidence in a particular member of council, who all collectively exercise executive or administrative power, there is no responsibility, obligation or duty to resign in the face of such a no confidence motion. The provision in this Bill that attempts to address that situation is triggered only where all members of council or a substantial majority of members of council resign, thereby causing an election. That triggers a full election and causes all offices to become vacant. That is a pretty high standard, a pretty high trigger of accountability, when one looks at the possibility of an individual councillor acting in a way that is unacceptable to a majority of other council members.

Other than the provisions in this Bill, which I will come to later, in general terms no natural, internal options for scrutiny and accountability exist in local government. One might argue that there was no need for that in 1934, and I would have to accept that there probably was not because elections were held every year, but now we have a system with elections every three years. The other issue in relation to responsibility, accountability and scrutiny concerns external processes. In this case, there are options of ministerial scrutiny on the part of the State Minister, or alternatively or in addition parliamentary scrutiny. In that regard, ministerial scrutiny can take a number of forms. Indeed, I digress by saying that there is no shortage of demand on the part of individual members of the public from time to time on a regular basis when seeking some sort of ministerial scrutiny or intervention.

But there are a number of options, one being to allow ministerial scrutiny to the extent that the Minister could supplant either the discretion or decision-making power of a local council. Another option is to allow a Minister some degree of scrutiny and power to ensure that the local council complies with a particular prescribed process before making certain classes of decision. Alternatively, you can have a mixture of both. Then, of course, you have ministerial scrutiny in the guise of arbitration of disputes, whether it be between individual councillors, between councils or substantial disputes (and how that is defined is a matter of difficulty, I know) between the electorate of that council and the council members and administration itself. What I am leading to is that there has to be some of this, because this Parliament has designated that we now have three year terms and we must have some degree of scrutiny, some degree of accountability, between elections.

From time to time there have been calls and complaints from local government that this Bill or predecessors of it have allowed for too much ministerial interference or control. It is a great line to put out there, but at the end of the day, as I have said to a number of local government elected members and staff members I have talked to, that is fine, but if you did not have that you would have to look at some other form of scrutiny. It may well be more regular elections, more open councils than we have currently or some other mechanism whereby we have more direct accountability to the people. At the end of the day, local government, in promulgating and considering this Bill—and, indeed, the Hon. Ian Gilfillan, in considering this Bill—must address the issue of where we find that balance of some degree of accountability between elections in relation to local government.

At the end of the day there are some significant differences between the provision of services and the making of decisions between local government and State and Federal Governments, not the least of which is that a lot of decisions made by local government do not have big financial impacts on ordinary ratepayers or residents within a local council. There are exceptions, of course. That would lead one to an inevitable conclusion that the sort of external scrutiny we have for State and Federal levels of Government through the judicial system is perhaps impractical. If one looks at an example of a State Government taking away a fishing licence from a fisherman unlawfully or unjustifiably, there is sufficient there in terms of financial losses at stake to justify the provision of court services, and the parties make that decision themselves by spending significant sums of money.

However, in relation to local government, many things it does do not have a significant or big financial impact on individual people, but they do have a significant personal impact on individual people. In many ways judicial or court scrutiny of decisions made by local government is entirely impracticable simply because of the expense. We can have parliamentary scrutiny (and we all know that there are limitations to parliamentary scrutiny—although it is probably the best form of scrutiny that mankind has devised over many hundreds of years)—

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: I am sure the Hon. Ian Gilfillan will agree that the process of scrutiny of by-laws by the Legislative Review Committee is an important process which—and I hope I do not get any criticism for saying this—goes without much difficulty or problem. Without blowing my own bags and, for that matter, the committee's bags, we have a set of policies which we apply rigidly, and local government, to its credit, has complied with those policies. They are basically simple rules relating to natural justice and to ensuring that they have adopted the process. It is a very effective and cheap way of scrutinising this process.

Then, of course, there is media scrutiny. If I had made this speech a few years ago, one would have said that there is probably not a great deal of media scrutiny in local government. However, in recent times (and perhaps I am affected by my local considerations) one sees a great deal more media scrutiny of the conduct of local councils. That is partly due to the fact that councils are less able to have closed sessions and less able to hold things back. That is not to say that it does not happen but there is a greater level of media scrutiny.

Finally, in relation to differences, there is a formal freedom of information process in relation to State and Federal Governments. Officers are devoted to that task and resources are available to enable compliance with the process, but I am not sure that local government has either the same level of compliance or the capacity financially to provide that level of compliance. Those are the sorts of things that one

needs to weigh up and balance in relation to the questions of accountability and scrutiny relating to local government.

Another issue is the distinction in relation to the role of a local councillor and that of a member of Parliament. The role of a local councillor is that of the Executive, and one would assume that they operate in a collective fashion; that notwithstanding any disputes which might take place within the context of developing a particular policy or coming to a particular decision they would embrace the majority decision (just as those of us who are members of political Parties must do) and go out and sell that policy which has been adopted by the majority.

That is what happens at local government level. Indeed, there is a real risk that there is a lack of internal scrutiny by elected members within local government. I am not saying that is the case, but there is that potential, whereas, if one looks at the Westminster system, one sees that we have Her Majesty's Opposition. Indeed, we have backbench members of Parliament who support the Government. Both of those groups (and I am sure that no Minister would disagree with this proposition) provide a high level of scrutiny and accountability on the part of the Executive arm of Government.

The big difference between being a member of the Opposition and being a member of the governing Party is that we are inclined to give the ministry the benefit of the doubt, whereas the Opposition assumes that there is something wrong before anything occurs. However, that is the nature of our system of government. At the end of the day, it is a question of finding the balance. Issues such as flower farms, failed enterprises, wasteful spending, corruption, cronyism, and so on, need to be looked at in the context of how a system can be developed that can best cope with and avoid those sorts of problems.

I know that where people gather together and exercise power there is always the opportunity, possibility and risk for cronyism, corruption and unfair practices. It is very important that we come up with the right balance in terms of accountability. If we are to have three year terms (and this Parliament has accepted that as a proposition), we need to look at how we have scrutiny of local government and good local government between elections.

I think it is becoming even more important, given the important and increased role of local government over the past 30 years where it has metamorphosed from a collector of rates and rubbish into the provider of quite substantial and important services to members of the community. In some respects—and I am not criticising the current executive of the Local Government Association but, rather, I am criticising earlier executives—they seem to overlook the fact that, if you do not want any ministerial scrutiny or parliamentary scrutiny or open local government, you must come up with other forms of scrutiny.

It is beholden on those people who assert that that should be diminished—and, with the greatest respect, I put the Hon. Ian Gilfillan in this category—to look at increasing other forms of scrutiny. When one looks at the options, one will come to the inevitable conclusion that the cost of that form of scrutiny is very significant, certainly much higher and much more intrusive than what this Bill outlines. It is my view that the Bill has the balance right, but time will tell. Indeed, at the end of the day, Parliament can always go back and revisit it. I think it is more important to monitor the principles at this stage rather than let certain genies out of the bag.

In directly commenting about the Hon. Ian Gilfillan's statement, particularly where he talked about some 111 discretions of the Minister, he ignored the fact that even the worst of Ministers do have some political judgment. There is a basic rule of thumb that just about every member of Parliament with whom I have come into contact acknowledges—and those who do not follow this usually get themselves into huge trouble and do not stay in politics for very long—that is, State members, State Ministers and State Parliaments should, as much as possible, stay out of local politics because when there is a fight between someone at a local level and someone at a State level the usual situation is that the local population falls in behind the local person and the State member, or indeed the Federal member, comes out with a bloody nose.

I think one can take some heart in relation to these 111 discretions about which the Hon. Ian Gilfillan is talking. Generally speaking, and with very rare exception—and I am talking about both sides of politics—do Ministers lack judgment and barge in to interfere with local government when they should not. That is particularly so when one looks at the enormous numbers of requests that the Minister gets to interfere and the enormous number of rejections he does give to those requests.

I make one general comment in relation to the Hon. Ian Gilfillan's comment that the Minister has 111 discretions. That sounds good, but I hope when we get into the Committee stage that the Hon. Ian Gilfillan will be a little less trite than that. I say that for this reason: in a couple of earlier drafts of the Bill there were a number of ministerial discretions where the Minister could impose the Minister's decision, will or discretion on local government. I hope that the Hon. Ian Gilfillan will acknowledge that, in the later drafts of this Bill, the emphasis changed quite significantly, so that the Minister will be responsible for the scrutiny of the process and for nothing else.

I think that, if the Hon. Ian Gilfillan reads the Bill, he will see that that is where the Minister comes in and finishes: he ensures that the process complies with the process that this Parliament will ultimately prescribe with the passing of this Bill. The other alternative is to say, 'All right, Minister, you do not have any say in that. You do not have any role to play in ensuring that the process is complied with.' If you do that, the challenge then—and I make the challenge to the Hon. Ian Gilfillan—is what do you replace it with? How do you ensure that local government does comply with process?

The option might be—and I say this thinking of my other profession—that you have judicial and court scrutiny, but what is the cost of that, not only in strict financial terms but in the way in which courts deal with things where you have an adversary process and you bring one member of a local community up against another? I would have thought that, if you have to have some scrutiny of a process, ministerial scrutiny would be more preferable than judicial scrutiny.

In that regard, I would urge the Hon. Ian Gilfillan, if he is to say we will remove all these so-called discretions and the ability of a Minister to interfere (and he counted 111 cases), then they have to be replaced, because you cannot have local government out on a frolic of its own in a position where it cannot legally or practicably be held accountable. Who would go to court because a council on a regular basis fails to collect your bin? You would not; you would complain. In 1934, under the old system, you had to put up with it for only 12 months because there was an election every 12 months. Under the current system, there is an election only

every three years, so there has to be some form of accountability in that intervening period.

There is no question time in a council meeting. There is no tradition of resignation if you lose the support of the majority of members. There is nothing like that in local government. There is nothing like the sorts of checks and balances that we perform under in this place. I would strongly urge members when considering this Bill to find a balance in their own minds. If you come to the conclusion that we in this Bill—

The Hon. T.G. Cameron interjecting:

The Hon. A.J. REDFORD: I think this Bill has it correct. If the honourable member says, 'I do not like this accountability or that accountability,' fine, but look at the other options in terms of accountability. What I am saying to the honourable member is that we are not dealing with councils that are elected every 12 months; we are dealing with people who will be there for three years and can have a significant capacity to either improve or devastate ordinary people's lives in ordinary ways. That needs to be at the forefront of the consideration of every member in this place when we get to the Committee stage of this legislation.

There are 14 parts to the Bill, and I could make a number of comments in relation to various provisions. There are quite a number of clauses which I think are innovative, and in that regard I congratulate the Minister and his staff. I will not go through them all, but I will make a number of comments during the course of the Committee stage. However, I will make a couple of comments, some of which directly relate to this Bill and some of which relate to the elections Bill.

The first is that the elections Bill makes provision for 12 months' service before one can qualify for the office of mayor. In other words, one has to serve a period of 12 months as an ordinary local councillor before one can be qualified to become a mayor. I have had some submissions on that, and I must say I have some reservations about that clause, and the reason is this: that might well have been a good provision when elections were every 12 months, but the practical effect of such a clause is that you have to serve a term as a local councillor.

If that is the case, what we are saying to the general community is that, if you want to be mayor of your local electorate, you have to commit yourself in today's world of increasing local government responsibility for six years in what I would describe as only generally a voluntary capacity. That is an enormous ask of people. We expect an enormous amount of our local councils, particularly our elected members. I urge the Government and the Minister to consider again that particular qualification. At the end of the day, there comes a time in any process when we need confidence in the democratic process and the fact that, generally speaking—I cannot see anyone at the moment; perhaps I can allude to another place—good people are elected. But there are some exceptions.

The Hon. T.G. Cameron: Even in this place.

The Hon. A.J. REDFORD: Sometimes the honourable member is a bit mean. But that is something that really needs careful consideration. To say to a person, 'You must commit yourself for a period of six years if you want to serve local government at all' is a pretty tough ask. At the end of the day, you may well wake up to a system of local government where the only people who serve are retired persons, because they are the only ones who have the time and capacity to do it. One general observation of some councils around the State, more in the rural areas than in the city, is that the average age of councillors is pretty high. I think that reflects the enormous expectation and demands on their time and also the modern demands on people in their working lives up to the age of 50 years.

The Hon. T.G. Roberts: Sons have pushed them off their farms.

The Hon. A.J. REDFORD: I have absolutely no idea to whom the honourable member might be referring. *Hansard* will not record the considerable pause that took place between the interjection and my response, but I would be delighted if in Committee the honourable member lets me know of whom he was thinking in that respect.

The other issue is in the area of conflict of interest. From a personal point of view, this is a very difficult issue. In this Parliament we say, 'Provided you make a full disclosure on your register of interests and provided you make a particular disclosure in relation to a Bill or an issue before this place, you can participate, put your argument, vote and respond.' Under the old Act we said, 'You cannot do that; you have to walk out and not be involved in the process if you have some interest in the matter before the council.' I am not sure that I am comfortable with that, because far too often you finish up with half the council members walking out on a particular issue as they have some interest, yet they are genuine, good people seeking to make the right decision on the part of their constituencies. I look forward with some interest to the debate on that clause.

Another issue I highlight is easements, in particular statutory drainage easements. I will not go into any detail, except to draw the Minister's attention to the issues raised by the Burnside Council. The Burnside Council has a difficult issue which it has sought to confront, and we owe it a duty to deal with its problems as quickly and as efficiently as possible. In that regard, I would be most grateful if the Minister, during the course of this debate, could give some definitive response about how he proposes to deal with the matters raised by the Burnside Council.

In closing, I congratulate the Minister and the Local Government Association. The level of consultation and communication between the Local Government Association and the Minister is significant by the fact that it has been open, frank and honest and is in stark contrast to some of the shenanigans we had to put up with with previous administrations of the Local Government Association. I well remember the former Deputy Premier, the Hon. Stephen Baker, giving the Local Government Association an absolute burst a couple of years ago. I have absolutely no doubt that a similar event will not occur on this occasion. Indeed, I sincerely thank the Local Government Association executive and all members of local government who have been involved in this process for the way in which they have participated and for the fact that they have not played politics. This Bill is worthy of everyone's consideration. I look forward with a great deal of interest to the Committee stage. I commend the Bill.

Progress reported; Committee to sit again.

LOCAL GOVERNMENT (ELECTIONS) BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 996.)

The Hon. IAN GILFILLAN: In making my second reading contribution to the Local Government Bill I discussed several different goals which I had in mind. I approached the Local Government Bill with the aim of establishing the

framework for good government and I equate good government largely with local autonomy. It is my belief that local autonomy is to be encouraged wherever possible, and where it does not conflict with other more fundamental or important principles or goals which our society holds dear. In my speech on the Local Government Bill I identified three particular goals which I saw as being of higher value than simply the goal of local autonomy. Those three goals were democracy, accountability and ecological sustainability.

This Bill is about the first two of those goals. The Local Government (Elections) Bill is all about the mechanism for keeping local government fully accountable and the mechanism, of course, is called 'democracy'. This is about more than mere local autonomy. In the matter of conducting elections we do not wish to leave everything to the elected representatives of local government. This is an area where the goal of local autonomy has to be sacrificed in large measure to the greater goals of democracy and accountability. It is inevitable, therefore, that there is a great deal of prescription in this Bill. In seeking to support democracy and accountability I will be seeking to insert even more prescription. I make no apology for that. I am a Democrat, both as a member of the Democrat political Party and in my own choice of politics. Our Party is the most democratic Party in Australia, in its own Constitution, its internal affairs and in its commitment to policies that foster the twin goals of democracy and accountability.

We believe passionately that everyone has the right to be heard, to have their vote counted and to vote for a candidate of their choice, whether it is at the level of Party policy, local, State or national elections. In fact, it is more than a right. When it comes to electing a Government, it is a duty. It is an obligation upon those of us fortunate enough to live in this civilised democratic society. Our obligation is to take heed of the structures and mechanisms that make our society civilised, democratic and representative and play a small part in keeping those structures and mechanisms truly representative simply by exercising a choice at election times.

I do not believe that that can be achieved by the Bill that is before us. Therefore, I signal that I will be moving amendments which would have the effect of increasing participation in local government elections and the fairness of those elections. The aim of my amendments can be stated simply: a compulsory voting procedure or, as I prefer to call it, a compulsory compliance procedure. It will not surprise honourable members to learn that my amendments will make it compulsory to at least return a ballot envelope or collect a ballot paper at a polling booth. That is the situation that we have sought to have in the State electoral legislation and it is, in fact, part of the current State Electoral Act.

The Democrats see voting not merely as a right but also as a duty and there is no reason why local government should not be treated as any less important in this regard than State or Commonwealth Government. As to postal voting, the Bill prescribed postal voting as the inclusive method of conducting local government elections, save that outside metropolitan Adelaide. The returning officer may utilise polling places if he or she believes that postal voting would not increase voter participation.

I can see no reason to limit this provision to council areas outside metropolitan Adelaide. Why should polling booths be outlawed in the city and suburbs? If we wish to maximise voter participation, both postal voting and polling booths should be utilised. My new version of the schedule to this Bill and other consequential amendments will make it compulsory for each council district to have at least one place where polling booths are set up. The question of whether to have any more than one polling place should be left to the discretion of the local returning officer for the district.

In relation to qualifications for enrolment, it is undemocratic to allow (as this Bill allows) one person to exercise two or more votes; that is, one in their private capacity and one on behalf of each corporation or group they may happen to represent. My amendments would not deny any company a right to a vote, but no person acting as a company representative should have a second vote as an individual. In relation to ballot papers, rather than have the order of the names of the candidates determined by lot (as required by clause 29), the only fair way to have candidates listed on ballot papers is by rotation. A system called the Robson rotation exists in Tasmania and the ACT and merely ensures that no one candidate gets the advantage of being listed first on the ballot paper and attracting the donkey vote: all will have equal turns.

In relation to a citizen initiated poll, clause 9 of this Bill allows a council to initiate a poll on any matter if council wishes. This is a power which should not be confined to councillors. I will be moving to allow ratepayers to petition for a poll. However, I propose setting a high bar for those wishing to force council to hold a poll on any issue. A petition to demand a poll must be supported by at least 10 per cent of ratepayers with signatures collected inside a three month period.

My final set of amendments will not only enhance democracy but also save a great waste of paper and should perhaps be thought of as an environmental initiative as well. At the time of nomination, the candidate must submit a profile statement which can include a recent photograph and, after nominations close, candidates may also submit their how-to-vote recommendations. This information can then be distributed to all voters along with their ballot papers. The information from all candidates can then be distributed to voters at the one time. Each candidate's profile, photograph and how-to-vote recommendations can be fitted onto one sheet of paper containing enough information for a voter to make an informed choice. It makes sense to have the returning officer insert all this information at once into the same envelope which contains the ballot paper. It simplifies the process and, presumably, will do away with some of the incentive for candidates to stuff your letter box with pamphlets in the lead-up to the vote.

That concludes the summary of the amendments that I will be moving, and I indicate that the Democrats will be supporting the second reading of this Bill.

The Hon. J.S.L. DAWKINS: I support this Bill. In doing so, I commend the Minister for the way in which he has presented the local government legislation over a long period, just as the Hon. Ian Gilfillan commended the Minister during his contribution on the major Bill in this Chamber yesterday. While the consultation process has taken a considerable period, I think it has allowed many people in the community who value local government to have some access to the final Bills. This Bill promotes the following: consistent practice across all council areas by providing for universal postal voting with exemptions possible in limited circumstances; one standard system for casting and counting votes, that system being proportional representation; and one independent authority, the State Electoral Commissioner, to be the returning officer for all council elections.

I understand that the drafting of the legislation has responded to requests from some rural councils concerned at the potential increased cost of mandatory postal voting. As a result, a new schedule to the Bill permits such a council to seek the approval of the Electoral Commissioner to conduct its elections or polls using polling places and advanced voting papers.

Such a council will need to demonstrate that there has been a history in its area of high voter turnout at recent elections conducted using polling places and that if mandatory postal voting, as required by the Bill, is to be used, it is unlikely that this would result in a significant increase in voter participation. If such approval is granted, there is provision for the situation to be reviewed should levels of voter participation decline. This provision is not available to councils in metropolitan Adelaide.

The majority of the new provisions in this Bill arise from feedback on earlier discussion papers on the conduct of local government elections and submissions on the consultation draft Local Elections Bill. The final report of the review of the 1997 council elections was another important source document.

The proportional representation system of vote counting has consistently been found to be the fairest in a number of studies conducted by the State Government and/or the Local Government Association over the past decade, from the 1985 Council Elections Review to a paper commissioned from Professor Dean Jaensch late in 1998. The independent review of the 1997 council elections urged that the arrangements for the conduct of council elections be made consistent across the State wherever possible, so that the public became well acquainted with the processes and would feel increasingly confident about participating as candidates and electors. In 1997, council elections conducted by postal voting showed significantly higher voter turnout rates (39 per cent) than those conducted at polling places (15 per cent).

The integrity and probity of the elections have been enhanced by the Bill's now providing that the State Electoral Officer is to be the returning officer for all council elections. This innovation will also bring an important consistency of approach and policy coordination to the massive administrative and logistical task of producing and distributing elector information and ballot papers. This material has to be distributed to more than one million people and companies who will be eligible to vote in the May 2000 council elections.

There is also a question as to the propriety of existing council members, who may well be seeking re-election, participating in the choosing of a returning officer to conduct those elections. The totally arms-length appointment of the State Electoral Commissioner is to be preferred and commended.

The Bill also enables a council to nominate a suitable person as a deputy returning officer and, subject to the Electoral Commissioner's being satisfied as to their suitability, that person will be appointed as the deputy for that particular area. The Bill requires that such a person will be delegated certain powers to conduct aspects of the election in that local area. However, the Commissioner will at all times retain full responsibility as returning officer and the deputy will be required to observe any directions or limitations on their duties and performance issued by the Commissioner.

The Government has consistently adopted and publicly expressed a policy position favouring voluntary voting. Voting has never been compulsory in council elections, and there is nothing to suggest that the local government sector or the community at large wish this to change. I believe that there is a fundamental incompatibility between postal voting and compulsory voting, due amongst other things to the difficulty in establishing as a matter of legal proof that a person failed to vote. An elector who apparently failed to vote could simply say that they did not receive any voting papers or that they had mailed the reply paid envelope containing their vote before close of polling, and any prosecution would have great difficulty in proving otherwise beyond reasonable doubt.

In conclusion, I would like to make a couple of comments about an amendment which I understand has been filed by the Hon. Ian Gilfillan on behalf of the Democrats. I believe that that Democrat amendment expresses the view that ballot papers must be printed in batches so that all candidates have some ballot papers with their name in the favoured positions to counteract the so-called donkey vote. This may be attractive in principle, but it is my view that it is utterly unworkable in practice.

For example, during the recent elections for the amalgamated Barossa Council, there were 24 candidates in an at large council election. About 14 000 electors were entitled to vote at that election. If the Democrat amendment passes, 24 different versions of the ballot paper would need to be printed to ensure that each candidate was in the prime No. 1 and No. 24 spots on the ballot paper in one-twenty-fourth of the ballots. According to my calculations, that means that the returning officer would have to arrange for 24 print runs of about 600 ballot papers each. That would be time consuming and terribly costly, and I think it is something which we as a community should avoid. It is probably as ludicrous as the suggestion that we have compulsory voting for local government.

I conclude my comments at this point. Once again, I commend the Minister for the work that he has done in searching out the views of the local government community and those people throughout South Australia who have an interest in the way in which local government functions. A number of points have been put forward. I do not suppose that all of them have been picked up in the legislation, but a large number of views have been taken and addressed. There has been some concern about the method of voting in some country regions. That matter has been addressed by allowing changes to be made if the community concerned can demonstrate that it has the runs on the board under the previous system. I take pleasure in supporting this Bill.

The Hon. CARMEL ZOLLO: I rise to make a brief contribution to this Bill. It is one of three Bills that have been presented together in what is virtually a rewrite of local government legislation designed to provide a modern operational framework for local government. As indicated by my colleague the Hon. Terry Roberts, the Opposition supports this local government legislation and recognises the obvious need for it following community consultation and the amalgamation of many councils.

As the third tier of our democratic system of government, local government is becoming an increasingly important administrative and service sector of our community with some of the larger councils playing an important role in community service delivery. In country South Australia especially, where so many Government and commercial services have been withdrawn over the past four years, in

particular, local government is often the sole providing agency for the community.

The Minister outlined in his second reading explanation of the Local Government Bill a vision for the State to include a stronger more efficient local government sector which is able to play a key complementary role with the State in economic development and which is ready to meet the challenges of the twenty-first century. Such sentiments are certainly shared by the Opposition. Along with other members in relation to this legislation as a whole, I also received correspondence from the Mid-Murray Council in relation to section 28—Public initiated submissions. It was the subject of extensive questioning of the Minister in the Committee stages of the Bill in the other place.

I suspect that many councils that have already gone through amalgamation will feel somewhat uncomfortable at the possibility of a group of people with like sentiments initiating further boundary reforms—at least before those councils have the opportunity to fulfil initial plans. I noted that in the Committee stage the Minister for Local Government spoke of the Mid-Murray Council. The Minister believed that its concerns could be accommodated by that council going to the panel and pre-empting any public initiated submissions. It remains to be seen whether such advice will, in fact, work in practice. I also understand amendments will be filed for consideration.

With the devolution and outsourcing philosophy of this Government gaining momentum, the rewriting of the Act and its two associated Bills, this one in particular, which clearly spells out the role of local government, is welcomed by the Labor Opposition. I understand this Bill has been presented separately for the sake of convenience and accessibility. It contains the electoral provisions for the conduct of council elections and polls. As to be expected, the Bill has drawn on the experiences and review of the local government elections of May 1997 and the more recent City of Adelaide elections.

The Opposition supports the three main provisions of this Bill, namely, first, the use of postal voting—with the possibility of exemptions for rural councils that can demonstrate higher voter turnout for polling booths; secondly, proportional representation as the standard system for casting and counting votes; and, thirdly, the Electoral Commissioner to be returning officer for all council elections, with the provision of the appointment of a deputy returning officer, to be nominated by an individual council.

The Minister mentioned in his second reading speech the matter of some councils not being happy with the use of postal voting, as in their experience voting at booths had proved a successful and economical process for them. Whilst the Bill contains provision for exemption for rural councils, if they can prove greater voter participation for polling booth voting, it does not provide for exemption to postal voting for metropolitan councils. I have had two metropolitan area councils approach me also to express their concern in that they wanted to choose the method by which their electors cost their votes. The two councils, namely the City of Campbelltown and Norwood Payneham St Peters both believe that their elections have previously worked well, with those interested to vote doing so. They are of the opinion the changes will incur unnecessary costs to them.

Whilst the Opposition does not support this view, it is important to place the views of these councils on record. The Opposition is supporting the research conducted post the 1997 council elections, together with earlier studies, that has clearly shown that postal voting in South Australia has resulted in significantly higher voter turnout participation than elections conducted at polling places. The results are consistent with experience elsewhere in Australia. I am pleased to see the provision also of the State Electoral Commissioner as the independent authority in the role of being the returning officer for all council elections. We agree that it will bring consistency to the approach and coordination for this massive task.

The Opposition also agrees with the practicability of enabling a council to nominate a suitable person, who can be an officer of the council, as a deputy returning officer. I understand that, whilst the deputy will be delegated certain powers to conduct aspects of the election locally, the Commissioner will at all times retain the full responsibility as returning officer. I understand we will be looking at some amendments in Committee, particularly in relation to voting. The Opposition supports the second reading of this Bill.

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

PARTNERSHIPS 21

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a copy of a ministerial statement made by the Minister for Education, Children's Services and Training in another place today on the subject of Partnerships 21.

Leave granted.

GOODS AND SERVICES TAX

The Hon. R.I. LUCAS (Treasurer): I seek leave to make a further ministerial statement in response to a question asked by the Hon. Mr Holloway today about the GST.

Leave granted.

The Hon. R.I. LUCAS: My office has made further inquiries this afternoon in relation to the question from the Hon. Mr Holloway. I can provide a little more information. I understand that this issue was also raised in the House of Assembly earlier today in Question Time. I have not yet obtained a comprehensive briefing but I will do so in the next couple of weeks and I will bring back a reply when next we meet.

As I think I summarised during Question Time, my advice is that a number of agencies wanted to appoint consultants to assist with the implementation of the GST through some process—and I am not clear exactly how that process operated. The State Supply Board put out a request for proposals (I think it was, as opposed to a request for tender) to accountancy firms and others. I understand that up to maybe 15 or 20 firms might have applied or expressed interest. A contract has been negotiated through the State Supply Board processes.

My advice is that there are not, as I think the Hon. Mr Holloway indicated, three firms that have been successful: my advice is that no firms have yet been finally told that they are successful but that it is possible there may well be an approved panel of up to a dozen firms rather than three. My understanding—again, subject to final clarification—is that, as part of that process, there has been some sort of negotiated price. I have sought advice from Treasury as to the level of that price compared with the normal charges that accountancy firms might make. The intention, I understand, from the State Supply Board was obviously to negotiate a competitive price for Government departments and agencies that might want

or might need to obtain expert advice in terms of new systems for the implementation of the GST.

I am told that an officer of Treasury was part of a panel that, I think, interviewed people who expressed interest. I am also told that the officer from Treasury had verbal discussions with a number of departments and agencies when he was asked by the State Supply Board what might be a preliminary estimate of the value of the work that agencies might see having to be conducted, and I understand that it is from that process that this figure of $20 million might have eventuated. The Treasury officer has advised my office that there is no documentation to that effect within Treasury: it was something that he conveyed by way of telephone call or verbal discussion with the State Supply Board people.

All that detail is subject to my obtaining a written piece of advice from the department, from the Acting Under Treasurer, which I will do over the next couple of weeks. That is the basis of the advice that my office has taken from departmental officers since Question Time this afternoon. I understand that a number of inquiries have been made since Question Time today in relation to this issue.

I again highlight, as I did earlier this afternoon, that there will be increased costs to departments. We have no Treasury budget line for $20 million for consultancies or for implementation costs. At this stage, departments would have to meet those costs from within their existing allocations, or they would have to make a budget bid at some stage over the coming 12 month period, or the Government may well determine, as I indicated earlier, that the Commonwealth Government's estimates of the savings that accrue to Government departments and agencies as a result of the new tax reform package would be used as the offset in terms of any additional costs that agencies might have.

That, of course, will come down to two things. I am told that the $20 million figure is very much a preliminary estimate that was an aggregated figure from a number of departments and agencies. I am told that, by the end of this month, agencies have been asked to put in a detailed estimate of their costs and, at that stage, Treasury will work with the various departments and agencies to see whether or not they can get a better clarification of what the costs of implementation of the GST might be. Certainly, by August I believe that we will be in a better position to indicate to the Parliament, and publicly, what the potential costs might be for various departments and agencies.

Hopefully it will also indicate the Commonwealth estimates of what the benefits might be to the State departments and agencies and perhaps any view or estimate we might have at that stage of whether or not the State Government agrees with those Commonwealth Government estimates of benefits that might flow through to departments and agencies. I wanted place on the record the advice I have just received from my office. I will bring back a more comprehensive reply, based on written advice from the Department of Treasury and Finance; I give this advice with that one caveat. I will follow it up with a comprehensive reply in the first week when we come back.

STATUTES AMENDMENT (TRUSTS) BILL

Adjourned debate on second reading.
(Continued from 6 July. Page 1554.)

The Hon. R.D. LAWSON (Minister for Disability Services): I rise to support the second reading of this Bill, which is an important measure in improving the law relating to trusts in this State. It is little understood that the use of trusts has been become very extensive in our community. In the 20 years in which I have been in legal practice the use of trusts increased very substantially. In the past 50 years trusts, which was once a very important area of the law, has suddenly become far more significant.

Trusts are now used as vehicles for the conduct of many forms of commercial and financial activity and in relation to agricultural pursuits in a way that was not previously employed. There are a number of drivers of this: revenue purposes and the realisation that discretionary trusts are a very useful device for estate planning, for distributing assets and incomes between various members of a generation have enabled the discretionary trusts to be employed as a flexible, effective and adaptable form of business structure. In many respects it has largely replaced partnerships and to some extent also replaced proprietary companies.

Secondly, unit trusts have become a popular business device for investment and financial products. Thirdly, superannuation is becoming more and more important in our community, with the principles of universal access to superannuation. Most superannuation funds are established by means of trust devices. Although the income tax implications are controlled by Federal legislation, as are other superannuation requirements, the underlying law relating to trusts is the common law, principles of equity and also statutes such as the Trustee Act in this State. Because of that very significant increase in the use of trusts, it is very important that our trust legislation be constantly adapted to meet the needs of the community. Everyone will know from their understanding of history that in the nineteenth century trusts were largely related to deceased estates and the like but, as I have just indicated, trusts now have a far wider significance for commercial and business purposes.

I welcome a number of these proposed amendments to the Trustee Act, which is itself an enabling Act. It by no means lays down the principles of the law of trusts, nor are many of the rules of trusts contained in it, but the Act does provide measures to largely improve administration and also to provide mechanisms for access to the court. It ameliorates a number of old and arcane rules about trusts.

The first of the provisions in the Bill relates to a new requirement for charitable trustees to consider certain advice and, while sitting in the Chamber this afternoon looking through this Bill again, I noticed a number of issues about which I indicate to the Attorney some explanation would be useful. This proposed section deals with trusts established wholly or partly for charitable purposes, and a number of other provisions similarly relate to trusts established wholly or partly for charitable purposes. It is a common device in the establishment of discretionary trusts and also some unit trusts to include provisions which empower the trustee to make charitable donations or to apply funds for charitable purposes. Those provisions are very common and many are never used other than to make some charitable donation.

These are not conventional charitable trusts: they are discretionary trusts that have a power enabling a donation to be made for charitable purposes. The question I ask is whether it is intended that these provisions will apply to what might be termed conventional discretionary trusts which have as an incidental purpose a charitable purpose because, if it is, the section will have a rather wider application than was initially envisaged.

It is interesting to see that proposed clause 9(a) will require trustees to take into account certain information or advice. The trustee is not required to act upon or to adopt or to do anything in particular other than to take into account. 'To take into account' is not, so far as I am aware, an expression widely used in statutes. It applies in relation to a number of tribunals and the like where tribunals are required to take some matter into account in fixing sentences, fines or the like, but so far as I am aware it is not a notion that is readily adapted to the situation of trustees. I am rather intrigued and I will be interested to hear the Attorney's comment on the provisions that information or advice or, in the case of advice, a transcript of advice from some third party must be taken into account.

I would have thought that allowing a transcript of advice from a third party is a very wide and perhaps unnecessarily wide power. I would have thought that, where we are dealing with the advice of experts, the expert himself or herself ought be required to at least bring a document into existence and sign the document before the trustee is required to take it into account. It is possible for people to get the wrong end of the stick; for example, for a beneficiary to say, 'My stockbroker says that you must sell BHP,' or something similar, and to have that type of advice or information elevated to the status of something that a trustee must take into account seems to be a very wide notion. I have not really sufficiently thought the matter through. I am not aware of any similar provision elsewhere but, for all I know, this device might have been adopted in other jurisdictions.

I mention also, as I mentioned to the Attorney briefly earlier today in a private conversation, that the proposed provisions of section 36 dealing with the power of the court to appoint a new trustee should perhaps be looked at again in so far as it appears (and I am here speaking of clause 6 and the proposed section 36(1)(c), line 3 onwards, on page 3 of the Bill) to preclude the Attorney-General, the trustee of a trust or a beneficiary of the trust from applying to the court in relation to a trust wholly or partly for charitable purposes. That arises because, in subparagraph (c), the disjunctive 'or' is used rather than the conjunctive 'and', and I invite the Attorney's comment on that.

I welcome the other amendments to the Trustee Act. I also welcome the proposed amendments to the Trustee Companies Act. The case of some of the large charities and the letter that the Anglican Archbishop of Adelaide, Archbishop Ian George, has communicated to a number of members articulates a serious concern relating to some of the practices of trustee companies.

I am also glad to see that this Bill seeks to put some control over the use of common funds. In the past, too often many trustee companies have applied or paid funds into common funds, which is no doubt to the benefit of the beneficiaries, but there is a widespread perception that those common funds have operated to the benefit of the trustee companies that manage them. They are administratively convenient and in the past have been a very significant factor in trustee companies not looking at other investment opportunities as they should have.

I am pleased to see that there will be an amendment to section 15 which will place an onus on a trustee company to be able to satisfy third parties that the investment adopted is clearly preferable to any other form. This will improve accountability and the performance of some of the investments made by trustee companies. I commend the Bill to the Council and commend the Attorney for bringing forward these much needed raft of amendments.

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

ADJOURNMENT

At 6.30 p.m. the Council adjourned until Tuesday 27 July at 2.15 p.m.