LEGISLATIVE COUNCIL

Wednesday 28 June 2000

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

JOHNSON, Mr S.

The PRESIDENT: Members might be interested to know that one of our junior messengers, Sean Johnson, is celebrating his 21st birthday today. I am sure that members join with me in wishing him a very happy birthday.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the 21st report of the committee for 1999-2000. I also lay on the table the report of the committee concerning the Australian road rules regulations.

QUESTION TIME

ELECTRICITY, PRIVATISATION

The Hon. CAROLYN PICKLES (Leader of the Opposition): My questions are directed to the Treasurer. Who is responsible for the error which, according to the Treasurer speaking in the Liberal Party room, has ramifications worth tens of millions of dollars in revenue for some of the parties involved in the purchase and sale of South Australia's electricity assets? Given that the state has already spent almost $90 million in payments to consultants to manage the privatisation of ETSA, were any of those consultants in any way responsible for the mistakes the parliament is now being asked to correct? If so, will they be required to pay back part or all of their so-called success fees and bonuses?

The Hon. R.I. LUCAS (Treasurer): As the minister responsible for the people who work on my behalf, I accept full responsibility for—

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: I thank the honourable member, but I will not take up his kind invitation to resign. I accept full responsibility for the decisions and actions that have been taken by persons working on my behalf. Later today I will give notice of my intention to introduce legislation in the parliament tomorrow to enable the parliament to consider this issue. The first point I make—and this is an issue of public record—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: This is an issue—

Members interjecting:

The PRESIDENT: Order! I assume that a serious question was asked by the leader.

The Hon. Carolyn Pickles: Indeed it is; it is very serious for the state.

The PRESIDENT: Well, I think members ought to listen to the answer.

The Hon. R.I. LUCAS: This issue is a matter of public record. Earlier this afternoon, I conducted a number of interviews with the media. So, it is not a matter—

The Hon. Diana Laidlaw: We've been up front.

The Hon. R.I. LUCAS: We have been up front and accountable regarding these issues. The first point I make is that there will be no impact, contrary to one of the wild rumours—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —that the government is going to have to hand back all the proceeds from the ETSA lease and start the whole process again. I am very pleased to say that that is certainly not—

The Hon. Diana Laidlaw: Who's pedalling that one?

The Hon. R.I. LUCAS: That's an interesting yarn that's doing the rounds, but that is certainly not the case. Secondly, it is important to say that there will be no impact on the price that household customers pay for electricity—that will not be impacted by these errors. As I said, four material errors have been made in the electricity pricing order, but the price paid by household customers will continue to be protected by the cap of nothing greater than the CPI in respect of the cost of electricity for household customers.

The particular issue that will need to be addressed by the parliament is that, during all the representations that the government made through its advisers to all of the bidders (not just the successful ones but also the unsuccessful ones), the amount of money that the electricity businesses could earn would be divided between the retail business and the distribution business. In essence, this is where the more material errors have occurred: that is, the retail business and the distribution business get a particular share of the revenue.

I am advised that all the representations—the data room, the information memorandum, some of the management presentations and other discussions—indicated that the distribution company would get a certain percentage of the revenue and the retail company would get another percentage. However, because of a number of complicated formulae in the electricity pricing order, when you work through those formulae you get a different division of the revenue between the two companies. So, if parliament chooses not to agree to the change, the impact will be that the retail company (AGL) will receive a significant unintended windfall gain at the expense of another private sector company, CKI Hong Kong Electric.

So, essentially this issue concerns the division of the revenue between the two companies. It is the government's view that the people operating on its behalf indicated to the bidders how the money would be distributed and that, through errors in the electricity pricing order, that money could potentially be distributed in a different way to one company at the expense of another. So, the issue does not relate to what the taxpayers receive or what electricity consumers have to pay. These errors should not have occurred.

As minister, I accept full and total responsibility for the issuing of the electricity pricing order. I will not publicly point the finger at particular individuals. I have made my views known to advisers and others in the appropriate forums within the government. In relation to the issue of success fees, I again remind the honourable member that the government has a considerable array of advisers in the accounting, legal, economic, communications and environmental areas and also in merchant banking. Of those categories, only two received success fees. The rest were paid on a fee-for-service basis. It is not correct to imply that the entire advisory team was paid on a success fee basis.

The issue in relation to success fees is that two of the advisers are remunerated on the basis of the amount of money

that the government—and the taxpayer—receives. In the end, if it impacts on the amount of money the government receives, those advisers will receive a lower success fee. As I have said, these changes do not impact on the amount of money that taxpayers have received. Potentially, it could affect the lease proceeds from ElectraNet. If this is not corrected, taxpayers will get less money from the lease proceeds of ElectraNet and, therefore, in that way those two advisers who are paid on a success fee basis will receive a lower success fee.

It is the government's view that it is in the taxpayers' interest, irrespective of the view that honourable members or parties have taken about the leasing process, that taxpayers receive the maximum value from the lease proceeds. The legislation before parliament will enable the maximum proceeds to come from the lease proceeds of ElectraNet. If the parliament decides not to support the legislation, the lease proceeds to taxpayers will be diminished. Of course, this is a future leasing arrangement, because ElectraNet has not yet started. It will not impact on the existing lease proceeds received by taxpayers.

The Hon. P. HOLLOWAY: Given the Treasurer's answer that the legislation being proposed will have the effect of reducing the revenue paid to AGL, what advice has he received as to whether AGL will have a claim against the government?

The Hon. R.I. LUCAS: I do not intend to go into detail in terms of the legal advice available to the government. We would not have been acting in the proper interests of taxpayers if we had not taken considerable legal advice as to the government's position. I summarise the legal advice received by the government by saying that, whatever was to occur during and after parliamentary consideration of the bill, we will be able to successfully defend the government's position.

The Hon. NICK XENOPHON: Has the government obtained any advice as to whether there is a potential professional indemnity claim against any of the advisers in respect of these events?

The Hon. R.I. LUCAS: I am not prepared to go into the detail of these sorts of issues. I have accepted responsibility as the Treasurer and minister responsible for the process. I am the person who has to accept the responsibility. I will not point a finger at particular individuals who I believe are extraordinarily competent—

The Hon. T.G. Roberts: It's not very good value for money though, is it?

The Hon. R.I. LUCAS: No, I do not agree. The mistake should not have occurred, and I accept the responsibility for the mistakes made. In the context of the most complicated financial deal undertaken by this state, it is clear that mistakes have been made and, on occasions, already have had to be corrected. This is a particularly important mistake: I accept that. However, it is in the province of the parliament to agree or not agree to the correction of these mistakes.

Whilst it is correct to say that the considerable array of expertise available to the government did not pick up these errors, I point out that every major legal, accounting and economic firm in the country was working for one side or the other in respect of this transaction. That is, in the early stages, we would have had at least four or five bidders with their considerable array of legal, accounting and other advice, and none of that considerable array of legal, accounting and economic advice picked up the errors before they have now been raised publicly. Clearly—

Members interjecting:

The Hon. R.I. LUCAS: I do not think anyone could accuse the government of getting advice on the cheap. As the person responsible for signing the monthly invoices, I can attest to the fact that I would love to be earning the hourly fees of some of the commercial people. I know that members of parliament were laid out to dry in the *Sunday Mail* last weekend or the previous weekend over the money we earn, but I assure members that we earn considerably less than the advisory groups available to the government.

The point I am making is that there were four or five bidders each with the best legal, accounting and economic advice available to all of them. If you were advising a company that was bidding for ETSA Utilities and you had established this error, you would have highlighted it to the government quickly, saying, 'This formula is inconsistent with everything you have been saying to us.' Clearly, the issue was not picked up not only by the government's considerable advisory team but also by the considerable advisory teams available to a handful of the major national and international players in the energy industry who were bidding for our utilities and retail business.

The Hon. SANDRA KANCK: As a supplementary question: how did the government become aware of this error?

The Hon. R.I. LUCAS: All I am prepared to say in relation to that matter is that the government did not become aware of the error as a result of representations made by any of the affected companies, so it was not a particular private sector company that raised the issues with the government. Specifically how the government became aware of the errors in the first place I am not prepared to place on the public record other than to say that, once we became aware of the first error in the mathematical formula, we required of the advisers involved that at their expense (not at the taxpayers' expense) they had to trawl through the electricity pricing order with fresh eyes to make sure that, if the government were to seek to correct these material errors in the EPO, we would not be confronted with a position in 12 months where we would have to do it again. As a result of that, a series of typographical and other corrections—they were not material in terms of the quantum impact on individual companies—will be included in the electricity pricing order, should the parliament agree to the legislation coming before it in the next three weeks.

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

Leave granted.

The Hon. P. HOLLOWAY: This morning the opposition contacted the Auditor-General in relation to the problem with the ETSA lease, and he advised us that he had not been consulted on the problems our state now faces due to the government's mistake in the ETSA sale process. Last November the Auditor-General warned the Economic and Finance Committee that, because the government had 'entered into a process contract, you have to meticulously ensure that it is managed according to its terms, because if you breach it you will be liable.' Why did the Treasurer not consult with or advise the Auditor-General regarding the problems with the ETSA sale process that parliament will

shortly be asked to correct, given Mr MacPherson's formal role in overseeing the sale process and his clear warnings to the government last year?

The Hon. R.I. LUCAS: I am sure the Auditor-General would be the first person to acknowledge that these decisions have to be taken by executive government and ultimately by the parliament. The Auditor-General is there to provide an audit process on the decisions and processes that the government takes. He has been given some responsibilities in relation to this area. In relation to a whole series of decisions that the government and ultimately the parliament have to take, it was not appropriate for the Auditor-General to be part of that process at those stages. The Auditor-General has the opportunity to make comment on this issue or any other aspect of the process.

I will clarify the honourable member's understanding of the issue. It is not a problem with the lease process; as I said, it is an issue in relation to the electricity pricing order that has been issued in terms of how the revenue is distributed between the two companies. It is not an issue in relation to the lease process or the lease contracts that have been signed with the successful bidders.

The Hon. P. HOLLOWAY: As a supplementary question, when did the Treasurer first become aware of the urgent need to introduce this retrospective legislation?

The Hon. R.I. LUCAS: I became aware of these issues some time ago. As you would expect—

The Hon. P. Holloway: 'Some time ago'; when is that?

The Hon. R.I. LUCAS: I will not place on the public record exactly when. To be frank, I do not have that knowledge with me at the moment; I would have to check it.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: When the government became aware of it we obviously needed to do a number of things. As I have already indicated publicly, one was that we had to make sure, at the expense of the advisers involved, that they again went through the complete electricity pricing order to ensure that, if we were to correct these errors, there would be no further errors. So, a considerable body of work was done—and I insisted that it be done—before we came back to the parliament in relation to this issue.

Secondly (and this concerns a response I gave to an earlier question), obviously the government needed to take considerable legal advice as to its position. Having identified a problem, there is not much point in going off unprepared or ill-prepared in respect of the course of action that the government is to follow. We then had a process where the government needed to have cabinet consideration of the issue, and we also needed government party room consideration of the issue.

There are a series of important steps that have to be followed before the government can introduce legislation, and the government followed those. It was some time ago. I do not intend to place on the public record the exact date, but the government has followed through a process. That is immaterial in relation to the decisions that the parliament has to take. The parliament can either agree or not agree to correcting the mistakes that have been made and ensuring that taxpayers receive maximum value for the upcoming proceeds from the ElectraNet lease.

The Hon. P. HOLLOWAY: As a third supplementary, what advice has the government received with respect to the exposure risks and liabilities that the state could incur as a result of possible legal action?

The Hon. R.I. LUCAS: I have already answered the question. I do not intend to place on the public record anything more, other than to say that we have taken considerable legal advice; and the government's legal advice indicates that, whatever happens in relation to the passage of the legislation, the government will be able to defend successfully its position.

SUBMARINE CORPORATION

The Hon. T.G. ROBERTS: I seek leave to give a brief explanation before asking the Treasurer, representing the Minister for Industry and Trade, a question about the Submarine Corporation.

Leave granted.

The Hon. T.G. ROBERTS: There has been a bipartisan approach of support for the Submarine Corporation. I do not want to make it any more difficult for the government than it is in keeping and expanding the role of Sub Corp in this state, because we all know the importance of the jobs that go with any expanded program that might occur. There is a lot of uncertainty about jobs and training for extra skills to maintain the presence of Sub Corp in South Australia. What impact will the restructuring of Sub Corp have on the jobs in South Australia and on the training and industry development programs that go with it?

The Hon. R.I. LUCAS (Treasurer): I appreciate the honourable member's indication of support in a bipartisan way for some of the actions which are occurring in relation to the Submarine Corporation. I think all members would accept that it is in the state's best interests to ensure the continued viability of the Submarine Corporation here in South Australia. Clearly, there are others throughout Australia who would have a different view in relation to the future of the Submarine Corporation here.

As the member will be aware, there have been some recent announcements of decisions by the federal government as a result of Monday's cabinet meeting, I think. The Premier has indicated on behalf of the state government our support for the commonwealth decisions. Obviously, there is a fair bit of water to flow under the bridge before we can see a successful conclusion to this process and I think the member is wise to be cautious in terms of public statements that he has made here and, I am sure, elsewhere. The government, too, is being cautious in terms of the public statements it has made and it will make in relation to this issue.

There are a range of interested parties around the world regarding the future ownership of the Submarine Corporation. The member will have seen some of the press speculation about those interested parties and some of the speculation as to why various groups might be interested in one particular organisation or another.

I think all I can say at this stage—other than saying I will take further advice on the honourable member's question to see whether there is anything more that I can usefully share with him—is that the government's position will be that we are prepared to work with the commonwealth government, and with others, to try to ensure that we see a future viable operation of the Submarine Corporation. I think we have to at least accept that there may well be some reduction from the peak levels of employment that we have seen at the Submarine Corporation. That may well be—I emphasise 'may'—a necessary by-product of ensuring a viable, continued operation of the Submarine Corporation in South Australia.

ROBERTS, Mr G.A.

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General a question about consumer affairs.

Leave granted.

The Hon. L.H. DAVIS: I understand that the Commissioner of Consumer Affairs has today been successful in prosecuting a second-hand vehicle dealer, Geoffrey Allan Roberts. Can the Attorney-General advise the Council as to the details of this prosecution and the penalties that were applied?

The Hon. K.T. GRIFFIN (Attorney-General): There have been a number of successful prosecutions and disciplinary actions by the Office of Consumer and Business Affairs. They have generally been initiated in the name of the Commissioner for Consumer Affairs, sometimes by police where criminal offences have occurred.

Geoffrey Allan Roberts was charged with nine breaches of the Second-hand Vehicle Dealers Act. I should say that there has been a particularly active compliance program undertaken by the Office of Consumer and Business Affairs over the last two or three years as a result of which it is not only second-hand vehicle dealers who have been either disciplined or prosecuted but also contractors and tradespeople or those who purported to be tradespeople but were not licensed.

The compliance activity in relation to second-hand vehicles has largely been directed to those who are carrying on business as so-called backyarders. A lot of that information about backyarders is gained by the Office of Consumer and Business Affairs through advertising by those who have vehicles for sale. One of the concerns that always follows that sort of activity is that the consumer is left relatively unprotected.

In Roberts' case, there were 17 vehicles alleged to have been sold in breach of the Second-hand Vehicle Dealers Act between October 1997 and July 1998. The defendant apparently bought second-hand vehicles from City Holden. There was a friend, I think named Dave, who reconditioned them to be sold for a profit.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: No, Dave. Dave is now deceased, so there is no way that we can find the evidence from Dave, but Mr Roberts claimed that Dave must have been winding back the odometers during the reconditioning process. It was a matter tried in the District Court and Judge Anderson was the District Court judge who dealt with it. He said there was clear evidence that Mr Roberts accepted the vehicles on the initial purchase when the odometer reading was stated on the Form 9, which he signed, and then Roberts admitted to advertising the vehicles for sale, with significantly lower odometer readings. Mr Roberts told those intending to purchase the vehicle a variety of reasons why he was selling the vehicles and gave false dealer licensing numbers.

Judge Anderson also said—and this is what is important, because what is done in the parliament is taken into consideration by the courts quite obviously as the will of the parliament—as follows:

> The parliament by its 1998 amendment have made it plain that activities such undertaken by the defendant should continue to attract significant sanction.

So Judge Anderson imposed what was a record total financial penalty of $12 550, and Mr Roberts was disqualified from being licensed under the Second-hand Vehicle Dealers Act. He was prohibited from being employed or otherwise engaged in the business of a second-hand dealer, and he was prohibited from being a director or having an interest in a car dealership; so, effectively, put out of action as one who might otherwise deal in second-hand vehicles. The judge also said:

> It defies belief that a person with such long general experience of the motor vehicle industry as Mr Roberts had should consistently fail to notice such a variation in odometer readings.

Again, the judge observed that the defendant was out to make a quick profit, with little concern for the purchasers of the vehicle and that there was no other conclusion but that Mr Roberts was knowingly taking part in a fraudulent endeavour. They are the facts. I suppose there is always the possibility that Mr Roberts might appeal, but it is important to recognise that extensive compliance activity is undertaken. I am sure one of the more prominent recent cases would come to members' minds, that of Panos Funeral Directors, where significant legal action was taken, successfully, against the Panos brothers. That is the outcome of the case today, and although, as I say, it may ultimately be the subject of an appeal, it is important to note the significance of the case and the penalties imposed.

SCHOOLS, PUBLIC

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Treasurer, representing the Minister for Education, a question about public school fees.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates specifically to concerns about the implementation of the materials and services charge in South Australian schools. The subsidy to the neediest of families through the school card system is $170. Materials and services charge regulations, tabled in this Council on 31 May this year, stipulated the maximum fee enforceable by some high schools as $215, yet in the case of one Adelaide secondary school charges have been set for this year at approximately $450. I am told that parents—and some of these are in quite dire financial circumstances—are not told at the outset as to what part of the fee is compulsory and what part is not. My questions to the minister are:

1. Why has the state government not set the maximum regulated and enforceable materials and services charge at the same level as the school card subsidy?

2. Will the minister confirm that the payment of the gap between the $170 school card subsidy and the $215 maximum regulated charge is voluntary, as has been claimed to me? I was not aware of that.

3. Will the minister explain why the government does not insist that parents are made aware of those components of the charges that are voluntary and those parts that are compulsory?

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

SOUTH AUSTRALIAN SOCCER FEDERATION

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Treasurer a question about the South Australian Soccer Federation.

Leave granted.

The Hon. J.F. STEFANI: On 25 May I asked the Treasurer three questions in relation to the government's involvement in assisting the South Australian Soccer

Federation to promote a privately owned second soccer team in the national competition. As yet I have not received a reply. My questions are:

1. Will the Treasurer confirm or deny that the government has offered and promised some assistance to the South Australian Soccer Federation in relation to this matter?

2. Will the Treasurer provide the full details of any financial or other assistance that the government has promised to the Soccer Federation?

3. Will the Treasurer undertake to provide the answers to 10 questions that I have asked in relation to the South Australian Soccer Federation, the Hindmarsh Soccer Stadium and the Olympic soccer tournament from 1 June 1999 to 25 May?

The Hon. R.I. LUCAS (Treasurer): I will refer the honourable member's question to the appropriate minister and try to bring back a reply as soon as possible. In relation to issues that concern other ministers, I am happy to take up on behalf of the member the reasons for the delay in response to his questions. In part, as I am sure the honourable member appreciates, some of those questions are caught up with the government's current consideration of how it approaches resolution of the issues at Hindmarsh. The member is aware from discussions as to the government's intentions in relation to this issue. If there are any particular issues within my own ministerial responsibility that have not yet been answered, I am happy to try to bring back a reply as soon as I can.

GAMBLING REGULATION

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Treasurer a question in relation to the government's policy on gambling regulation.

Leave granted.

The Hon. NICK XENOPHON: On 6 April, the Treasurer indicated in a response to a question I put to him on the government's response to the Productivity Commission's report into Australia's gambling industries that, amongst other things, we are already down the track in considering a number of issues that the Productivity Commissioner has commented on. The Treasurer also referred to 'a good number of other reports that have been produced within Australia and internationally that the government is obviously having a look at as well'. My questions are:

1. How far down the track is the government in considering the Productivity Commission's report on gambling and the undisclosed further reports on gambling research? For instance, what resources have been used in terms of staff hours to consider the reports to which he has referred to date?

2. When will the government set out the deliberations and the results of its deliberations with respect to the gambling research and reports that it refers to?

3. Does the government acknowledge that, in the interests of furthering community debate and discussion on gambling policy and regulation, it ought to at the very least release the details of the research and reports that it is considering, particularly the reports that have already been published?

The Hon. R.I. LUCAS (Treasurer): To the last question, my answer is no. The government will consider a range of submissions that are put to it and it will undertake its own considerable research in relation to these issues. We do not intend to do that as part of a public process and say which research report from such a place and such a person we are reading and advise the Hon. Mr Xenophon of that.

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Even the public, but the Hon. Mr Xenophon is the one asking the question. The government is entitled to take its advice and its own counsel as it sees fit. It is not really an issue for the Hon. Mr Xenophon as to what advice and counsel the government takes on a particular policy issue. The Hon. Mr Xenophon will support policy papers, submissions, reports, inquiries or books that have been written, which he has recommended that I read.

The Hon. Nick Xenophon: You haven't, have you?

The Hon. R.I. LUCAS: I have certainly skimmed through—

The Hon. Nick Xenophon: Skimmed, yes.

The Hon. R.I. LUCAS: I have to be honest and say that I have not read them cover to cover, word for word, but I have tried to pick out the highlights. It was not a riveting read that the Hon. Mr Xenophon gave me.

The Hon. A.J. Redford interjecting:

The Hon. R.I. LUCAS: Well, the odd one, yes, but not too many. Governments are not run in such a way that every research report and every person with whom we consult are placed on the record. The answer to the honourable member's question is 'No', we do not intend to go down that path.

Regarding staff resources, I will not ask my officers to run a log book on how many hours they have spent on the Hon. Mr Xenophon's bill or the government's approach to gaming regulation. My ministerial and departmental officers undertake work for the government of the day and for me as minister as part of their ongoing responsibilities. I do not require them to keep a log book to indicate that, for instance, they have worked for 12½ hours this week on gaming regulation.

I do not think there is any need for me to do so but in the interests of providing some information for the honourable member I will indicate that I have an officer in my office who has been given responsibility for gambling in general. That officer spends a good amount of her time working on this area. There are officers within Treasury who have been nominated as the responsible officers for gambling. Whilst that is not their sole responsibility, some of those officers, at this stage anyway, are spending the majority of their time on a whole variety of gaming and gambling related issues. Whilst it is important, I do not think it is so important that they should have to spend so much of their time on this, although some of the activity in this area has been generated by the government in terms of privatisation issues and some by community debate on this particular issue.

Thirdly, obviously there are officers in the liquor and gaming area who spend a good amount of their time on gaming and gambling related issues. I do not intend to ask all those people who are spending reasonable amounts of time on these issues to document the number of hours that they are putting in, but they are considerable in terms of quantum. This area is being addressed by the government. Whether or not the Hon. Mr Xenophon and others agree with the way the government is addressing this is another issue, but it is certainly not being put on the shelf with no activity going on.

Regarding progress, one of the problems in this area that I have discussed privately with the Hon. Mr Xenophon is that, because so much is happening, we have this step-by-step approach where the community is heading down a number of different paths at the same time. In an ideal world, we would have a debate as a government and then as a parliament about what sort of a role or responsibilities we envisage for peak agencies such as the Gaming Supervisory Authority and, perhaps, the Gamblers' Rehabilitation Fund committee. At

the same time, the government is proceeding with legislation relating to the TAB and lotteries. There is a huge issue relating to proprietary racing eddying around the regional community in particular, and there has been a lot of pressure on the government to bring that to a head.

As we seek to address them, they are picking up some of these regulatory issues. It is extraordinarily difficult, not only for the government but for the parliament, to get a firm handle on the result. At the same time, we have the honourable member's legislation. I can only speak personally with any authority on this issue because this is an issue upon which reasonable members of the government party have different views, as I am sure the Hon. Mr Xenophon is aware.

In my view, the ideal position would be for us to pause, and for the whole world to stop, and for us to decide upon a perfect model. However, we do not have a perfect world and, therefore, we have to do the best we can. With respect to the regulatory authority, potentially there will be some further lock step movement towards the expansion of the role of the Gaming Supervisory Authority when we debate the TAB and Lotteries Commission bills. Again, in an ideal world, I would prefer not to see that occur in those bills. In an ideal world, it would be preferable to tackle them as one role and responsibility of the GSA. That is not possible because the TAB and Lotteries Commission bills are before the parliament and people want to know what the regulatory environment for those bodies might be should they be privatised.

In terms of the government's consideration, I hope that we conclude our view prior to the next parliamentary session at the end of the year. That is only the first step. As I have been quick to point out, the government may have a view on these issues but, of course, that does not bind the parliament. Ultimately, parliament is the master of its own destiny and can form its own opinion on any view of the government or that of any individual minister. From the government party's viewpoint, we will have a discussion within the party room and, should there an agreed process (although there might not be an agreed formula) for considering it, it may then be presented to parliament. In the end, both the government and/or the government party room might say, 'We do not want a bar of this. We will stick with what we have.' That would not be my inclination, but I do not seek to dictate or impose my views on others.

The Hon. NICK XENOPHON: As a supplementary question: does that mean that the government will be issuing an options paper for the next parliamentary session as to options for gambling regulation reform?

The Hon. R.I. LUCAS: Absolutely not. I have given no indication of what process the government intends to follow other than, in a spirit of endeavouring to respond to the questions of honourable members, to highlight some of the process issues that this government is about to go through. I will not forecast what the government's response might be in respect of whether or not it will be an options paper. As I have said, the government and the government party may well decide to take no action, or it may decide to process a model that has majority but not absolute support within the government party.

I am not indicating any process to be followed, other than that we will continue to work on it. I am not guaranteeing that this will be the case because I am not the only variable in this equation. It would make sense to me that we have some parliamentary or community debate during the October session in order to finalise, one way or another, the debate about the appropriate role of the GSA or, indeed, some other body that other members might like to see established.

CRIME STATISTICS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Attorney-General a question about crime statistics.

Leave granted.

The Hon. CAROLINE SCHAEFER: I understand that during the estimates the Attorney-General released the crime statistics for the calendar year 1999. My understanding is that they are considerably easier to compare with last year's Office of Crime Statistics than the financial year statistics that are released in the annual report for the police. As is so often indicated in our press, there has been a general overall rise in crime in this state. However, some sections of the seven major offence categories have increased and others have decreased. Will the Attorney-General provide further details concerning this matter?

The Hon. K.T. GRIFFIN (Attorney-General): During the estimates committee the shadow Attorney-General asked me some questions about crime statistics, and he took great joy in comparing the 1998 figures with those of 1997. It is true that the 1998 figures reflected some increases which had caused concern, because they were against the trend from the early 1990s through to 1997. But, being prepared as I try to be, particularly for estimates committees, I actually had the 1999 figures available. I made the point then and I make it now that one has to be very careful about the way in which we use statistics, and particularly crime statistics. They are but one means by which we can identify the level of safety within the community, but they are not the only indicator of community health and safety.

As I have always said with crime statistics, one cannot be too cocky about what goes down, because in subsequent years the figures might well fluctuate up or down and those that are up one year may be down the next. So, one has to take the good with the bad and try to get a picture of what is happening, and also get an overview of the state of crime and safety in South Australia, particularly compared with what might be happening interstate and overseas.

The 1999 calendar year figures, in respect of which in the not too distant future the Office of Crime Statistics will probably be able to publish its crime and justice study for 1999, indicate that in four of the seven major offence categories in South Australia there were decreases in 1999 over the 1998 calendar year. Importantly, the most significant declines were in the area of violent crime such as assaults and robberies. Assaults in 1999 dropped to a level below that recorded in 1994, with offences against the person down about 6.9 per cent and sexual offences down 3.6 per cent from 1998. The total number of robberies decreased 12.3 per cent, armed robberies dropped by 17.2 per cent and unarmed robberies were down 11 per cent. That may be because there was a higher level of policing activity through some of the police operations—I think Operation Counteract was one of those—and also a greater level of activity in places such as, say, service stations, which are concerned about security. Other offences that recorded decreases were rape, falling by 1.1 per cent; indecent assault, down by 4.4 per cent; break and enter a shop, down by 3.3 per cent; and fraud and misrepresentation, down by 32.8 per cent.

The Hon. Diana Laidlaw interjecting:

The Hon. K.T. GRIFFIN: The Minister for Transport asked whether these figures are also provided in raw numbers. They are, and I was about to go on to make the point that it is important to recognise that, in many categories where there are small numbers of offences (so a very small base), an increase of even one or two in number can be reflected as very substantial. For example, unlawful sexual intercourse was up by 28.1 per cent; but the numbers were 121 in 1998 and 155 in 1999.

The Hon. Diana Laidlaw: Is it also a factor of greater reporting?

The Hon. K.T. GRIFFIN: Crime statistics can be affected by a number of things: by reporting, that is, the willingness of victims to report; by whether the police or someone else has conducted a public education campaign; or, in terms of policing, a policing operation. With motor vehicle offences, for example, which went up quite substantially, that could well have been as a result of some policing initiatives such as increased random breath testing. One has to be careful in looking at those figures, because there was an overall 9 per cent increase in 1999 right across the whole spectrum—in total a 9 per cent increase over the previous year—and much of that was in property type crime and motor vehicle offences.

It is easy to get the slick one-liner about an increase of X per cent, but it is important to analyse how that might have occurred. Also, local service areas in police and additional police numbers may have an impact. Local service areas are directed ultimately to crime reduction. Information from the Police Commissioner indicates that for the first few months of this year the rate of increase in criminal behaviour is not as significant as it was in previous years.

Whilst there are increases—the illegal use of motor vehicles increased in 1999 over the previous year; shop theft increased by 2.9 per cent; break and enter a dwelling increased by 5.3 per cent; and possession and/or use of drugs increased by 5.3 per cent—I suggest that, overall, these figures indicate that we are not in the midst of a crime wave, although I know that others might seek to disagree. Figures released today by the Australian Bureau of Statistics indicate that we are, on average, about the middle level ranking for criminal behaviour across Australia.

They are just a few of the figures, with the exhortation that they should be looked at in a balanced way and that we should not be seeking to go over the top in dealing with the fluctuations that occur in criminal behaviour. I do not want to see any increase. Regrettably, human nature being what it is, no government can ultimately control every individual's behaviour. I think that, around the parliament and out in the community, everybody would be very concerned if governments so got into the lives of citizens that we controlled every waking moment of their behaviour.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: My question is directed to the Treasurer. When did the government notify each of the companies, AGL and CKI Hong Kong Electric, about the incorrect division of revenue between the two companies under the government's pricing order? What was the reaction of AGL to the measures that the government proposes?

The Hon. R.I. LUCAS (Treasurer): As members will be aware, today there was a premature release of the government's intentions in relation to this issue. The government was to outline its position tomorrow, and part of the process would have been to provide a copy of the government *Gazette* containing the proposed new electricity pricing order, and the intention was to have discussions with the parties prior to that.

The premature release of the information today meant that I advised officers this morning to be in touch with the affected parties today. Those discussions, I presume, in terms of at least initial advice to the companies of the government's intentions, have been outlined. As soon as we can we will provide copies of the government's proposed second reading explanation and proposed changes, so that the companies are aware of them. I anticipate that a company likely to receive a significant, unexpected windfall gain would be happy to continue to have the unexpected windfall gain.

The Hon. Diana Laidlaw: That is in parliament's hands.

The Hon. R.I. LUCAS: It is ultimately in parliament's hands as to whether they do or they do not, but that is certainly my expectation. My expectation is that a company that was potentially going to get significantly less than it thought it had bought in terms of a business would be significantly disappointed should that occur and should the error that has occurred not be corrected through the process that the parliament will have before it over the next three weeks. I am not in a position to indicate: I have not had a personal discussion with the chief executives of the two companies at this stage.

MAGILL YOUTH TRAINING CENTRE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about the Magill Youth Training Centre.

Leave granted.

The Hon. SANDRA KANCK: I was recently shown over the Magill and Cavan Youth Training Centres by Mr Ian Procter and Mr Ken Teo of FAYS. The Magill Training Centre is a facility that provides secure residential care for young men and women between the ages of 10 and 18 years after they have been placed in custody by either the police or the Youth Court. Mr Proctor recognised that Magill is an old facility but they are doing their best with a institution that does not meet 21st century standards. Some of the rooms are unashamedly like a prison cell, and while I was there attempts were being made to renovate and paint the units where these young people are housed to make conditions more palatable.

An honourable member interjecting:

The Hon. SANDRA KANCK: In fact, pink was one of the colours. Unlike the relatively new Cavan Training Centre, the accommodation units at Magill are not set up for ease of monitoring at night. This is noteworthy when you consider that one in four youths who end up at the centre report that they have attempted suicide and the same percentage report that they have recently had suicidal ideations. On average, 26 per cent of the young people housed at this facility are Aboriginal, and I have since contemplated whether or not the recommendations of the 1989 Aboriginal Deaths in Custody Report could be met at this facility.

In the past we have heard that the Magill site will be sold and a new facility built. At Cavan I was shown land where, if something could be built, the operations from Magill could be transferred. My questions are:

1. What is the status of any plans to build a new training facility to replace the run-down Magill centre?

2. When will building occur, how much money has been allocated to build a more appropriate facility and how much money does the minister believe will be recouped by the sale of land on which the Magill Youth Training Centre is located?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the detailed questions to the minister and bring back a reply. In the meantime, I can say that as Minister for Transport and Urban Planning I have recommended approval, subject to various conditions, for the Cavan youth training site. Just today I was alerted by the Minister for Human Services that agreements have been reached between the Salisbury Council and the Department of Human Services to advance—

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: I know. I was stunned.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: I always pay attention to the Hon. Sandra Kanck. It is fortuitous that today I was advised that agreements have been reached. The Salisbury Council had some concerns because of a land management agreement and the like about siting the youth centre at Cavan, and it was one matter that I took into account in terms of the planning approval process and the conditions that were attached to that approval.

The minister alerted me today to the matter of landscaping, recreational facilities, public space facilities, adventure playgrounds, and different things in the Salisbury area, some trade-offs, I think, in terms of use of land and open space. I will get more details, but I am pleased to report that agreement has been reached, after many, many years. I remember going out years ago, too, to the Magill site.

The Hon. Sandra Kanck interjecting:

The Hon. DIANA LAIDLAW: Yes, possibly 10 years ago as shadow minister for community services, and it was old-fashioned then. It is good that we are finally getting around to doing something that will help kids who are in trouble, who have offended, and to help in their rehabilitation to make sure that they do not go on to worse crime or to more secure care in the longer term.

CAUSE LISTS

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Attorney-General a question about cause lists.

Leave granted.

The Hon. A.J. REDFORD: Members might have noticed when they pick up the daily paper, the *Advertiser*, that somewhere close to the back is a thing called the cause list, which sets out the list of cases for the day, and I have to say that it is a list of great interest to the legal profession. One of my colleagues once said that it has a great cast but a shocking story line. Lawyers get up in the morning and search the cause list to see where their cases are; and in the library in my legal office, and I suspect it happened with the Hon. Robert Lawson, there is always a great rush to see who can get the cause list first. It is also important in terms of juries, because a notice is published in the cause list about whether or not they need to attend court that day to run the gamut of being challenged or accepted as being a member of a particular jury panel. I understand that as part of a recent upgrade of the Courts Administration Authority web site one project involves cause lists being available online. I would be grateful if the Attorney could outline this project and give details of the benefits to the community.

The Hon. K.T. GRIFFIN (Attorney-General): I suspect that, while the cause list might be the first point of reference for the legal profession, the death notices might be the second, because of the—

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: I think the comic strips would probably be down the list a bit; but the legal profession, of course, is interested in both, for a variety of reasons. But there is an electronic listings project currently being put in place in the courts to facilitate access to information about the cause lists. A number of projects have been embarked upon by the courts to use electronic technology more than they have in the past. In fact, I understand that they are at the forefront in a number of areas in the use of electronic technology in providing means of access to the system.

The electronic listings project has a number of objectives, to provide a means by which the Courts Administration Authority staff, lawyers, and the general public can access cause lists via an online system, to reduce the time that registry staff spend responding to customer queries, to reduce the errors associated with limited information inquiries, and that is particularly important, improve the turn-around time for customers, reduce the amount of photocopying of cause lists and to assist legal practitioners by enabling them to download details of their clients appearing in different courts on the same day, in order to better organise their court attendances. There are a number of legal practitioners who run from one court hearing to the next, and this might help them to better manage that course of action. The seed funding was made available, $39 500, from the Department for Administrative and Information Services online services.

Stage 1 was implemented in December 1999. That was to create and use the listings in electronic forms within the Courts Administration Authority and for the listings to be sent to the *Advertiser* newspaper in electronic form. That was for the supreme, district and magistrates courts. Stage 2 was to make the listings available on the courts' web site. That was successfully implemented in April. Stage 3 will allow lawyers to nominate alternate hearing times. That is currently being progressed but no implementation date has been specified.

I am told that the project has significantly reduced the printing of cause lists within the Courts Administration Authority and it has reduced the time spent manually circulating the cause list to the various courts. It has been successful and, as a result of the success of the project, this electronic listings project has been introduced into the smaller courts such as the Youth Court, the Environment, Resources and Development Court and the Coroner's Court. It is important to recognise that there are better ways by which the courts are now undertaking their responsibilities to communicate.

MATTERS OF INTEREST

WHYALLA AIRLINES

The Hon. CAROLINE SCHAEFER: I am sure that all members in this place would have shared some of the deep shock and horror I felt when I learnt on the night of Wednesday 31 May of the ditching into the sea of Whyalla Airlines flight 904. While the pain for the families involved continues, most have now moved on from that night and that tragedy, but I want to record my tribute so that at some time in the future people may see just how deeply we were all affected.

I flew with Whyalla Airlines at least twice a week for 5½ years. I knew the pilots, the proprietors and even the plane itself. I was able to picture exactly where I would have been sitting and visualise just where the plane would have been on its descent into Whyalla on that terrible night. I knew Peter and Wendy Olsen and their extended family, friends and community well. The last time I flew with Whyalla Airlines, Teresa Pawlik, whom I knew, was a passenger and we chatted, and Ben Mackiewicz was the pilot. My grief for those people and my shock was intense and personal.

Part of the reason that I make my speech today is to publicly express my sympathy for those who are now left with their private grief. I did not know Chris Schuppan, but I feel particularly for his family who continue to wait with no news and no answers. The Premier was kind enough to allow me to fly with him to the community service held at the Whyalla foreshore on Sunday 11 June. It was a very valuable time for the community, a chance for them to say goodbye and to comfort each other. It is in times of great tragedy that communities gather together and show their greatest strengths. Whyalla is only a small city, so almost every person had some form of contact with the victims and their families. They all needed to say goodbye and to be with each other. I congratulate those who organised the service so tastefully and so well.

I also thank all those who searched and continue even now to search. The other victims are the Brougham family, who are also Whyalla locals, born and bred. They too knew the people on that plane but have the additional agony of knowing that it was their aircraft that was involved in this state's worst light aircraft disaster. For many years Whyalla Airlines has provided a safe, convenient and affordable air service, not just to Whyalla but also to Cleve and Wudinna. It is the service to central Eyre Peninsula, where other airlines do not provide a service, that has enabled many people to travel to and from Adelaide for work, medical treatment and even for social occasions. It has enabled children to come home from boarding school for exeats and it has allowed people to serve on boards from these more remote areas.

These are all privileges which are taken for granted by those in more populated areas but which were formerly denied to those of us from upper Eyre Peninsula. Had this service not existed, I for one would have had to drive 12 hours each week to attend parliamentary sittings. I am sure that no-one wants the safety audits that are currently taking place to be rushed or incomplete. But we are also aware that this airline cannot afford to stay on the ground indefinitely. I hope to be able to fly with it again soon.

RURAL EMPLOYMENT

The Hon. R.R. ROBERTS: I rise to speak about job losses in country areas. About a fortnight ago Minister Armitage and the head of SA Water (Mr Sullivan) held a press conference to indicate that at least 200 jobs could be lost across SA Water. I have made some inquiries about this, and it was brought to the attention of members of the public and people living in country areas by my colleague Annette Hurley in another place by way of press release. In response to that press release, I as a member of parliament living in a country area, along with other country members, I am sure, have been approached by interested members of the media because of the dramatic effect of the reduction of workplace opportunities on people who live in country areas. It also has an impact on the opportunity for kids who are still at school to fill such jobs when they become vacant.

My own private investigations reveal that this has come about because SA Water's recurrent budget for replacing pipes, for other maintenance work and for capital works in regional and country South Australia has been slashed by up to 70 per cent. As a consequence of that, I am advised that it was intended that there would be an internal review of the operations of SA Water in all regions, including the northern region, which encompasses Port Pirie and Crystal Brook. It was fairly judged that the review would reveal that 15 to 20 people probably would have lost their job at Crystal Brook.

I have spoken to some of my country colleagues on both sides of the chamber and I know that a couple of them are aghast and incensed about this issue. The Liberal Party has latched onto the policy of the Labor Party in respect of government services in country areas, which provides that, before there are any substantial reductions, closures or openings of government services in country areas, a community impact statement needs to be undertaken to ensure a fair assessment and the principal players must have an input into the effect of those changes in the regions. Despite the government's picking up that policy, there has been no consultation.

My understanding is that the money that is usually allocated to regional areas has been allocated to programs and projects in the near metropolitan area, namely, Bolivar, the Virginia pipeline, and a project at Christies Beach. Members would be aware that the management of those facilities has been privatised under United Water. The country areas are being disadvantaged to provide infrastructure in the metropolitan area when there is a desperate need for work and job opportunities in country areas.

Since I started making inquiries, I have been advised that some of the nervous backbenchers in the Liberal Party and those in marginal seats have made strong representations to the Premier, and I believe that the Premier has advised SA Water and Mr Sullivan in particular that the government would not be in favour of losing any jobs. It was suggested that, as a result, people living in regional South Australia working for SA Water ought to feel some comfort. I would not feel very comfortable if I was in that position unless the government gives a commitment to replace those funds.

I look forward to the Premier and the Deputy Premier (who lives in the country) announcing during the next few days that they will reinstate those recurrent funds for maintenance and replacement and provide capital works funding for projects such as realigning the sewerage pipes so that their output is not into Spencer Gulf and so that that

project, in particular, is started before the due date of 2001 ordered by the EPA. The proposition is clear. If the government wants to give confidence to the people who work for SA Water in South Australia, it should make an announcement in the next couple of days that it will reinstate these funds.

Time expired.

VIETNAMESE ETHNIC SCHOOLS

The Hon. J.F. STEFANI: Today, I wish to speak about the Lac Long and Dac Lo Vietnamese Ethnic Schools. It has been a great honour for me to be involved as an honorary member of the Lac Long Vietnamese Ethnic School Council from 1995 to 1999. Modern Australia is uniquely characterised by its cultural diversity ranging from the indigenous cultures to the anglo-celtic cultures and the many other cultures brought by the various immigrant groups who have settled in Australia since 1788.

In recent years there has been a great deal of emphasis on the importance of learning a second language other than English. Australia's pressing need to break out of its traditional isolation behind tariff and cultural barriers has placed a greater focus on learning a second language and, in particular, a range of Asian languages including Vietnamese.

As a nation, Australia has recognised the importance of our cultural diversity which has enriched our society and provided greater opportunities for our ongoing economic development and overseas trade. The recognition of such diversity has also been reflected by the teaching of languages throughout our learning institutions. I am conscious of the enormous contribution made by the many teachers who are involved with the Vietnamese ethnic schools. They give generously of their time and effort to ensure the retention and development of Australia's unique linguistic skills and cultures which are vital for our future economic success.

I am also aware of the important role played by the Lac Long and Dac Lo Vietnamese Ethnic Schools in enhancing access and choice for all students and the significant contribution they make for the advancement of language education in South Australia. The Lac Long and Dac Lo Vietnamese Ethnic Schools also make significant contributions to promote cultural awareness and self-esteem and, at the same time, they encourage pride in and commitment to Australia and respect for the culture and traditions of the Vietnamese people.

I would like to pay tribute to the work of the Lac Long and Dac Lo Vietnamese Ethnic Schools and all the members of the executive committees, parents and volunteers for their great efforts. Finally, a special word of recognition must go to the principals of the schools and the many dedicated teachers who give so much of themselves in the teaching of the Vietnamese language for little or no reward. I believe their special commitment to this community service is based on a strong belief in the maintenance and development of our rich cultural heritage expressed through language which is reflected in the mosaic of South Australia's multicultural society. In conclusion, I wish the Lac Long and Dac Lo Vietnamese Ethnic Schools continued success for the future.

WHYALLA AIRLINES

The Hon. T.G. ROBERTS: I rise to add my condolences for the families of the passengers on the plane that crashed in the gulf recently and to make a dedication to Neil Marshall, one of the passengers who was not a South Australian resident. Neil Marshall was an organiser in the metalworkers union when I met him. He was operating out of the Melbourne office. He then moved to Sydney and became a national official in what is now the Australian Manufacturers Workers Union.

Neil was one of those organisers who helped to assist companies which had failed or which were restructuring their operations. This caused a lot of dislocation for members of the community who worked for those companies. In places such as Newcastle where there was great dislocation, in the early stages of the decision making, Neil Marshall would go where progressive companies invited comment and participation from unions and their workers' representatives.

Neil lived in metropolitan Sydney. He was always the first to jump on a plane to go to regional areas to assist companies and communities, including local government, to restructure and try to get something better out of deteriorating circumstances in many companies which were 'downsizing' or restructuring. In most cases, the companies with which Neil Marshall dealt were victims of shifting investment strategies resulting from economic rationalism and internationalisation of capital bases. Many of the companies which Neil Marshall visited were shifting their operations offshore or consolidating them into smaller packages.

He spent many hours on light planes flying between Sydney and Melbourne and other metropolitan centres. The Hon. Caroline Schaefer mentioned the travel that she has regularly done over a long period of time. It is always in the back of our minds when we fly in small planes—as I do regularly—particularly in bad weather, that a risk is attached. You put that thought as far back in your mind as you can, but it is always there. There is no other way to carry out our duties and responsibilities. Neil Marshall and, I suspect, some of the other passengers on that flight were regular fliers spending a lot of time in the air, but they would never have been able to carry out their jobs and responsibilities in regional and isolated areas if they tried to do so through the highways—and even that contains risks.

So, I pay tribute to the passengers on that plane as well as to all members of parliament and others who service regional outlying areas and who spend a lot of time in cars on highways and in the air—they need to take care. When these sorts of incidents happen, we feel close to the people involved. Together with the Hon. Caroline Schaefer, I pay tribute to Neil and all the people who lost their lives in this tragic accident. I hope that Neil Marshall's family and friends in Sydney have started to put some of the worst aspects of this tragedy behind them following the finding of his body.

Time expired.

LEGAL AID

The Hon. IAN GILFILLAN: In a roundabout way, I will address my remarks to Legal Aid. I have been campaigning for more funds for Legal Aid over many years, but I want to address a slightly different aspect. It is easy to knock the legal profession. Jokes about lawyers' supposed self-interest are legion. I would not say that those jokes are entirely without foundation, because I have been known to do it a little myself. However, there is also a strong philanthropic tradition within the profession which is not nearly as well known. I want to place on record some of the ways in which members of the legal profession in South Australia and the Law Society voluntarily assist members of the community who are in need

of their services. There are at least 10 ways in which this assistance is provided, as follows:

1. The Litigation Assistance Fund.

The senior legal profession provides a significant amount of voluntary assistance in reviewing applications, recommending on prospects of success, and in providing administrative assistance to the fund.

2. Federal Court.

The Bar Association and the Law Society have recently signed an agreement to provide assistance to certain litigants unable to obtain legal representation. A panel of barristers is being assembled.

3. Family Court.

Three days a week, a duty solicitor service (voluntary and unpaid) is organised by the Law Society to provide advice to persons at the Family Court.

4. Community Legal Advisory Service.

Rosters of volunteer member solicitors provide low cost ($5 concession, $10 others) legal advice at the Law Society three evenings each week.

5. Speakers.

Speakers on a wide variety of legal topics are supplied on request to a large number of community groups.

6. Honorary work.

Large numbers of lawyers act as honorary solicitors to community, charitable, religious and similar groups and organisations.

7. Community Legal Centres.

Several major law firms provide pro bono assistance to community legal centres. Individual solicitors also provide a significant amount of unpaid work to these centres and their clients.

8. Community Legal Information.

The Law Society provides considerable free information to community members by making available, at no cost, an extensive range of information brochures, and more substantial information such as legal guides for primary producers, home buyers, or small business people. Similarly, the Law Society arranges for volunteer solicitors to provide legal information at regular events such as the series of home buyer seminars scheduled in many suburban areas each year.

9. Legal Aid Work.

The pro bono component of the work done by the legal profession undertaking legal aid cases is considerable and admirable. It takes the form of working at substantially reduced professional rates; not being reimbursed at all for some aspects of legal aid work; and continuing to assist a legally aided client when legal aid caps are reached.

10. Law Society committee advice.

Committees of lawyers act as unpaid consultants to people, such as myself, to assist in developing or criticising legislative proposals in the broad interests of the community.

The Executive Director of the Law Society, Mr Barry Fitzgerald, who supplied me with these details, also says that the value of this work is not quantified. He goes on to say:

> . . . the only hard data I have stems from a 1993 survey I undertook. This was based on a response from 210 members, and as a crude measure the 39 000 or so hours costed at a basis of $100 per hour would indicate that those who responded were putting in around $4 million per annum in free or low cost pro bono work.

Given the passage of time since 1993, the increased cost of engaging a solicitor, and the likelihood that there are many more than 210 solicitors providing some type of pro bono work, it can be seen that $4 million is well below the equivalent value for the year 2000. I believe that the private profession is contributing more than the $6 million that the state government allocates to legal aid each year. It highlights the contribution made by the society to this work. In fact, the final paragraph of the society's code of practice states:

> [The society] undertakes a substantial community service obligation through provision of pro bono or low cost services, through various forms of community education, and through public comment on items of relevant public interest.

I congratulate the society for its work. I refer to the *Australian* of 18 June and an article in respect of a solicitor from a firm in Sydney, as follows:

> A full-time pro bono lawyer ('pro bono publico'—for the public good) with Sydney law firm Gilbert & Bogin, Ms Hannon says she and her colleagues find the work satisfying because of its human and social dimensions. 'We do work for nothing for people who are basically in marginalised and disadvantaged groups'

This is a very clear explanation of how a solicitor working for a large firm experiences job satisfaction from pro bono work. We should be very grateful—and I believe we are—for that contribution to the legal aid service in South Australia.

Time expired.

LABOR GOVERNMENTS

The Hon. L.H. DAVIS: I want to reflect on the unforgettable last years of the Bannon-Arnold Labor governments. The Labor government budget of 1992-93 recorded a recurrent deficit of $169 million. Clearly, this budget reflected the extraordinary losses of over $3.15 billion associated with the State Bank collapse.

State debt, which had been just $4.3 billion at 30 June 1990, exploded to $7.9 billion by 30 June 1993, and that represented a massive 25.7 per cent of gross state product. During 1992-93, the government borrowed $317 million and then in 1993-94 committed to borrowing a further $255 million in a desperate attempt to stem the financial haemorrhage. The 1993-94 Labor state budget—its last budget before being swept from office—estimated that state debt would increase to $8.1 billion. Interest payments on this debt were running at nearly $700 million per annum. The net liability for unfunded public sector superannuation was $3.73 billion as at 30 June 1993. In that 1992-93 budget, the Labor government planned to spend $1.238 billion on capital works, but it underspent that by $182 million, a massive 15 per cent below what was budgeted for. A lot of work did not proceed on school building refurbishments and on education, employment and training. There was also a shortfall on housing. Of course, when the Liberal Party came into government in 1993 it had to pick up that slack in capital works expenditure.

It is worth remembering that in 1992 the government had taken over $314 million of the SGIC debt: it had also taken control of an office building at 333 Collins Street purchased by SGIC, which was to cost taxpayers effectively about $500 million. It was no surprise that at that time unemployment in South Australia was running at 11 per cent.

Then in 1993-94 the Premier, Lynn Arnold, complete with his new glasses and new hair style, made one of the more memorable comments in political history when he said:

> This (1993-94) budget enables us to get the state's debt under control, not in three generations as some people have predicted, but in three years.

It is also worth noting, notwithstanding recent Labor Party criticism, that Premier Arnold had a 90-second paid advertisement in the middle of commercial television news services to sell the 1993-94 budget. The Labor government claimed

that that 1993-94 state budget would result in a surplus of $120 million, but the *Australian* newspaper economics editor said that in fact it was a deficit of $338 million.

The Hon. P. Holloway interjecting:

The Hon. L.H. DAVIS: When the actual result was published (if Paul Holloway would like to listen—and he probably will not), the actual budget result for 1993-94 was a $301 million deficit, a $421 million difference from Labor's budget estimate. It is also worth noting on page 15 of the 1993-94 budget speech the following statement:

> The government has begun the process of selling the State Bank and is considering options for the sale of its SAGASCO shareholding.

That Labor government received $647 million from the Keating federal Labor government for the promised sale of the State Bank and used the first payment of $263 million to help pay the redundancies of 3 000 public servants in 1993-94.

It is also a matter of record that in August-September 1993 the government sold to Boral the balance of its 86 per cent shareholding in SAGASCO, now Origin Energy, and raised hundreds of millions of dollars. The Labor Party support of the privatisation of both the State Bank and SAGASCO occurred while the present Leader of the Opposition, Mike Rann, was a prominent minister in the Labor government. Impeccable sources claim that he did not utter one word against this privatisation.

OLYMPIC GAMES

The Hon. T. CROTHERS: Today I want to take the five minutes allocated to me to address the issue of public appointments to the top of the Olympic Games. The Olympic Games came down to our generation from ancient Greece, and it is estimated that the first games were held there in 700BC. So important did the Greek city states think the games that any warfare or internecine rivalry that was going on at the time ceased until such time as the games were held and the events that were then extant were decided upon. In 1896—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: I would put you in the dummies race.

An honourable member interjecting:

The Hon. T. CROTHERS: Yes, he would win two gold medals. In 1896 a Frenchman, the Baron de Coubertin, reinstated the games in the modern society and the first games in honour of whence they came were held in Athens in 1896. Incidentally, in those games it was a Greek (Spyridon Loues) who won the marathon race, which is named after the runner, Phaedippides who, after the Athenians with their Platean allies had defeated the Persians on the Plain of Marathon, ran back to the city in his full armour, told the townsfolk and then collapsed and died. The President of the Olympic committee for many years was an American, a Mr Avery Brundage, and he was the last of the straight backed amateurs. It was anathema to Avery Brundage to have professional athletes participating in any events. But we all know that the American universities were paying their sports stars through scholarships and other methods of payment. Avery Brundage was the epitome of the amateur sports star.

Today, modern television, ever looking outward for more and more programs from which to coin money, has dwelt on sport. We have seen tennis, golf, snooker and all sorts of sport, including rugby league and rugby union, and the titanic struggles between Packer and Murdoch over that—we have seen it all. Now that money has come into professionalism in the sport, something that was unheard of under Avery Brundage is now absolutely par for the course under the long serving Spanish President Mr Samaranch. The problem is that coupled with money comes corruption. We have seen, in my view, the most awful sort of carpet bagging corruption that has ever been witnessed in sport by SOCOG people getting themselves elected to positions on the Olympic committee, shooting in and out of Zurich every six weeks and getting all sorts of paid holidays in order to try to swing the vote so the games go to Sydney or Atlantic City or Marathon or Paris or wherever. It is appalling. The local carpetbaggers, Mr Cole and Mr Gosper—

The Hon. L.H. Davis interjecting:

The Hon. T. CROTHERS: If you listened and if you cared about ordinary people, you would learn from what I am about to say, but you do not.

The Hon. L.H. Davis: I am listening.

The Hon. T. CROTHERS: No you're not: you're interjecting. Mr Cole and Mr Gosper were carpetbaggers of the first magnitude, in spite of all the lame excuses that are trotted out. They were not on their own; just about every member on those Olympic committees from each nation of the world was involved in selling their vote to the highest bidder in respect of where the next games would be held. Huge limousines were provided for them and they stayed in the best hotels when they travelled overseas, all costing many millions of dollars. Sydney and the New South Wales government can find $1 billion to fund the building of the venues for these games and put on the games, but they cannot find the money to house the homeless, the suffering and the unemployed in our community. But they can find $1 billion so that Mr Murdoch and the other TV moguls can make more and more money from being able to flash on the latest fetish, which in this case is the Olympic Games. As an amateur sportsman I deplore it. I used to pay 20¢ a week for a boxing club and half a crown for a harriers club.

The PRESIDENT: Order! The honourable member's time has expired. Call on the business of the day.

COUNCIL LAND

The Hon. A.J. REDFORD: I move:

> That by-law No. 3 of the City of Norwood, Payneham and St Peters concerning council land, made on 6 December 1999 and laid on the table of this Council on 4 April 2000, be disallowed.

I will later move that this motion be discharged but, first, both the Hon. Ron Roberts and I wish to make a couple of comments about it. The two by-laws that attracted the Legislative Review Committee's attention relate to a prohibition concerning the distribution of material and canvassing on the streets. I will read the by-laws into the record. In relation to the issue of distribution, paragraph (9) provides:

> Distribute anything to any bystander, passer-by or other person.

In so far as canvassing is concerned, paragraph (10) provides:

> Convey any advertising, religious or other message to any bystander, passer-by or other person.

For many years the Legislative Review Committee has seen by-laws pretty much the same as this, and they have passed through the process of committee scrutiny without comment.

However, as is our normal process, we distributed the by-laws to the local members of parliament who were affected by them—in this case the member for Norwood, Ms Ciccarello, and the member for Hartley, Joe Scalzi. The committee received a response from Joe Scalzi expressing some concern about the two by-laws. In particular, Mr Scalzi expressed concern that the by-laws imposed an infringement on a basic freedom, that is, the freedom of political debate and the freedom of expression. We considered Mr Scalzi's view in that he believed that it could impinge on legitimate campaigning by state and federal members and candidates on council land and may impinge upon other political freedoms.

The provisions themselves are pretty standard: they exist in most other by-laws in South Australia. It is just that it took someone of Mr Scalzi's attention to pick up the problem. We discussed it, and I have to say that the committee expressed some divergent views on the issue. We then approached the City of Norwood, Payneham and St Peters and asked whether a compromise provision in relation to this issue could be promulgated. We were advised that, as these by-laws had been initiated under the old local government legislation, to request it to go back and revisit them in a formal way would involve considerable expense, time and inconvenience for the council.

In an endeavour to overcome the problem, we then asked whether the council could give an undertaking to the parliament that it would amend these by-laws to address Mr Scalzi's viewpoint. In the light of that, and having spoken to the Mayor and the Chief Executive Officer, yesterday we received a letter from the City of Norwood, Payneham and St Peters. I think it is appropriate that I read it into *Hansard*, as follows:

> I wish to assure the committee that the council did not intend for the provisions to impinge upon the right of members and candidates to distribute leaflets or canvass during local, state and federal elections. These provisions provide the council with the power to act if a problem arises from the distribution of leaflets and canvassing such as the careless distribution of leaflets causing a litter problem. I acknowledge Mr Scalzi's representation and believe that his concerns are unfounded as no local council has sought to restrict the legitimate campaigning during local, state or federal elections within a council area.
>
> Mr Fantasia has advised that Mr Scalzi and the committee would be prepared to allow the by-law providing the council agrees to undertake to amend the by-law to alter the words of the provisions (9) and (10) to exempt legitimate campaigning during elections. I undertake therefore, on behalf of the council, that council will amend by-law No. 3, 'council land', to read as follows:
>
> Distribution (9): Distribute anything to any bystander, passer-by or other person except for material for the purposes of local, state or federal elections.
>
> Canvassing (10): Convey any advertising, religious or other message to any bystander, passer-by or other person except for any message or material for the purposes of local, state or federal elections.

When the committee discussed it this morning, and bearing in mind that we are reaching the end of the parliamentary session and we have limited time to deal with this, there was an interesting, albeit far too brief, discussion. It basically fell into a number of streams.

First, it was suggested quite strongly by one member of the committee that litter is a problem, that these by-laws have been around for a significant period of time and that it would be unfair to hit this council with this by-law. The alternative viewpoint was that this is a gross infringement upon our basic freedoms. We, as a committee, were left with the conundrum about the right of freedom of speech coupled with the responsibility of freedom of speech. After the discussion took place, it was felt that we should write—and we will—to the Local Government Association, pointing out the issues and stating that, in future, we will look seriously at by-laws of this nature. Indeed, we will point out that even the amendment that the council has undertaken to make may not sufficiently redress the appropriate balance between ensuring that our freedoms are protected and, at the same time, ensuring that we do not have a major litter problem.

The Hon. Ron Roberts—and I have a lot of sympathy for his viewpoint—dissented from the committee's decision on the basis that it is fundamental and that we should take a stand at this point. The committee's view was not to adopt fully what the Hon. Ron Roberts said on the basis of the fact that the St Peters council had done a lot of work and we did not wish to put it, its electors or ratepayers to any unnecessary expense. We felt that it would be unfair to single it out at this short notice. However, I point out that the committee will warn local government about this issue, request that an appropriate debate be undertaken, and look far more carefully at by-laws of this nature in the future. I go on record as thanking the council, my staff and, in particular, the members of my committee for the rather open and candid way in which, this morning, we dealt with what could potentially have been a very difficult issue.

The Hon. IAN GILFILLAN: I supported the passage of these by-laws on the basis that we had inadequate time to deal with the matter and also because we are hobbled by what I believe is an archaic restraint on this committee—that we can only disallow the regulations in totality. Because the regulations embrace several other significant by-laws, I felt that it was important to allow them to pass at this time. However, I feel very strongly that, although it might have been widespread, this measure has inadvertently infringed on a basic human right of freedom of expression and freedom to communicate, which I believe overrides, by a monumental amount, the localised and trivial disadvantage of possibly an increased pollution factor.

Regardless of whether one agrees with the content of written material that is being handed out, it is the right of an individual to make that written material and that opinion available to other citizens. Provided that person is not causing a public nuisance or distributing obscene material or material which is actionable under other laws, it should be an unfettered right. Even though it may irritate, annoy or inconvenience local councils to some degree, it is a very small price to pay for the freedom which I think this country should rightly be proud of and vigilantly ensure is not curtailed.

I take note of what the Hon. Angus Redford said about the issue being a continuing one. I was told by the secretary of the committee that he understands that the Office of Local Government is looking at the issue and consulting with the Local Government Association, but I think that it is quite clear that, although this measure is passed at this stage, the issue is now well up on the agenda and will not be dropped, certainly not by me.

The Hon. R.R. ROBERTS: I will not dwell at great length on this matter, because it has been covered by the previous two speakers who are colleagues of mine on the Legislative Review Committee. I am always reluctant, after the committee has made a decision, as we are charged to do,

to go into long diagnoses of the decision. However, my objection, as reported by other contributors to this debate, is on the basis that it inhibits the right of people to free expression or communication.

I think it is wrong for this parliament to endorse a situation which provides only for members of parliament or part of the parliamentary system—whether it be local government, state government or federal government. When this regulation was first proposed it was meant to cover anybody handing out literature to another member of the community on the basis that pollution or littering may occur. I point out that no offence occurs when freedom of expression takes place. If you are walking along the street and someone hands you a document expressing his or her opinion, if you take it, choose to discard it inappropriately and cause litter, that is a problem under another law. I believe that the councils are trying to take the easiest possible option whereby they do not have to enforce the litter laws: they stop people from distributing information or communicating with their peers.

It was after intervention by the local member that an agreement was made with the council to allow council material, state government material and federal government material to be distributed. It is very good for all of us, but it clearly sends the wrong message that members of the community do not have the same right to express their opinions.

There is another provision within the regulations that allows someone to go to the council and seek permission to distribute information. However, I put to this Council that, if someone is running a campaign against the council or a decision of the council and if you ask the council for permission to distribute literature which criticises severely the actions of the council, on most occasions the council is not going to make provision for you to express your opinion.

I understand the reason why my colleagues have made this decision, and it is principally because of the fact that, if we were to disallow the regulations, we would have to disallow other regulations that are appropriate.

That brings me back to one of my personal hobbyhorses. I believe that we need to look at the act so that we can take out a provision that can stand alone. I believe this one could have stood alone without affecting the operation of the other regulations. I introduced a bill in this Council to that effect, and that bill received majority support.

There was a failing within the ALP system when it went to the other place. One of my colleagues was charged with the responsibility to reinstate it on the *Notice Paper*. It did not occur and unfortunately that bill lapsed. There is only one way to overcome that, unfortunately, and that is we have to start the process again. All that having been said, I think this is a fundamental issue for members of the community. It embraces religious freedom, freedom of expression and freedom to communicate. It provides advantages to members of parliament and to local government and denies those same rights to ordinary members of the community. It is wrong in principle.

However, at the end of the day I am happy to accept the decision of my colleagues, that these provisions pass, and the matter will be handed on to the Local Government Association. I am not confident in that, because all local government organisations will be taking the same attitude as this particular council and will want to take the easy way out. It is a bit like asking the fox whether we ought to eat the lambs; you will get a predictable result. Having said all of that, I accept the proposal to be made by my colleague the Hon. Angus Redford to withdraw the motion.

The Hon. A.J. REDFORD: I seek leave to withdraw the motion.

Leave granted; motion withdrawn.

MATERIALS AND SERVICES CHARGES

The Hon. CAROLYN PICKLES (Leader of the Opposition): At the request of the Hon. Paul Holloway, I move:

That the regulations under the Education Act 1972 concerning materials and services charges, made on 4 May 2000 and laid on the table of this Council on 31 May 2000, be disallowed.

This is not a new issue that this parliament has to deal with. The issue concerns the materials and services charges that have been brought in by this government, first by the Hon. Robert Lucas when he was minister for education, and now by the present Minister for Education in a very sneaky way, right at the end of the business, trying to sneak in these materials and services charges that will cause untold hardship to parents in our state schools. Only this morning my office received a telephone call from a Marryatville High School parent who was complaining that her materials and services charge was in the region of $489, which is an outrageous amount of money, and the compulsory component was not itemised on that account, which I think is very wrong.

I am a great believer in a free education system. We have always had a system. When my children, who are now in their 30s, were at school we had voluntary contributions, and I think that all schools used to undertake fundraising to provide schools with additional services that were not otherwise provided by government. I think most parents accepted that and did not have a problem with that. But increasingly the cost of school fees has escalated, which is the direct result of a lack of funding that goes from the government into the education sector. This causes hardship, particularly in the areas where the materials and services charge is very high, and often that is in an area that one might expect to be reasonably affluent, but there is a lack of understanding that not all parents are in a position to pay these charges.

In the estimates committee recently the Leader of the Opposition, Hon. Mike Rann, raised the issue of whether or not the materials and services charges would be subject to the GST. The minister prevaricated on this. We have been asking this question for some months now but have received no satisfactory answer. First of all I think he said yes it would be, then he said no it would not be, and then I saw him on the evening news saying that they had sought some kind of ruling from the taxation department but, irrespective of that, no, parents would not be paying it. So, the government has no idea whether or not this is subject to a GST, in which case I think it is absolutely abhorrent that it has brought in this regulation, yet again, without any kind of understanding of the implications of a GST and the effect that that might have on parents who are struggling to make ends meet.

Every time this has been raised in this place the Treasurer, who at the present time represents in this place the Minister for Education, has gone into a completely outrageous slanging match against the union, against the Labor Party and against the Australian Democrats, who, I note, will be moving a similar motion later today. This behaviour does not worry me, because one of the things that the Hon. Mr Lucas must

be aware of is that the more he slings off at the union the more we circulate his outrageous comments to teachers in all the schools in South Australia. So I certainly hope he does it again. They do not hold him in very high esteem, and they did not hold him in very high esteem when he was the minister who originally introduced this measure. He certainly is not held in high esteem today.

It is disappointing that the Hon. Malcolm Buckby as minister has continued to push for this measure. The schools are maintaining that they do not have enough money to completely allow for the kind of education system that most people would want for their children. It is an unfortunate fact of life that more and more people have been withdrawing their children from state schools and putting them into private schools, often, I believe, to the detriment of the children. I have a great belief in the public education system, and also a belief in people having a right to choose. However, we know that people on lower incomes do not have that right to choose, and they are particularly disadvantaged.

When the Hon. Mr Lucas was minister for education he also found ways and means to cut access to school card, which was designed by a Labor government to allow parents not to have to pay any kinds of fees and to ensure that the schools did not suffer. I would like to see us go back to the days when this was a purely voluntary measure. Education under the Education Act in state schools should be free. We all understand that there are some parents who will make those contributions.

I recall when I was shadow minister for education that some of the parent bodies and some school councils were complaining about bad debts that they had, and I sympathise with them in that regard, but they must not be blaming the parents. What they should be doing is blaming the government for its lack of zeal in ensuring that everybody in South Australia has access to an equal education. What this materials and service charge tends to do is advantage the children in the schools in the leafy green suburbs of Adelaide—schools that I admit my children went to—whose parents, by and large, can afford to pay a higher fee and get better facilities in their schools.

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLYN PICKLES: There are not many schools in South Australia that have access to grand pianos and can raise the money to buy those grand pianos, such as can be done at Marryatville High School. Two of my children went to Marryatville High School. It is a particularly good school—

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: Fundraising, exactly, but it goes on. They also have the highest fees. At one stage Marryatville High School had the highest school fees in the state. It was only today, as I indicated earlier, that a parent was complaining to me about that level of fees, and saying that there are so many parents who simply cannot afford to pay them. I will not dwell on this at length because it has been discussed in this place on three or four occasions. Hopefully by now the government will get the message that the people of South Australia want a free education system in public schools and not one in which this iniquitous tax is slipped in by the backdoor.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

ABORIGINAL SITES

The Hon. SANDRA KANCK: I move:

That the Hon. Dorothy Kotz be censured for failing to fulfil her duty to protect Aboriginal heritage as required by the Aboriginal Heritage Act, in particular her failure to provide protection under the act for some 1 200 potential Aboriginal sites by placing them on the Register of Aboriginal Sites and Objects.

Respect for Aboriginal culture and history has grown slowly in the latter half of the twentieth century. The shift in attitudes has often been grudging and by no means enjoys universal support, so in these circumstances it is imperative that governments lead by example.

The Aboriginal Heritage Act is South Australia's response to the need to preserve Aboriginal culture and history. Protecting this ancient heritage enriches all Australians. Therefore it is distressing to report that successive Liberal Aboriginal affairs ministers in the past 6½ years have flagrantly ignored their obligations under the Aboriginal Heritage Act.

The Register of Aboriginal Sites and Objects is the principal tool in the protection of Aboriginal heritage in South Australia. The register is supposed to be a comprehensive database of significant Aboriginal heritage items. The register also has a very practical role to play in heritage conservation. It is designed to enable land managers and developers to ascertain what if any Aboriginal heritage issues relate to a proposed development. For example, Transport SA could be alerted to the fact that it proposes driving a road through a precious archaeological site if that site is on the register. Furthermore, if an item is on the register, it has the full force of the law protecting it. Before a registered site or object can be disturbed or damaged, ministerial approval must be granted, but to be afforded that protection a site or object needs to be on the register.

In 1992 there were approximately 4 800 sites and objects on the register. Since that time, another 1 200 sites or objects have been reported to the Division of State Aboriginal Affairs, but not one of those 1 200 sites and objects has been added to the register. In 1997 I placed a question on notice regarding the fact that at that point no additions had been made to the register since 1993. The reply of 27 May 1997 claimed that doubts had arisen as to the accuracy, veracity and usefulness of many of the site cards, that all the existing sites were being reviewed, that new administrative procedures were being put in place and it would be inappropriate to accept further registrations until these issues were resolved. Yet in her ministerial statement on this matter on 31 May this year, the minister claimed:

In 1998, the government began examining the records kept on the register and discovered major discrepancies in site location. . . [that led to] sites on the register being systematically verified and the conservation needs assessed.

Which is it, minister? Did the assessment begin in 1993, as the answer I received in 1997 suggested, or in 1998, as the minister now claims? Her own department has exposed the minister's estrangement from the truth. The suggestion that it would take seven years to review all entries on the register beggars belief.

The nub of the matter is that, for seven years, the development of the register has been frozen. That is despite the fact that the act is quite specific regarding the minister's obligations in respect of the register. Section 9(1) provides that the minister must keep central archives relating to the Aboriginal heritage. Crucially, section 9(2) provides:

Part of the central archives (to be entitled the 'Register of Aboriginal Sites and Objects') must contain entries describing, with sufficient particularity to enable them to be readily identified, sites or objects determined by the minister to be Aboriginal sites or objects.

The minister is required to determine what are Aboriginal sites, and objects and those sites and objects must be entered on the register. That is what the act says. There is no discretion. It is not optional: it is requisite. At last count the minister had 1 200 sites and objects awaiting her determination.

The Hon. A.J. Redford interjecting:

The Hon. SANDRA KANCK: Exactly, Mr Redford, it awaits the minister's determination. Some of these have been awaiting ministerial determination for seven years. This is a gross breach of duty. Minister Kotz had the audacity to deny that she is in breach of her duty. In her ministerial statement she claimed that lodging sites in the central archive is the equivalent of placing them on the register. It is not. The central archive is merely the repository for all unsubstantiated archaeological reports about particular sites. Those reports need to be assessed before the minister determines whether they should be added to the register.

Her denial of the significance of placing sites and objects on the register compounds her failure. It is only when they are placed on the register that they are afforded the full protection of the act. It is the register that is checked to ascertain whether a proposed development would damage Aboriginal heritage sites, not the central archive. The central archive is the equivalent of a doctor's waiting room. Assessment, treatment and potential salvation remain on the other side of the door. The minister's failure to protect Aboriginal heritage as required by the act is a disgrace that should not be allowed to continue. Supporting this motion is the best means of seeing that it does not.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I am advised that, in an interview on ABC radio on 30 May, the Hon. Sandra Kanck claimed that Aboriginal sites would have been destroyed because no items had been added to the Register of Aboriginal Sites and Objects since 1993. In a statement in parliament on 31 May, the Minister for Aboriginal Affairs (Hon. Dorothy Kotz) said:

Allegations made yesterday by the Deputy Leader of the Australian Democrats that sites of significance have not been recorded since 1993 and may have been destroyed due to a lack of protection are without foundation.

The minister's statement is entirely accurate because more than 1 200 sites have been reported to the Division of State Aboriginal Affairs and all except 46 sites have been entered into the central archive. Of the 46 remaining reported sites, some do not have any locational data and others are being checked by officers of the division.

Section 9 of the Aboriginal Heritage Act 1988 provides that the minister must keep a central archive relating to Aboriginal heritage. Under section 9(2) of the act, a Register of Aboriginal Sites and Objects is established as part of the central archive. The register provides information about the sites listed. The Minister for Aboriginal Affairs clearly made that distinction at the very beginning of her statement on 31 May when she said that the register was included in the central archive. The protection afforded to Aboriginal sites recorded on both the archive and the register is equally provided. Crown Law advice received by the Division of State Aboriginal Affairs has confirmed the following:

. . . a site or object may be an 'Aboriginal object or site' within the meaning of the act notwithstanding that it has not been entered on the register.

The Hon. Sandra Kanck: Are you going to provide that to me?

The Hon. DIANA LAIDLAW: I have just provided it to you. It is accurate to say that there have been no additions to the register since 1992. It is not accurate to say that Aboriginal sites would have been destroyed because they were not on the register. All notifications of Aboriginal sites have been dealt with appropriately, resulting in the addition of almost 1 200 Aboriginal sites which have been given the protection of the act since 1992 by being included in the central archive.

Local Aboriginal organisations including local Aboriginal heritage committees, and Aboriginal traditional owners, have been involved in the identification of the sites which have been added to the central archive. It is for this reason that the Minister for Aboriginal Affairs called on the Hon. Sandra Kanck to make an apology to these Aboriginal people because her comments in the media were incorrect and could have caused concern in the Aboriginal community about the protection of their sites.

The Chairman of the State Aboriginal Heritage Committee, Mr Garnet Wilson, has issued a statement assuring the Aboriginal communities and people that Aboriginal sites are provided 'both practical and legislative protection by being entered on an extensive database of Aboriginal sites within the central archives maintained by State Aboriginal Affairs.' I seek leave to table a copy of that statement.

Leave granted.

The Hon. DIANA LAIDLAW: The more than 4 800 Aboriginal heritage sites recorded in the central archive, including the almost 1 200 sites recorded since 1992, continue to be protected under the provisions of the Aboriginal Heritage Act 1988. The minister's statement to the parliament is entirely accurate. The Hon. Sandra Kanck needs to avoid being alarmist in this particularly sensitive area and to acknowledge that, whilst she may wish to raise the profile on this issue, her statements are not fair or reasonable and do not reflect the law. I seek leave to conclude my remarks later.

Leave granted, debate adjourned.

SELECT COMMITTEE ON WILD DOG ISSUES IN THE STATE OF SOUTH AUSTRALIA

The Hon. A.J. REDFORD: I move:

That the interim report of the committee be noted.

In speaking to the interim report of the Select Committee on Wild Dog Issues in the State of South Australia, I note that the terms of reference were established by way of a motion in the Legislative Council on Wednesday 25 November 1998—more than 18 months ago.

The Hon. Diana Laidlaw: You took 18 months to work this out?

The Hon. A.J. REDFORD: The minister interjects. We could have been a lot quicker, but we decided to be as patient with this report as we needed to be to get her ministerial colleague to go through the process. We were very patient.

The Hon. Diana Laidlaw: You spent 18 months trying to work out what to say.

The Hon. A.J. REDFORD: No. We took 18 months to report.

The ACTING PRESIDENT (Hon. T. Crothers): Order! There is a speaker on his feet. Standing orders provide that the member be heard in silence.

The Hon. A.J. REDFORD: Because the minister interjected, I will go on record to say that we took 18 months out of courtesy for and patience with the Minister for Primary Industries and Resources while he worked through the issue. If the minister chooses to interject, we will give it to her with both barrels. We could have reported—and this might well have been a critical report—

The ACTING PRESIDENT: Order! I ask the honourable member to address the motion standing in his name.

The Hon. A.J. REDFORD: With the greatest respect, sir, I am addressing the motion.

The ACTING PRESIDENT: You were going to give it to the minister with both barrels. I do not think that is part of the motion.

The Hon. A.J. REDFORD: Everything that I have said so far is relevant to this report.

The ACTING PRESIDENT: All right. I accept that.

The Hon. A.J. REDFORD: The second issue is that we could have pre-empted the minister's actions, but in response to the interjection of the Hon. Diana Laidlaw we took our time because we decided to allow the minister ample time to work through what was a very difficult issue. As chair of the committee, I am grateful—and I am sure that the minister in his response will also be grateful—for the fact that with the cooperation of this committee, which comprised members of the opposition and the Hon. Ian Gilfillan of the Democrats, we may well have allowed the minister to come up with what we hope is an equitable and fair solution.

In the absence of any further interjection from the Minister for the Arts and the Status of Women, I will return to my specific point. The terms of reference relate, first, to general issues concerning wild dogs; secondly, to the method of raising funds for the maintenance of the dog fence; and, thirdly, to issues associated with the control of wild dogs inside or on the settled side of the dog fence—in particular, the Ngarkat Conservation Park. It was a difficult issue. In some respects, because the committee decided to allow the minister to proceed with the matter rather than pre-empt his position, events overtook some of the issues raised by the Hon. Ian Gilfillan when he first moved the motion.

The report sets out the history of the legislation and the development of the dog fence. I do not propose to repeat that. If members are interested, I urge them to read the report. In any event, as I said earlier in response to the minister's untimely interjection, we allowed the minister to undertake a review of dog fence issues generally and, in more general terms, other issues associated with the sheep industry. We allowed the minister to proceed to a general view regarding a number of issues which not only covered the dog fence but OJD and other issues.

We noted and monitored, on a regular basis, the consultation process that the minister embarked upon. Some might say that the Hon. Ian Gilfillan's motion prompted the minister to commence this project; others might say that it was underway prior to the Hon. Ian Gilfillan's initiative. That is the argy-bargy of politics. What is important is that the process proceed.

On 11 January 1999 PIRSA conducted a forum at Hahndorf which led to a sheep advisory group being established. That group went through an extensive consultation process. We are unsure whether the consultation process was extensive, but I point out that the committee has not received any correspondence or evidence to suggest that it was otherwise. Following the consultation process, the Primary Industry Funding Schemes Act 1998 established the sheep industry fund, and a regulation was promulgated in October 1999. The regulation established a sheep transactions levy of 20 cents per head of sheep sold at market. That amount goes into a fund to manage OJD and the dog fence. It is too early to say whether or not it will be successful, as it has been in existence for less than 12 months.

On the other hand, in deference to the Hon. Ian Gilfillan, and the fact that honourable members passed the motion to establish this committee, it was decided that it would be appropriate for the committee to report so that others outside the committee were aware of its progress. Other issues examined by the committee, as set out in the terms of reference, concerned an increase in the baiting and monitoring program conducted under the auspices of the Department of Environment and Heritage and Ngarkat Conservation Park. The report by EconSearch Pty Ltd, which sets out a dog fence benefit cost analysis, was examined by the committee. A list of the benefits and cost of the dog fence are set out at page 14 of the report.

The committee decided to report in a very neutral fashion. That decision was taken because the regime is new and it is too early to determine whether or not it is successful. It will be interesting to see the reaction of the sheep industry, and the associated community, to the new process and funding collection scheme following the spring sheep sales. The spring sheep sales were substantially greater than the autumn sales.

The regime overtakes the events that existed at the time the select committee was established. We resolved to table a report and we await the reaction of the community. If we hear nothing, we do not propose to sit again. If there is a response that requires us to sit, the committee is in a position to sit at short notice to deal with any response from the community—whether directly to the community or to individual members of this parliament or, indeed, individual members of the committee. I commend the report to the Council.

The ACTING CHAIRMAN: Does the Hon. Mr Gilfillan wish to speak?

The Hon. IAN GILFILLAN: Yes, I do, Mr Acting Chairman.

The ACTING CHAIRMAN: I do not have the honourable member listed as a speaker.

The Hon. IAN GILFILLAN: Well, bad luck.

The ACTING CHAIRMAN: I point out to the honourable member that it assists the presiding officer of this gathering if members list their name when they wish to contribute to a particular debate. It makes proceedings much simpler if matters are dealt with in that way and the details are before the presiding officer. I do not have your name listed; that is why I called for the adjournment. It would assist the presiding member, whoever that might be, whether it be the President or someone acting in his stead, if your name or any other speaker's name appeared on the *Notice Paper*.

The Hon. IAN GILFILLAN: I somewhat belatedly notify you that I wish to speak about this, as it is a report based on my motion to set up a select committee, and I indicate my support for it. The presiding member has spelt out the position of the committee very clearly. Rather unusually, a very happy situation has evolved, which may well eliminate further necessary work by the committee itself. The presiding member indicated, and I would like to indicate even more strongly, that the forming of the select committee was probably the catalyst which speeded up the process to get

a solution. It also provided a sounding arena for people who had quite profound grievances and hurt and who wanted an opportunity to be heard and heard by an official body. From my connection with the South Australian Farmers Federation, I know that this has been a running sore for years. It is not just an issue that cropped up at the beginning of our parliamentary session: it has been a constant source of quite profound strife and division within the Farmers Federation itself, and therefore it was quite pressing that a solution be found.

I believe that this interim report will give the Farmers Federation an opportunity to look in some detail at what the proposal for the funding has been and to give the groups from the Ngarkat national park and those pastoralists who are on either side of the fence an opportunity to make their position known. Again, I would repeat the observation of the presiding the Hon. Angus Redford: it is too early for us to presume with any certainty that the system will work, because those who are contributing to the levy have the option to pull out, in other words, to withdraw the funds which will be collected over the process of the sale season. So, it is appropriate that this is an interim report, which I do not believe is controversial itself. I do not see any reason for the matter to be adjourned unless other members wish. It may be a matter to which members can speak briefly now—

An honourable member interjecting:

The Hon. IAN GILFILLAN: Yes, provided they take the trouble to give their names. Many members other than committee members would not have had the chance to see it. There may be advantages to leaving it for another day. I do not intend to continue my remarks; the other members will make their observations. I think it is a useful report. It does not make judgment, it is unanimously supported and I believe it sets a pattern which for the foreseeable future can lay to rest the hassle and strife that surrounded the wild dog fence issue for decades.

The Hon. P. HOLLOWAY: I am certainly happy for this motion to be dealt with straight away. I do not wish to say very much; I think the chairman of the committee, the Hon. Angus Redford, has very comprehensively and accurately summed up the background of the select committee and its findings. The only other comment I would make is that I think the real purpose that the select committee served in its early days when it was established was to jog the government into action to ensure that it tried to resolve the problem. Let us hope it has done just that because, as has been pointed out, the reason why this is an interim report is that the committee believed that it still required some time to assess whether the new system of financing the dog fence has been put in place. It will take some time to determine whether it is stable, and let us all hope that it is. It was a productive committee, and I thank the research officer in particular for his efforts on behalf of the committee.

The Hon. A.J. REDFORD: I thank members for their contribution. I neglected to thank all my colleagues, because we approached this in a very open way. In particular, the fact that the Hons. R.R. Roberts and John Dawkins have not spoken on the motion is a reflection of the fact that we are late in the session and have a busy *Notice Paper*. I would not like anyone to think that they did not apply a lot of energy and effort to this. They were very keen to ensure that there was an appropriate result. I would also thank the select committee staff, who worked diligently—Mr Chris Schwarz and Kevin Gogler. I will go on record and say that Mr Gogler's skills as a researcher and writer are some of the better I have seen, from what we have been used to in this place.

Motion carried.

STATUTORY AUTHORITIES COMMITTEE: STATUTORY BODIES

The Hon. L.H. DAVIS: I move:

That the report of the committee on the third inquiry into timeliness of the 1998-99 annual reporting by statutory bodies be noted.

This is the third occasion in the past four years on which the Statutory Authorities Review Committee has examined what we consider to be the important matter of the timeliness of annual reporting by statutory authorities in South Australia. This report examined 184 statutory bodies and in particular looked at the way in which they complied with the reporting requirements set down in their establishing act and/or the Public Sector Management Act. One of the issues which continue to bedevil the committee is that some statutory authorities are not required to table reports by a specific date. Others have vague requirements such as 'as soon as practicable' but the majority comply with the requirements of the Public Sector Management Act.

The vast majority of statutory authorities report for 30 June; just a handful report on a calendar year basis. The Public Sector Management Act provisions demand that statutory authorities must present an annual report to their relevant minister within three months of the end of the financial year—that is, 30 September in the case of a balance date of 30 June, or 31 March in the case of a calendar year balance—and the minister must then table the annual report within 12 sitting days of the receipt of that report. That meant that, for the 1998-99 year, that date was 18 November 1999. Because we had a particularly long break between the last day of sitting in 1999 and the resumption of parliament in late March 2000, any statutory body that missed the cut-off date of 18 November was then not tabling a report for the year 1998-99 until March, April, May or June.

The committee is very disturbed to find that, within two days of the end of the financial year, a number of statutory authorities have yet to report. In particular, some 12 bodies have not reported for the 1998-99 financial year and the 1998 calendar year. Certainly two of them have reported in the past two days—Education Adelaide and the West Beach Trust (tabled only yesterday)—but organisations such as the Architects Board, the Coast Protection Board, the Guardianship Board, the Police Complaints Authority, the Controlled Substances Advisory Council (to name just a few) have not yet reported.

The committee is very disturbed to find that statutory authorities of particular importance, such as the Coast Protection Board, still have not reported for a period of almost 12 months. According to the Coast Protection Act, that board is required to report to its responsible minister by 31 October, and the minister is required to table the report within six sitting days of its receipt. Therefore, that report should have been tabled on 18 November 1999, but that has not yet occurred.

The Coast Protection Board has had a poor record in recent years in annual reporting performance terms. Its 1994-95 annual report was tabled six months after the required tabling date; its 1995-96 annual report was tabled three months late; its 1996-97 annual report was tabled over

two months late; and, as I have said, its annual report for 1998-99 is breaking all records in the sense that it is yet to be tabled.

Having made specific criticism of a number of statutory bodies falling short of their reporting requirements, I point out that the committee is pleased to note that there has been a general improvement in reporting standards. When the committee first examined this matter back in its first report on timeliness on 23 July 1997, we examined 159 statutory bodies and found that only 58 per cent—93 out of 159—had tabled their reports in accordance with all legislative requirements.

In our second report, which covered the 1996-97 financial year and the 1997 calendar year, we noted that 88 per cent of bodies had tabled their annual reports in accordance with legislative requirements. But, as previously noted, the high bar was set at a very low level in that year because the 1997 state election, in October 1997, meant that parliament did not resume until much later than normal; and the 12 day reporting tabling requirement provisions of the Public Sector Management Act resulted in the reporting date for all statutory bodies being three months later than normal. That accounted for the very steep increase in statutory bodies complying with reporting obligations—88 per cent for the 1996-97 financial year and 1997 calendar year as against only 58 per cent for the 1995-96 financial year and the 1996 calendar year.

So, this report, which is tabled just days before the end of the 1999-2000 financial year, comes in with a somewhat improved result on the first study from the 1995-96 financial year, which I think is perhaps the best true comparison the committee can make. This year we note in our report that, for the 1998-99 financial year and the 1998 calendar year, 145 of the 184 bodies examined—that is, 79 per cent—complied with all legislative requirements in presenting their annual reports to the parliament. So, there has been an overall improvement in reporting standards, and the committee acknowledges that.

Timeliness is not the only issue that the committee pursued in this report: there were a number of other issues about which the committee made recommendations. In particular, it made the point that, although the Public Sector Management Act provisions stipulate a time frame for annual report tabling, not all establishing legislation contains those same reporting requirements. We believe that, in time, it would be prudent for establishing acts to be amended to bring reporting requirements into line with the Public Sector Management Act to ensure some consistency in reporting requirements.

We also note that the government undertook to revise guidelines for agencies and board directors—a working document of practical consequence for directors of statutory bodies outlining their obligations and responsibilities as directors—and that the revised version was meant to be published in early 1999. To date, that has not occurred. It is five years since it was last revised and we believe that it is important for the government to issue that revised edition of guidelines for agencies and board directors at the earliest convenience. In particular, reference should be made to the need for timeliness in annual reporting, to draw that to the attention of the directors.

We continue to believe that the government should recognise that the vast majority of board fees paid to board or committee members is less than $10 000; indeed, nearly half all board and committee members receive less than $10 000. The government, to its credit, has recognised that there should be transparency in revealing the level of fees paid to board and committee members and has introduced bands of $10 000, which are published in the annual report outlining the level of fees payable to board and committee members. Also, the government has recognised that there should be some adjustment to the lower levels.

The Statutory Authorities Review Committee does not believe that the government has gone far enough and continues to recommend that, for any board member receiving less than $10 000 per annum, the bands should occur in $2 500 steps, which would more accurately reflect the reality of the situation. I think it is unfair to put, in a band of nought to $10 000, someone who may be receiving sitting fees, perhaps aggregating only $1 300, as is the case with many boards and committees, because that does create a misleading impression.

The committee also recommends that the government should examine its resource base for statutory authorities. We recognise that BCIS (Boards and Committees Information System) contains voluminous information—some 1 000 pages of information—relating to hundreds of boards and committees. It is a cumbersome system and it is not easily accessible to the public. We believe that the government should recognise that in this age of information technology we could adopt the practice adopted in so many other states and territories, namely, to establish a register of statutory authorities.

This is something which I have talked about for well over a decade. Terry Roberts nods his head knowingly, as he is wont to do. It is a relatively simple process to look, for instance, at the Queensland register of statutory authorities, which lists in brief the enabling act, the purpose of the act, the board members and other detail relating to the statutory authority. It is user friendly and can be used as a reference base by parliament, the public and the public service, and it can feed into other areas of government. I believe it is a priority and I hope that the government takes up this recommendation, which I understand has been made for the third time by the Statutory Authorities Review Committee.

This register should be posted on the South Australian government web site, which would provide easy public access to information regarding all the statutory authorities. The South Australian government web site is attractive and I think it would be enhanced by the addition of a register of statutory authorities. There is precedent in other states and territories as to how it could best be done.

The committee also believes that, where legislation does not stipulate a time frame within which an annual report must be tabled, ministers should, as a matter of course, adopt the practice of tabling reports according to the provisions applying to the public sector. That seems to be a sensible move.

The committee continues to be bemused by the fact that some statutory authorities are unaware that they have to report. It says little about the fact that there is an enabling act or reference to information which would make clear to them that there is a reporting requirement. On an earlier occasion, the Statutory Authorities Review Committee discovered that the University of South Australia had not prepared an annual report. The university is very good at preparing reports on all sorts of things, as demonstrated by the number of regular newsletters we receive, but on one occasion it did not prepare an annual report.

In conclusion, I point out that the committee intends to pursue this matter of a register of statutory authorities and the

issue of timeliness, and it intends to make sure that ministers and statutory authorities have information about the need for timeliness to ensure transparency and accountability of information which should be readily available to the parliament and the public.

I find it unacceptable that bodies which are funded by the public purse have yet to report on events, activities and their financial affairs for a period more than a year away. Once that information becomes stale, it becomes less relevant. On many occasions there might be issues of importance, and perhaps serious issues, which are of concern to the parliament and to the public and which do not come into the public domain simply because a report is yet to be published.

The Hon. Terry Roberts would have heard me on more than one occasion talk about how, in the dark days of the Bannon government, when all hell was breaking loose on the financial front, SGIC used to drop in its annual report on a Friday afternoon at about 4.30 p.m. about a day before Father Christmas set off from the South Pole!

The Hon. T.G. Roberts: Take it with him!

The Hon. L.H. DAVIS: Well, if the SGIC's burdens had been left with Father Christmas the reindeer would never have got off the ground, the burden was so great. But that is another issue for another day.

In conclusion, I thank the members of the committee for their work. Yet again, for the twenty-third report of the Statutory Authorities Review Committee, which committee has now been in existence for six years. The report is unanimous in every respect in its recommendations.

I would also particularly like to thank Ms Kristina Willis Arnold, the very hard working, diligent secretary to the committee, who has prepared this report, through the maze of statistics and the numerous contacts with the bureaucracy and the statutory authorities to ensure the accuracy of this report. On behalf of the committee I would like to pay her a special tribute.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I want to speak for one minute in response to the committee's report. It was noted by me and my officers today. In terms of my portfolios, I advise as follows in terms of the five reports noted in this report by the Statutory Authorities Review Committee that are late. The Adelaide Festival Centre Trust report has been tabled. It was tabled one day late. The South Australian Country Arts Trust Annual Report has been tabled, but it was one day late. The Enfield General Cemetery Trust report has been tabled. It was 15 days late. The Architects Board Annual Report I have signed off today to be tabled. The West Beach Trust Annual Report was tabled yesterday, 27 June. I just wanted to put that on the record, because, like the Chair and the members of the committee, I, too, believe that the accountability of statutory authorities to this place is a mighty important responsibility, and I do seek through my officers to make sure that they do report in a timely fashion. So that, of all the reports named under my portfolios that are late, the only one actually outstanding as of today is the Architects Board report, and I have signed that off to be tabled shortly.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

GAS (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 June. Page 1318.)

The Hon. P. HOLLOWAY: I indicate that the opposition will support this bill. The government has requested that the opposition assist in the speedy passage of this bill so that it can be proclaimed before 1 July. The urgent item within this bill is the question of gas pricing control. Under national competition policy reforms, which of course have impacted upon the gas, electricity and water industries to various extents, there is a timetable for introducing competition into those industries and there is also a timetable for making customers of those utilities contestable. Of course, that timetable for customer contestability depends on the size; in other words, on how big the customers are.

Of course, with each of those utilities that I have mentioned the timetable is that the largest customers are made contestable first and the smaller customers, that is, residential consumers in the large part, are contestable at the end of the process. In each of those utility industries there is a different timetable for contestability, and I have made some comments during debate on the electricity bills about how there is a problem in that, given that gas and electricity are, in effect, alternate fuels, and as gas is used to power significant amounts of electricity generation then, of course, when those timetables are different it does have an impact on the decisions that are made by customers in terms of their energy source. As I said, that matter needs to be addressed by the national government and the committees of government at a national level that are responsible for these sorts of policies.

However, what we are dealing with here is the gas industry. There is a timetable for contestability of customers that was set some time back when this new act was established in 1997. From 1 July this year small business customers are to become contestable within the gas market. The problem that arises is that the development of access regimes to ensure that there is a competitive market in gas supply have not yet developed to that extent. So in this state we still have a monopoly gas distribution situation with Origin Energy. It is a monopoly gas distributor but the price control that was over these small business contestable customers was due to be removed on 1 July.

What the amendment before us seeks to do is ensure that a price control for those small business customers who will be made contestable after Saturday will continue so that the monopoly supplier cannot exploit that position. The opposition supports that extension of price controls until a proper market in gas distribution and supply develops. That is why the opposition has agreed to the speedy passage of this legislation: so that the price control can continue.

One other important matter that is of some urgency in relation to the amendment of this act relates to temporary gas rationing. A situation developed in August last year where there were some problems with our gas supply. It was a time of high demand and there were some problems at the gas plant at Moomba. As a result of that experience the government proposes to amend the act to ensure that the minister has greater controls should gas rationing be required. In particular, one of the amendments that is before us enables the minister to give directions not just to the retailers of gas but to the wholesalers of gas as well. The opposition thinks that that is an eminently sensible proposition. There is also the provision for the minister to make directions in relation to the quality of gas in emergency situations. If there was a supply shortfall, it is possible to increase the proportion of car-

bon dioxide within the gas to ensure that the gas goes further. So the opposition will support that change.

The bill also amends some other matters in relation to the gas industry that are less urgent. One of them relates to licence fees and returns. There is a question of the constitutionality of the current fee system that is imposed by the government. The current fee system is based on the quantity of gas, so it is like an excise. As we know, of course, in the past state governments have had a lot of problems with those sorts of licence fees, as we have seen in the case of tobacco, petrol and other excise fees. The government proposes to amend the fee system to introduce annual licence fees, and that should meet any constitutional problems. Again, the opposition has no problem with that change.

There are amendments that enable the minister to require more information, and that also relates to temporary gas shortages. We have no problem with the minister having adequate powers to require information or to delegate powers during an emergency or to require the manner in which notices may be given. Another amendment concerns gas fitting work, and it is proposed that the period for taking action against a person who has improperly installed a gas installation be extended from six months to two years.

The final amendment relates to the recovery of benefits gained from contravention of the act. This amendment will enable the Technical Regulator to recover an amount equal to the financial benefit gained by a person, after application to a court, if a person contravenes the act. The opposition will support this bill, and its speedy passage, so price control for those customers who will be made contestable on 1 July will continue until there is some genuine competition within the gas industry.

The Hon. T.G. CAMERON: SA First places on the record that it is in complete accord with the Australian Labor Party on this issue and will support the speedy passage of this bill.

The Hon. SANDRA KANCK: As we all know, this bill arrived yesterday and, although I am not always keen to fast-track bills, in this case clause 4 needs to be passed and proclaimed by Friday, which is the end of the financial year. It would have been better to have more time to consider it, but under the circumstances we will support it.

The Hon. T.G. Cameron interjecting:

The Hon. SANDRA KANCK: There are not many issues that I intend to put 1 000 hours into ever again. I am surprised that the government has left it to the last moment, but the limited days of sitting that we have this year have made for some difficulties. The bill covers a grab bag of issues, as the Hon. Paul Holloway has just said—contestability, prices, gas rationing, licence fees and time extensions for launching prosecutions. That is just some of them. Certainly with the limited time that I have had to look at it, I can say that we are supportive of all those measures, but I want to spend a little time examining the issue of gas rationing.

I am particularly interested in this issue because, over the last two summers, I have commented on the public record about impending gas shortages for power supply in this state, and I have also predicted that we will have such gas shortages in the coming summer. Each time I do so, the Treasurer denies it or tries to hose it down. Either he is getting bad advice or he knows the truth and does not want the public to know, because I have had it confirmed from various sources over time that this is a fact. It is a pity that the government has tended to hide this issue from the public because, as long as the information is hidden, nobody will take appropriate action to address it.

Part of the reason that we face this situation is that this and previous governments have shown a lack of vision in terms of forming a long-term energy policy. I acknowledge that gas is a much better fuel for us to manufacture our electricity from in terms of greenhouse gas contribution, but in the last decade South Australia has dropped further and further behind in manufacture and in research into ecologically sustainable energy, which is the precursor to manufacture. There have been no genuine, wide-scale attempts by government to encourage consumers to conserve, no solid examples have been set by government departments as to how to do it, and no planning legislation with appropriate design constraints in place has been enacted. This bill finally recognises that this long-term lack of planning could place us at risk with our gas supplies.

The Pelican Point Power Station, which will come on stream next summer, will add to the demand for gas in January and February and, when we have two or three successive days of temperatures in the high 30s, we will have problems. Industry knows that we do not have enough gas. Adelaide Brighton Cement is already researching alternatives to gas because, when gas shortages occur, it will be one of the first industries to have its supplies cut. It has seen the writing on the wall. Given the lack of long-term energy planning by successive governments over the last decade, this particular measure is necessary.

I note that, when Moomba went down last year, the government could only provide directions to retailers. The legislation that is before us will allow the government to direct not only retailers but also producers and, as the Hon. Paul Holloway noted, it will allow for gas to be supplied to consumers with a higher content of CO_2 than it normally does, which means that cooking time in the household will be slower, but it is better that we have poorer quality gas than none at all in those circumstances.

I have continually called on the government to do something about direct encouragement or providing incentives or even regulation to move us away from the use of fossil fuels and from having to pass stopgap measures like this. In terms of the significant issue of clause 4, which is why we have to debate the bill now, putting price limitations on a monopoly is obviously a very sensible move under the circumstances. I indicate our support for the bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their preparedness to deal with this bill quickly. It was introduced into the House of Assembly on 24 May. We had the intervening period of estimates committees which meant that it could not be debated before now. I recognise that these sorts of requests to deal with issues quickly can create some inconvenience for members and I thank those who have addressed the bill for their preparedness to do so at such short notice. It is an important bill and it must be in place before the start of the next financial year.

I note the observations made by the Hon. Sandra Kanck about the broader issue of gas supply and energy policy. We could spend a lot of time debating that issue and I disagree with some of the assertions that she made but we will leave that debate for another day. I always enjoy listening to and watching the debate between the Hon. Sandra Kanck and the Treasurer. I thank members for their support of the bill.

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

STATUTORY AUTHORITIES REVIEW COMMITTEE: STATUTORY BODIES

Adjourned debate on motion of Hon. L.H. Davis:

That the report of the committee on the third inquiry into timeliness of 1998-1999 annual reporting by statutory bodies, be noted.

(Continued from page 1338.)

The Hon. CARMEL ZOLLO: I commence by thanking Ms Kristina Willis-Arnold for her diligence and hard work in the preparation of this report, and I welcome our new research officer, Mr Gareth Hickery. The report of the committee was unanimous. The presentation of this report into the timeliness of annual reporting is an important one for the committee, and it is important to the people of South Australia for reasons of accountability and transparency.

In this inquiry, the committee focused on several issues including which bodies tabled late and which bodies did not table at all. The Presiding Member has already cited examples of several such bodies and pointed out that the committee made recommendations in recognition of the difficulties that some committees may have in their late tabling, some of which, of course, have little to do with their diligence but perhaps with tardiness in the ministerial office or lack of synchronisation in relation to the tabling of the reports in parliament.

It has also been pointed out that the majority of bodies did comply with the act and that there has been an improvement in timeliness. The committee made a series of recommendations which will assist bodies in the delivery of their duties. The committee again recommended that its terms of reference be broadened to include all bodies pursuant to legislation—that is, all statutory bodies—and that its name be changed to the Statutory Bodies Review Committee.

The committee's recommendations reiterate some of those made in the inquiry into boards of statutory authorities: remuneration levels, selection processes, gender, and ethnic composition, including the fact that the listing of those members who receive remuneration of less than $10 000 should be disclosed in bands of $2 500. I agree that it is interesting that nearly 50 per cent of government boards and committee members receive less than $10 000 per annum. I also agree with the Presiding Member that such a recommendation of the committee would more accurately reflect committee members' remuneration.

I am certain that all will agree that such disclosure will enable a more accurate analysis of such fees. I am on the record—on at least two other occasions in this parliament, I am fairly certain—urging the state government to commit itself to providing the necessary resources to establish a separate and comprehensive electronic database. I say 'separate', because such a register should be completely separate from the level of information that is currently available on the South Australian government website within each ministry.

The committee suggested that the information published on such a register should, for each body, include: names of each board member, date and term of appointment, establishing act, responsible minister, and a brief description of the body's functions and the date of the last published annual report. The last bit of information would be extremely useful for reasons of transparency and accountability.

In earlier correspondence to the committee, the Premier explained that the resources involved in the compilation, cross checking and maintenance of such a register are considerable and would generate significant levels of bureaucratic activity, apparently with minimal tangible benefit. I strongly disagree. The committee noted that most other states now have a comprehensive version of such an electronic register, and this report cites examples. So, it would appear that the Premier is out of touch with the thinking across Australia.

I also note that in the Deputy Premier's response to the committee at that time, he commented that, depending on the definition used to describe statutory authorities, there are more than 2 000 entities which may need to be covered. It would indeed be interesting to know exactly how many bodies in South Australia there are pursuant to legislation at any given time. I believe it is a matter of the provision of resources, probably I suspect in the form of a salary for a project officer. Once it is compiled, it is a matter of maintenance of information, which should not be too difficult a task. The excuse for South Australia's not having an electronic version of a register should be the cause of some embarrassment for this government. Again, I thank the committee staff, particularly Ms Kristina Willis-Arnold who prepared this report. I commend the report to the Council.

The Hon. T. CROTHERS secured the adjournment of the debate.

GENETICALLY MODIFIED MATERIAL (TEMPORARY PROHIBITION) BILL

The Hon. IAN GILFILLAN obtained leave and introduced a bill for an act to regulate the possession and use of genetically modified plant material. Read a first time.

The Hon. IAN GILFILLAN: I move:

That this bill be now read a second time.

Before moving to the main substance of my second reading explanation, I think it is important to share with the chamber a report of today on the ABC news online of yet another story relating to the moratorium on GM crops. The report, headed 'Local News: SA Gulf Cities—Another group wants moratorium on GM crops', states:

There are fears the introduction of genetically modified organisms to Australia could devastate so called 'heirloom' varieties of plants. The seed-saving group, Heritage Seed Curators Australia, has become the latest organisation to call for a moratorium on the introduction of genetically altered crops and plants. The group's president, Bill Hankin, says while farmers will bear the brunt of any problems, backyard gardeners will also suffer: 'Someone that's growing a GMO tomato—and there are those varieties overseas—the pollen from that tomato will wind up in the neighbour's pollen, the neighbour's tomato crop.' 'If that crop is a heritage variety, it will be destroyed. . . it's effectively been altered forever.'

I regard this report as a useful curtain raiser for my second reading explanation, because it highlights the way in which concern about the introduction of artificial genetically modified crops in Australia is widely increasing.

My bill seeks to put in place a five year moratorium on the planting of genetically modified crops in South Australia. It allows an exception only for genuine research, and then only in such circumstances where genetically modified material cannot be released or escape into the natural environment. In February of this year, I sent a letter to the editors of all

newspapers circulating in regional South Australia. It was published in many of them, including the *Stock Journal*, where it was headed 'Letter of the week' on the editorial page, under the heading 'GM Crossroads'. I believe the words of that letter best express the reasons I have today for introducing this bill. The letter states:

Dear Editor, Australia is at a crossroads in the world debate about the growing of genetically-modified crops. Two distinct opportunities are open to us, and one enormous pitfall. Sadly, the South Australian government appears not to have grasped the significance of our place at this crossroads. At the moment, in South Australia, we grow practically no genetically modified crops. Because all our produce is GM free, we command a price premium for our produce, competing on world markets against GM foods from other regions.

That is sourced from the American company Archer Daniels Midland, which is offering a premium of 4 per cent to farmers who grow conventionally-bred Synchrony soya beans, according to the *New Scientist* of 23 October 1999. The letter continues:

WA potato growers are already marketing their product as GM-free, particularly for the benefit of customers in Japan—

and that is sourced from the ABC Radio 'PM' program of Friday 30 July 1999—

In Europe, including Britain, there is overwhelming demand for non-GM food—

and that is sourced from an article entitled 'Farmers in the firing line', in the *New Scientist* of 25 September 1999—

Many retailers and importers, responding to consumer demand, will accept only non-GM products for sale—

and an example of that is the British supermarket chain, Sainsbury's—

Although this situation may not last, we should expect at least a continuing price differential between GM and non-GM foods. Some gene biotechnology is said to improve crop yields, or reduce the need for pesticides, although results have not always measured up to promises.

That is sourced from an article entitled 'Splitting Headache: Monsanto's modified soya beans are cracking up in the heat' in the *New Scientist* of 20 November 1999. It continues:

If we seek out these supposed benefits, we may either lose our markets overseas or a non-GM premium price advantage, or both. We might reduce the costs of production, but demand for GM crops is already shaky. . .

That is sourced from the ABC Radio 'PM' program of Monday 23 August 1999. American farmers have already been hit. Exports of genetically modified corn to Europe in 1997 of 70 million bushels was reduced to just 3 million bushels in 1998. It continues:

. . . and if any health risks from the new varieties emerge in coming years, demand would certainly plummet. If we allow GM crops to be grown alongside non-GM crops, we would destroy any chance of ever again capturing the non-GM, or premium price market. The GM versions of plants would cross-pollinate or contaminate the non-GM, and we would no longer be able to certify our food as GM-free.

Because cross-pollination can occur across massive distances, the government must urgently consider declaring SA a GM-free zone. The potential benefits are enormous. On the other hand, failing to take a clear stand on this issue could jeopardise South Australia's current position as a producer of high quality, non-GM foods.

No matter what benefits are available from individual GM crop varieties (and it would be foolish to claim that there are no benefits), the overall risk to South Australia's market position warrants great caution in this area. Unfortunately, the public pronouncements of our Primary Industries Minister, so far, indicate only a gung-ho acceptance of all biotechnology.

I fear the state government is leading SA's primary producers up a garden path, to an uncertain destination, and from which there can be no return.

In fairness to the Minister for Primary Industries, in the past few weeks, due to increasing and strident pressure, he has modified his gung-ho acceptance in respect of his comment that the jury is out. In other words, a spot of back pedalling is occurring. In the letter I just read out, I made the following statement:

At the moment, in South Australia, we grow practically no genetically modified crops.

That statement was made after checking with the President of the South Australian Farmers Federation, Mr Dale Perkins. However, Mr Perkins and I were wrong. Since that letter was written and published, we have learned that genetically modified crops have been grown throughout South Australia for the past few years. In many cases, farmers growing so-called trial crops were unaware that the plant material was genetically modified.

On 29 March this year the *Advertiser* reported that one company, Aventis, was carrying out trials of genetically modified canola crops in up to 22 council areas in South Australia. On the same day (29 March) I quoted in parliament from a document issued by the Interim Office of the Gene Technology Regulator. The document refers to 'the risks of these trials' and lists the risks as follows:

Greater use and reliance on a few herbicides; unfavourable environmental impact/s gene transfer to wild or uncultivated plants; paeiotropic effects (a number of possibly unrelated effects) of transgenes; development of volunteer weed problems; development of herbicide-resistant weeds; public and consumer acceptability of transgenic plants and their products; reduced biodiversity; and development of monopolistic chemical/seed companies.

The fact that this litany of risks is recognised by the industry regulator does not rule out the possibility that there may also be some advantages from genetically modified crops. As with most technologies, there are undoubtedly positives and negatives, but my concern is that we may be rushing headlong to snatch elusive positive benefits before we have adequately quantified the risks—the negative effects.

The potential negative impacts on South Australia's overseas markets have been well recognised. I have a thick wad of newspaper clippings, faxes, emails, news releases and letters which reflect the concern felt by many people all over the world about this issue, and I will put some examples before the chamber, as follows.

ABC Country Hour, 7 July 1999: lawyers are setting themselves up for class actions for farming groups in the genetic modification debate. Joe Lederman, a food law specialist with the Baldwins firm, says he expects most legal action in the short term not to come from consumer or retail groups but farmers.

ABC Country Hour, 17 November 1999: Australian food producers could win a market worth a billion dollars by concentrating on non-genetically modified foods. That is the message from one of the world's leading GM testing companies, whose president is visiting Australia.

March/April *Consumers Voice*, the journal of the South Australian Consumers Association: a survey reveals overwhelming support for a five year moratorium on the commercial release of any new GM food until further testing.

The Gene Ethics Network, 24 March: grain exports worth hundreds of millions of dollars are at risk from pollution by genetically engineered canola pollen and seed.

ABC 1346

Hour, 17 April: farmers are wise to be cautious about GM crops, according to one of Europe's leading food researchers. Klaus Grunert heads MAPP, a centre backed by European

governments to analyse consumer trends and food marketing. He says the European attitude against GM food is deeply entrenched and could take two decades to change.

ABC Country Hour, 18 April: a group of Eyre Peninsula farmers will lobby to have their region declared a genetically modified free zone. The group from Coulter consists of traditional broad acre farmers who believe they will gain a price premium by targeting GMO free markets.

The Western Australian Minister for Primary Industries and Resources—a minister for a Liberal government—on 18 May: Minister Monty House announced the state government will not support any commercial releases of GMOs for agriculture in WA until the market and environmental impacts have been evaluated.

New Scientist, 27 May: an article headed 'Sowing dissent' stated that 'strict segregation would keep crops free of GM seed, but is it possible?' The article concludes not. In tests done last year, 12 out of 20 random American consignments of conventional maize seed contained detectable traces of GM maize.

The *Border Watch*, 7 June: a meeting of 30 people at Glencoe voted unanimously for a five year moratorium on GM products in the Australian food chain.

Business Review Weekly, 9 June: In Europe thousands of hectares of crops inadvertently planted with GM seeds have been dug up by farmers because they were unsaleable in Europe.

District Council of Grant, 19 June: resolution passed—council believes that it is in the best interests of the community, particularly from an environmental, geographic and marketing point of view (a clean and green image globally) to ensure that GMOs are not trialled in the District Council of Grant area.

ABC Radio News, 21 June: South Australian Apiarists Association fears that it will not be able to guarantee that South Australian honey will not contain GM pollen if GM canola crops are allowed to be freely grown in this state.

I could go on. Much more of this material is available, but I have picked only a few at random and more or less skimmed over the top. I briefly mentioned the possibility of lawsuits in this area between rival producers—those with GM crops versus those who want to be GM free. A spin-off from that scenario relates to insurance. How difficult will it be to insure oneself against this sort of claim? If it is possible to insure at all, how high would the premiums be? Nothing I have said up to this point constitutes a denial or rejection by me of any particular GM crop variety. I recognise that some GM plants may be beneficial to farmers and to feed a hungry world more efficiently, although the earlier so-called 'green revolution' was grossly oversold and in fact backfired, so I feel considerable caution about these sorts of statements.

If there are benefits, they need to be discovered after adequate testing, and in my opinion that has not occurred so far. Along with potential benefits there are also enormous risks, and it is obvious that we are not yet prepared or equipped to deal with those risks. In this situation, it is unwise in the extreme to rush headlong into embracing something about which we know so little, and that is why I am introducing this simple bill for a five year moratorium on genetically modified crops. The area of knowledge is changing rapidly, and the research should go on, but only in circumstances where it cannot under any conditions contaminate surrounding areas and surrounding crops.

The Hon. T.G. Roberts interjecting:

The Hon. IAN GILFILLAN: Yes; supervised and quarantined—I agree 100 per cent with the Hon. Terry Roberts' interjection—and also supervised and organised by independent researching bodies, if I had my way. I find it disconcerting that research that is presented as irrefutable is often funded by companies which themselves hold a monopoly and which stand to gain millions of dollars in the promulgation and sale of the results of research.

As a final comment on the bill, I want to say that, regardless of how members regard the pluses or negatives of artificial genetic modification, that is not the major issue before us in June 2000. What is principally before us is an increasing domestic and world market which is, one would say, opposed in varying degrees to purchasing genetically modified food, and is aware that consumers are entitled to know whether any products contain genetically modified material. The two issues go hand in hand, and it is no secret that I intend to introduce labelling legislation in this place. That is not the substance of this bill: the substance of this bill is a safeguard for the marketing potential of South Australian producers, and with that in mind I believe it should attract support from all members of this place—the various parties and Independents—and of the farming community.

Many in the farming community whom I know and respect believe that there will be advantages to them if they can bring on board some of the advantages of what they see as a genetically modified revolution. I think they have hung their hat on two factors. One is that the consuming public can be 'educated' in a short enough time that the consuming public will put aside any concern or objection they have to genetic modification, and I think that is wrong. I think it is just unrealistic to expect the consuming public to read scientific journals in a so-called educative process so they will then buy products which they currently do not want to buy. The world market for non-genetically modified product is increasing. Australia needs to sell the vast proportion of its product overseas into world markets. We will not find it anything like as easy to sell if we do not take heed of the opportunity of this bill. It is not only the overseas market: as members will note, there is increasing concern and opposition in Australia itself. I conclude my second reading explanation.

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

[Sitting suspended from 6 to 7.45 p.m.]

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ENVIRONMENT PROTECTION

Adjourned debate on motion of Hon. J.S.L. Dawkins:

That the thirty-ninth report of the committee, on environment protection in South Australia, be noted.

(Continued from 31 May. Page 1202.)

The Hon. T.G. ROBERTS: I indicate my support for the report. The committee began its inquiry into the EPA in October 1999 with full government and departmental support. The EPA was a willing partner in cooperating with the committee to look at its internal workings. In the main, it welcomed the committee's analysis of where the EPA had come from. It was set up under a Labor government; it was

protected, fostered and nurtured under the incoming Liberal government in 1993; and then its role was cemented in the next period of Liberal government under the current leadership of John Olsen.

The EPA was set up under the minister at the time who, I think, was Kym Mayes, to try to coordinate an environmental protection authority to develop a culture of understanding on the importance of protecting the environment so that future generations could operate industrially, commercially and agriculturally in a sustainable way that would allow society to maximise the returns in an economic way where the environment was protected and, in cases where it was possible, to enhance the environment.

We had an introspective look at where the EPA had been; we looked at where it was; and we tried to give some direction or indication of ideas in respect of where the EPA should go, because the government itself at this moment is looking at an inquiry into the EPA. I am sure that some of the recommendations that have been put forward by the committee would be picked up by any government in its scoping of a new or improved role for the EPA in our current circumstances. We tried to take a snapshot. We tried to get a hold on its strengths and weaknesses. I guess that it is up to others to make a judgment on whether the committee was successful in being able to do that.

The committee made 40 recommendations. It took evidence over quite a considerable period. There were 70 submissions and 83 witnesses. A lot of the meetings that we held when we were taking public submissions were quite well attended by community groups, organisations and individuals who were interested in the evidence that was given, particularly by the EPA itself. Many of its critics were very constructive when they put their evidence before us, given that they were able to sit in on the EPA's evidence giving process.

I am sorry that the EPA has lost its director. He is moving on to perform another function in the environmental area, which is the protection of the environment connected with the Murray River and its environs. That is a loss to the EPA, because I think that Rod Thomas did a very good job under difficult circumstances. There was a difficulty, as the committee pointed out, in the community's mind as to what was the EPA—was it the authority or the agency? Did people get in touch with the authority or the agency? What was the role of the authority, and what was the role of the agency?

There are over-lapping responsibilities, and the authority had some frustrating difficulties in being able to achieve much of its role and function because it does not have an allocated staffing level: it relies on other departments to perform the functions or it commandeers staff to perform functions on its behalf, and that is a bit restrictive. Generally, there is a cooperative relationship between the agency and the authority, but there are occasions, on some very serious environmental matters, where the community believes that there should be some prioritising and an integrated approach between the authority and the agency, but that does not occur. There were areas that people assumed were the responsibility of the authority, when in fact they were the responsibility of the agency.

There was confusion. The EPA meant two things to the community but the community did not understand its role and function. When a complaint was taken to the agency, people were fumbling in the dark for some time. I think the recommendations we made in that regard will be picked up by the government. I hope that there is administrative streamlining and integration of the agency and the authority, with an improved communication line from the community through the agency, the authority and local government. By this means we can try to establish a better relationship among community groups, particularly those that deal with potential polluters and those polluters who take a hostile approach to the activities of environmental groups.

I suspect that any government that looks to solving planning problems emanating from a poor administrative approach to the siting of such things as foundries, polluting secondary industries and, in some cases, primary industries, may find a better way to approach the issue, that is, by trying to get the good will of communities to accept short-term discomforts for long-term benefits, if required. In other cases there may be discharge from potential polluters that even short-term measures will not resolve.

The community groups that have grown in the state over the last 10 to 15 years have formed what they call a people's EPA as a response to the lack of integrated direction from the Environment Protection Agency. According to many of the submissions received, the agency was seen as a stumbling block to solutions, and community groups formed themselves into political lobbies to fight the polluters, the potential polluters and some of the government decisions that they believed were based on poor planning recommendations. They found that, instead of using the agency as an assistant to a solution, they were fighting the agency as well.

Establishing cases based on best scientific evidence was difficult because departmental assistance was needed and in many cases community groups felt openness was not there. They had to turn to independent sources for information and many times they had to argue against the agency in establishing legitimate cases to try to maintain a healthy environment.

Problems arose in the metropolitan area, particularly in the western suburbs, around the existing use legislation, which allowed for the expansion of programs with little or no monitoring. Companies could legally operate in that way, and conflict arose when communities felt that health standards were deteriorating and that they needed the support and assistance of the EPA. It was felt in many cases that the EPA, rather than prosecuting, was assisting polluting industries and establishments to flout the law by giving them time to self-regulate.

As an individual member of that committee I was not able to make an assessment of all the criticisms that were being put forward, but that was a general criticism that was coming from community groups. Industry, of course, was saying that self-regulation was preferred to legislation and regulation and that they wanted to be able to solve their problems in the time frame set by themselves and that, in relation to the funds that they would allocate to administer best environmental practices, they were determined to make sure that the board of directors and the shareholders were those who were going to make those decisions and that communities were not going to be influencing those outcomes.

So, the scene was set for conflict. I hope that, when the government looks at a review process for a new role for the EPA and a new structure, the views of communities will be sought where planning laws enable potential industries, which may be in a position to lower the standards of lifestyle in particular areas, to exist alongside of housing developments. It is to be hoped that the communities will be taken into confidence, that the people can sit down around the table and share information, so that development can proceed in a fair and equitable way that allows for the protection of standards,

particularly of air quality, protecting the waterways and protecting the communities from noise pollution.

Noise pollution, as well as air quality, were probably two of the major problems that the agency and the authority had to deal with, and communities found themselves in conflict with decisions made by the EPA on many occasions and raising the issues with the authority and the agency many community groups found very difficult. So some of the recommendations we made revolve around reporting of difficulties that communities face in relation to maintaining a clean environment. How do they do it? Do they do it through a store front? Do they do it through telephone lines? Do they do it through their local member? We have set up a series of recommendations that we hope allow for greater participation by local members of parliament in relation to helping and assisting with problems that people find within their communities. We hope that the streamlining of the process allows for the confidence of the communities to be taken into account when the planning process is first put into place.

Using the foundry at Mount Barker as an example, it is not fair on an industry such as a foundry after it has gone through all the planning procedures that are necessary within the law to then be shut down on the basis that the residents' concerns were not listened to and that modelling appeared not to be adequate in the first instance. I think there needs to be more certainty and more straight shooting talk around tables before those potentially polluting industries are put into areas where residents' health and the operation of those foundries is an issue.

The government set up an area and I think it was probably disappointed that it did not attract more foundry businesses. But it is very difficult. Governments can provide incentives, they can provide directions and they can advise, but, at the end of the day, whoever is spending the dollar will determine the best place for the industry, within the guidelines of the planning laws. I think there are better ways of doing things in relation to a lot of the problems that we currently have in relation to the planning processes, where the protection of the environment is to take place. I would like to see a regime where industry, government and community groups and organisations can be made to feel comfortable in the planning process, without companies having to put their trade secrets on the table for competitors to take advantage of. But in those circumstances they can at least share information for whatever the process is, and the potential for expansion in a lot of cases, whatever the processes are, and what the impact will be on communities.

The difficulty that all governments have is existing use and extension of the existing use regimes, and the other difficulty that we have is that, where developers find any land that is available for development for housing, they will circumvent a lot of the processes within the law.

The Hon. Diana Laidlaw: Or they test to the limit.

The Hon. T.G. ROBERTS: That's right. They will take all of their liberties to make sure their projects are up and running, and then residents become embroiled in conflicts with other established industries, and I guess airports are probably the best example of that. But there are other examples of where buffer zones were provided by governments over a period of time but where they have been eaten away by development and then the residents are in conflict with the established bodies, who were in fact operating within the law when they were first established.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: Yes, farming practices, particularly in the Murray Bridge and Myponga areas, where intensive dairying is starting to impact on sparsely populated areas. So a change in an activity, an intensification of farm practices, can change the environment in which people live, and all of those signals need to be picked up very quickly. Some of the recommendations are that local government should play a stronger role in identifying some of these problems before they actually are established problems, where there is no mechanism for turning the clock backwards. There are some engineering solutions that can be applied that can prevent the clashes between communities and development. Some of these engineering solutions are expensive.

Governments may be able to provide some support and assistance to eliminate some of the conflict by assisting in providing soft loans for some of those companies, if their environmental standards are going to be improved. I think those sorts of things need to be looked at as potential solutions. But in the main I think that no matter how you legislate or what legislation you have written they will all be tested. People will attempt to use the courts and attempt to sway opinion to make whatever the program is legitimised and within the law, despite what community organisations and communities will have. I think the challenge is to get governments and people to sit down to make sure that there is a consensus around ways to proceed, without litigation becoming the preferred option for settlement of these problems, because even though there may be a litigated outcome there will not be a solution to the problem. It will just keep rolling on.

I thank the committee's secretary and researcher for the work that they put in, I thank the other members of the committee for their hard work, and I thank the ministers for providing the open forums and the ability for us to get the information required from the departmental bureaucrats and others who gave evidence.

The Hon. T. CROTHERS secured the adjournment of the debate.

AUSTRALIAN ROAD RULES

Order of the Day, Private Business, No. 3: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning applications of regulations, made on 18 November 1999 and laid on the table of this Council on 28 March, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

There are some 11 motions concerning regulations relating to the Road Traffic Act and the Motor Vehicles Act before the Council, all of which relate to the Australian road rules. The Australian road rules are the result of the considerable effort by road traffic authorities in all states and territories and the commonwealth under the auspices of the Road Transport Council. My understanding from evidence given to the committee is that the process of endeavouring to make as consistent as possible road traffic laws in Australia commenced at about the same time that Mr Chifley was Prime Minister of Australia. Apparently the states and the commonwealth have been talking about that since that time, and one hopes that, after more than 40 years of serious contemplation, the net result of these new traffic rules are to the benefit of South Australia.

These regulations were introduced on 1 December 1999. The road rules are designed to make the road rules easier to understand for everyone, especially the average motorist, and they are also designed to ensure that, when one travels around Australia (and we travel at increasing rates in the modern, 21st century), we all basically know what the rules are. I well recall on my first trip to Melbourne being stuck in a lane attempting to do a right-hand turn from the right lane and incurring the wrath of what I thought at the time was three-quarters of the population of Victoria because, in Victoria, if you want to turn right, you turn left, which probably says something about Victoria.

In any event, these rules are drafted in what the report accompanying the regulations describes as modern style, and they are supposed to be easier to understand than the Road Traffic Act and the Motor Vehicles Act. The committee put holding motions on the road rules because they brought probably the greatest change in the road traffic laws since the horse and buggy days. The Legislative Review Committee wanted to ensure in a very positive and direct manner that the average citizen, motorist, pedestrian and cyclist would benefit from the introduction of the rules and that the cost of their introduction was outweighed by the benefit to the community. In other words, it is my view, and I suspect the view of all of us here, that uniformity at any cost is not something that we should subscribe to, albeit it is an admirable objective in itself.

When I attended the Australasian regulation review conference and legislative review conference in Sydney last year, a significant paper was given by the then secretary of the New South Wales committee on the difficulties that the New South Wales committee had been confronted with in dealing with the implementation of the Australian road rules in New South Wales. Indeed, at that meeting and at a subsequent meeting, Mr Hogg, on behalf of the committee, tabled a letter from the Chief Magistrate of the New South Wales' local courts to the project manager of the Australian Road Rules Roads and Traffic Authority, with a copy to my sister committee. In that letter she said:

> New South Wales magistrates, legal practitioners and the general public will have eight sources of traffic law with the introduction of the Australian road rules. This legislative framework is seen as leading inevitably to confusion and error, and such a prospect is completely unsatisfactory when the implications of these laws for the community are considered.
>
> I believe it is poor policy to provide for the penalties and disqualifications for serious speeding offences in regulations. . . the offences are sufficiently serious to warrant their inclusion in the principal act with the increased level of scrutiny that that affords.

She went on to say:

> Many of my colleagues have expressed concern at the confusing form of the subject provisions. . . it is evident that legal practitioners and the general public are unaware that the legislative basis for 'licence appeals' changed. This is a direct result of including important matters in regulations which are by their nature far less accessible to the community. As a result there are many disappointed members of the public wasting time at court in futile appeals. I think the community is entitled to expect that the laws affecting road users will be located in one accessible document.

When one was confronted with that piece of evidence, one thought that one might need to check that the same criticisms were not applicable in South Australia. With further inquiry in New South Wales, in February it reported to a national meeting of chairs of legislative review committees that:

> The total cost of the implementation of the rules in New South Wales is said to range between $23 481 000 and $50 083 000.

Again, confronted with that piece of information, I was of the view that we needed to ensure that we were not leaving the South Australian taxpayer open to similar amounts. I understand that a significant proportion of the range between $23 million and $50 million involved the changing of parking signs in New South Wales, which were apparently inconsistent with the rest of Australia. I have to say that $23 million or $50 million is a lot of money and buys a lot of schools and police officers. I also have to say, and it did not occur in this case, that those ministers who want to come to a committee with a range in cost varying between $23 million and $50 million—a variation of the order of 100 per cent—can expect some degree of scrutiny from that parliamentary committee to try to pin down the figure.

In any event, armed with that information, we decided that we would look closely at these regulations. We were also mindful of the fact that the government had undertaken a significant publicity campaign at a cost of $1.2 million for the promulgation of the regulations. We provided the minister and her officers with a summary of the criticisms from New South Wales and some of the concerns that we had and, last Friday, Mr Shanks and Ms Churchman gave evidence to the committee. I digress by saying that Mr Ron Shanks, who is the Project Manager of Statewide Operations, is an impressive man, and I understand that he was mentioned recently in the Queen's birthday honours with an award, principally because of the work he undertook in relation to these regulations in South Australia. My judgment in the light of his evidence is that his award is well deserved.

The Hon. Diana Laidlaw: It's been his life.

The Hon. A.J. REDFORD: The minister interjects that it has been his life. He should take a pat on the back, because he impressed the committee. We also received some evidence from Ms Churchman about the public education campaign undertaken by the government. This campaign cost the taxpayer about $1.2 million. It was principally designed to educate the public about the changes in the road rules. Ms Churchman said:

> I think the figures for the public campaign were about $1.2 million. The interesting thing about that, as a result of some research we did afterwards, was the very high proportion of respondents to the survey, I think 76 per cent, who said they felt the roads were now better and safer. Our preliminary research suggested that a lot of people were not aware of the rules that we already had on the roads. A lot of people had a lot of misapprehension. We took the opportunity of the new road rules to reinforce old messages and probably re-educate some of the drivers on the road who might not have looked at the rules since they got their licence. We believe that $1 million will lead to a heightened understanding of rules on the road generally and, hopefully, safer driving as a result.

I will take those comments with me when dealing with regulations in the future because, as far as regulatory reform is concerned, one of the guiding principles in trying to deregulate or minimise regulations in the western world or OECD countries is to ensure whether you need the regulation in the first place. When one considers that spending a measly $1.2 million on an education campaign makes people feel safer on the roads, I suggest that is money well and wisely spent.

As legislators, when we consider changing the road rules or rules that affect other fields of human endeavour, we should seriously think about educating people about the existing rules rather than imposing new rules and clogging up our regulatory system. I think an important lesson has been learnt in a very practical way from the manner in which these rules have been promulgated and implemented. The

committee closely scrutinised these road rules particularly in the light of criticisms from New South Wales—and I will return to those later. The committee also approached the RAA, which made some comments.

For those who are reading *Hansard* and do not have the documents in front of them, the rules do some useful things. They extend the class of vehicles that can stop in loading zones; they extend the time that a driver with a disability can stop in a normal parking spot; they allow children under 12 to ride on footpaths subject to local council by-laws; they relax some of the rules on safety belts for historical vehicles; they ban the use of hand-held mobile phones except when the vehicle is parked; they change the rules on travel in the right-hand lane of a multi-lane highway—as a frustrated road user, that is not before time; and they require a traffic indicator to be operated for five seconds before a vehicle pulls into traffic. I think that rule might need to be reviewed a little further down the track, but it is a step in the right direction.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Count five seconds when you're running late for an appointment. It is a long time. John Meier said in the committee this morning that the practice that he adopts is: he gets into his car, he puts his key in the ignition, he turns the key and he puts the indicator on. He then takes his coat off, puts his seat belt on, puts the car into gear and looks up. He thinks that all that might have just covered the five seconds. If members try that, they will probably find that that is how long five seconds take—it is a fair amount of time. We are in the habit in South Australia of indicating to show where we have actually moved two seconds earlier before we commenced indicating. That seems to be the practice of some road users in this state.

We considered the criticisms of the New South Wales magistrate and put those comments to South Australian witnesses. I will not bore the Council with the details, but it is pleasing to note, and it is consistent with the high quality of drafting that we normally experience from parliamentary counsel, that we adopted an entirely different approach to the promulgation of these regulations in South Australia. Consequently, none of the criticisms made by the New South Wales magistracy applied in South Australia.

The committee wrote to the Chief Magistrate enclosing a copy of that letter asking whether he agreed with his New South Wales colleague about those criticisms. He delegated the task to Mr Newman SM, who informed the committee by letter, as follows:

> I confirm my discussions with Mr Calcraft that I have e-mailed all magistrates and have received no advice of any problems created by the implementation of the Australian Road Rules. I have read the letter dated 10 November 1999 from the Chief Magistrate of New South Wales. My view is that the issues raised by her relate to the way in which the New South Wales government have implemented the rules and made other changes to the traffic legislation and have nothing to do with the rules themselves.

I say: all strength to those who are charged with the implementation of the national road rules in South Australia in comparison with New South Wales. Whether we have it as a consequence of having a better government or more importantly a higher quality and standard of public servant is probably debatable. However, I suspect that one needs the other. I will—

The Hon. Carolyn Pickles: A sensible parliament would pass them.

The Hon. A.J. REDFORD: The honourable member interjects that a sensible parliament would pass them. That is true, although we must acknowledge that, from time to time, the executive mucks it up. We must be vigorous and open when that happens, but when it gets it right—and in this case it did—we have to be fulsome in our praise of the government, particularly when one looks at the significant resources that are provided. New South Wales claims that it will spend $50 million on this, and it has got itself a set of unworkable and unintelligible rules. So, collectively, we should all take a pat on the back, but particularly Mr Shanks, whom, whilst I am basking in his reflected glory, I must say I only met the other day.

The committee recommends that no further action be taken relating to the regulations. The unanimous decision of the committee is to withdraw its holding motion. However, the committee recommends that the minister ask Transport SA—I do not need to do this but we should cover our backs—to keep the effect of these regulations under close scrutiny to ensure that their overall impact remains positive.

I also note with a great degree of satisfaction that these rules were not implemented pursuant to the template style of legislation. For those members who do not follow legislation closely, template legislation involves one state passing a law and the remainder of the states adopting it. If South Australia had adopted the New South Wales legislation, it would have been in an unholy mess and, to some extent, unable to unravel it, because this is a real problem that you have with template legislation. As I have said on previous occasions, I am pleased to see that the South Australian government has a policy, which is outlined in the cabinet handbook, of not participating in template legislation. This is a positive effect of this government's policy not to participate in that sort of a scheme.

I congratulate the government and the Transport SA staff responsible. I also place on record my congratulations to my parliamentary colleagues. I was the only member from this parliament who attended that conference. When I explained that to them, they looked at me with some perplexity. However, they understood and grasped the issues very quickly and cooperated, and they took my word on trust. I believe it was a useful exercise and I am grateful for the confidence placed in me by my colleagues.

I hope that more of my colleagues will attend the national conference next year. Perhaps, in the future (and I hope the Treasurer is listening to this) our parliamentary committees will be funded somewhere near a similar level as our interstate colleagues. It is highly embarrassing to attend national conferences, which are opened by chief justices, the Governor-General of this country, and various other people, and be outnumbered by delegates from Norfolk Island, let alone delegates from Tasmania and other states. It is an experience that I have had on more than one occasion.

At committee level, Australian participation is strong but—from my observation—South Australian participation at committee level is pretty abysmal. If South Australia is to have an effect and influence on national policy—and people need to understand that these committees do drive national policies—we should provide proper resources. After all, ministers value strongly the importance of ministerial councils. I know that is the case because a prohibition exists on disclosure of any information at ministerial councils. Ministerial councils are properly resourced and they probably do good work. Material generated at ministerial councils is one of the principal exemptions under the Freedom of Information Act, and we will discuss that in the not too

distant future. In closing, I thank my staff, and others involved.

Motion carried.

DEMERIT POINTS

Order of the Day, Private Business, No. 4: Hon. A.J. Redford to move:

That the regulations under the Motor Vehicles Act 1959, concerning demerit points, made on 25 November 1999 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

MOTOR VEHICLE EXEMPTIONS

Order of the Day, Private Business, No. 5: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning oversize or overmass vehicle exemptions, made on 25 November 1999 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

MASS AND LOADING REQUIREMENTS

Order of the Day, Private Business, No. 6: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning mass and loading requirements, made on 25 November 1999 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

MOTOR VEHICLE STANDARD RULES

Order of the Day, Private Business, No. 7: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning vehicle standard rules, made on 25 November 1999 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

ROAD TRAFFIC, MISCELLANEOUS PROVISIONS

Order of the Day, Private Business, No. 8: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning miscellaneous provisions, made on 25 November 1999 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

ROAD TRAFFIC, MISCELLANEOUS VARIATION

Order of the Day, Private Business, No. 9: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning miscellaneous variation, made on 23 December 1999 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

PREVENTION OF CRUELTY TO ANIMALS ACT

Order of the Day, Private Business, No. 10: Hon. A.J. Redford to move:

That the regulations under the Prevention of Cruelty to Animals Act 1985, concerning fees and codes of practice, made on 27 January 2000 and laid on the table of this Council on 28 March 2000, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

ROAD RULES, MISCELLANEOUS

Order of the Day, Private Business, No. 12: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning Miscellaneous Road Rules, made on 11 November 1999 and laid on the table of this Council on 16 November 1999, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

ROAD RULES, READERS' GUIDE

Order of the Day, Private Business, No. 13: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961, concerning Road Rules—Readers' Guide, made on 11 November and laid on the table of 16 November 1999, be disallowed.

The Hon. A.J. REDFORD: I move:

That this Order of the Day be discharged.

Motion carried.

LIBRARY FUNDING

The Hon. CAROLYN PICKLES (Leader of the Opposition): I move:

That this Council—

1. Condemns the state government for its failure to provide adequate and ongoing funding for public libraries in South Australia; and

2. Acknowledges the social, cultural and economic benefit to the community of accessible and affordable public libraries

For many months now there has been a strong community debate about the future of public library funding. The groundswell of community support for public libraries has taken many by surprise and demonstrates how important and valued a resource they are in society today. As someone who is a regular user of my local library in Burnside, which at present is undergoing a very important redevelopment, I have to say that I have had over 30 years' use of that library, as have members of my family.

I first raised this issue with the Local Government Association, I believe in January this year, and it seemed that it almost had a premonition about what was about to transpire with regard to government funding. I commend the tireless efforts of the local council and the LGA in exposing the

government and not remaining silent. Sadly, months down the track little progress has been made on this matter.

On 12 April this year, Mayor Brian Hurn, President of the Local Government Association, wrote to the minister on the issue of library funding, and I will quote some paragraphs from this correspondence. His letter states:

> Dear Minister
>
> I am very disappointed in the approach which you have taken to public library funding discussions. The LGA has conducted negotiations in a direct and up front manner, even to the extent of flagging our decision to run a public campaign with you in advance. I am perplexed by your ministerial statement to parliament of yesterday's date which, among other inaccurate claims, wrongly accuses this association of encouraging councils to make commitments without securing funding.
>
> The short history of negotiations is that the initial approach by my predecessor Mayor Craddock in August 1999 has never been responded to. In December 1999 we were approached informally by Mr O'Loughlin and then on December 10 in a formal letter from you, with a proposal to remove in excess of $300 000 of interest earnings for public libraries by delaying payments to the Libraries Board. Subsequent proposals have worsened the annual position of public libraries by in excess of $200 000 by further lost interest as a result of the proposed $1.2 million cut in our allocation next year, and additional salary costs to PLAIN Central Services which were not sought by PLAIN or by public libraries.

He goes on to state:

> Over the years the LGA has worked positively and constructively to achieve mutually acceptable outcomes for public libraries. To show goodwill in the current environment, I flagged that I was prepared to enter into the one-year 'interim' agreement which you proposed (not my predecessor or I) and to look at the potential state reforms suggested by the Halliday report, provided that public libraries' funding position was maintained in real terms. I have also indicated our willingness to compromise in a number of other areas. We have even been willing to look at less than favourable outcomes for a 12 month period in return for a guaranteed arrangement for the following five years in recognition of Arts SA's particular problems this coming year.
>
> The reality is, Minister, that your officers have put to you a short term solution to cash problems in Arts SA at the long-term expense of what has been a very successful state-local relationship around public libraries.

So he goes on. In my view, the debate has operated at two levels. The first is the argument and dispute about figures and funding. This has largely occurred between state bureaucrats, particularly Mr Tim O'Loughlin and officers of the LGA and other local councils. I must add that keeping up with the various numbers games has not always been easy, and I will get to some of those details later.

The second level is about the impact of the government's funding proposals on local, regional and rural communities, an issue which has been conveniently pushed aside by this government. This government repeatedly pays lip service to the needs of rural and regional communities with the establishment of task forces here and there, the odd country cabinet and appearances of ministers. However, this government mistakenly believes its own rhetoric, despite the 38 600 people who have signed petitions opposed to the government's actions—and I believe the petitions are ongoing; there are certainly still people signing them in my library.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: I quite like the book marks they have too; I have several of those. I would briefly like to refer to an excellent paper prepared by the Central Local Government Region of South Australia in April earlier this year that charts the history of the funding arrangements we have today, as follows:

> Because country people have less access generally to cultural and leisure facilities of various kinds (e.g. the state arts and cultural institutions located on North Terrace) public libraries play an even more important role in the country than they do in the metropolitan area.
>
> South Australia enjoys an excellent public library system. All involved are happy to acknowledge that this has come about with considerable assistance of various kinds provided by successive state governments and their agencies over a period of some decades, and we are sincerely grateful for this. The current impasse between the state government and the local government community is alien to this long established culture of cooperation and is all the more unfortunate because of that.

So, why has this occurred? Why has this successful funding arrangement broken down? When this issue was first developing, it centred on the future of the five year funding agreement and the suspicion held by the LGA that the government was trying to get out of it. As it transpired, that is exactly what the government was planning and it did not take too long for that to emerge. The minister is now proposing a new financial arrangement for one year only, as opposed to the five years which provided a long-term and stable environment for public libraries. I understand that the government is using various excuses including the GST. However, I also that state and local government agencies will be reimbursed the GST on goods and services subject to the GST. It is no wonder rural and regional communities are tossing out conservative governments like this one.

The minister is also proposing to alter the timing of the payment of library funds from the commencement of the financial year to a quarterly arrangement. Such a move is expected to result in a loss of interest earnings of about $300 000—not an insignificant amount. Thirdly, it is obvious that in this year's budget there is a reduction in state government funding for 'support services to local government libraries' of $1.1 million. This is a further example of a government not really committed to openness and accountability in its funding of public libraries. The list goes on.

It seems to me to be very curious why the minister and the government would seek to make an enemy out of an arrangement that has seen more than 10 million visits a year to public libraries—an arrangement that is bridging the divide between the information rich and the information poor. Why is it almost impossible to get a straight answer from the minister? Why are there such differences between the minister and the LGA on this matter? One can only conclude that it is either greed or incompetence on the government's part. Local communities will no longer tolerate the government's arrogance in this area.

I think that this arrangement with public library funding was first forged when the Hon. Anne Levy was Minister for the Arts and Local Government, and it would seem to me that it has worked well with successive governments up to now. So, it is very disappointing that we now have a situation where the Local Government Association, despite the minister's vigorous assurances in parliament that all is well with public libraries and funding, is still committed to its ongoing campaign in opposition to the government's latest moves.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I have quite a lot I would like to say on this matter. I appreciate that tonight we have a heavy program, so I will make a few comments and seek leave to conclude my remarks. I am surprised that this motion seeks to condemn the state government for its failure to provide adequate and ongoing funding for public libraries in South

Australia when the state government should be congratulated for increasing funding to libraries.

This year every public library but three in this state has been advised that they have received funding increases from the state government from the taxpayer source at the CPI level or above. Those three libraries have had a fall in population within their areas. That has been the basis for determining funding for libraries: the population base has been used for the calculation since the first five year agreement was struck, as the Hon. Carolyn Pickles mentioned in her contribution.

Of the 136 public libraries in South Australia, 133 received funding increases at least in line with inflation, and in most cases above it. They also received, in addition to the CPI increase, $800 000 of new funds to ensure that, for the first time, all public libraries in this state have free access to the internet. I would have thought that the state government would be applauded for taking that initiative, which all library users, particularly those in regional areas, will greatly benefit from.

Further, the government has provided an extra $265 000 this coming financial year to assist with the cost of computer operations to support the public library network. Also, there is the $40 million for the State Library redevelopment. This includes a very handsome proportion of funding for new technologies, which will benefit all public library users, the people who serve those public libraries and particularly rural and regional users.

The difficulty for the Local Government Association and libraries in conducting this public debate about what has happened with funding this coming financial year is that we have exposed the fact that funds voted for public libraries and for the purchase of materials have not been used: they have been allowed to accumulate. All members, if they wish to be fair and reasonable in considering this matter, would know that daily an enormous amount of demands are made of government, and no area of government today is simply allowed to accumulate funds in the belief that one day it may wish to use them.

Members opposite have damned—and I think rightly so—capital works funds which have been underspent after being voted for by this parliament. What we have here is a five year agreement between the state government and the public libraries, signed with the LGA, where some $3 million over five years voted by this parliament has been allowed to accumulate and has been underspent. That five year agreement finishes on 30 June.

Quite rightly, this government could have allowed those accumulated, unspent funds to go back into general revenue and be used for all the purposes that Labor, SA First, Democrats and No Pokies members suggest. Even though that five year agreement finishes on 30 June and the funds have been unspent, the government said, 'No, we will keep those funds in the public library and libraries sector in this state', and we have done so. We have used $1.1 million of some $3 million of accumulated funds to support free internet access and to help support the inflation increases.

So, the funds have not been lost to the sector; they have been invested as they were voted for the sector at the end of the financial agreement; and other funds will remain in reserve for other purposes as they arise, for instance, to meet a backlog in the purchase of books. Today I note that the federal government has foreshadowed legislation to be introduced into the federal parliament. I trust that this legislation will gain the support of the opposition parties. Its passage will see purchasers of books and literature generally able to do so direct from overseas via the publisher and wholesaler, which will result in a 30 per cent cut in the cost of books. Again, that will benefit public libraries and users generally.

I have no argument with the LGA and the public library sector. There has been a general agreement that we have one year funding terms. As I say, those funding terms have seen the provision of $14.3 million of taxpayers' funds to cover inflation, the provision of free internet access and the cost of computer operations to support the public library network. We have undertaken this one year agreement because the LGA itself has undertaken a major report to see how the public library system can support the government's online services task dealing with government business and transactions generally. We are very keen to cooperate with the LGA and local libraries to evaluate this report. A state government task force has been set up for that purpose and will report to me by 30 June.

That information will be fed into the negotiations that have already commenced with the LGA, I understand, for a further five year agreement to apply from the end of next financial year. In undertaking the basis for that agreement, the government has already told the LGA that the funding that has been provided to public libraries in this state—the $13 million, plus inflation—will be the starting point for our negotiations. I know of few organisations or bodies that this parliament would support at large with such a generous starting point in negotiations. That starting point has been provided with goodwill and in good faith because of our respect for the public libraries sector.

I strongly refute that there has been any greed or incompetence in terms of the accusations that have been levelled at me and the government in relation to the funding of public libraries next financial year. The fact is that money voted by this parliament has been underspent; we have distributed some, but not all, of those reserves back to the purpose for which this parliament voted the funds. We have not gained personally by propping up Arts SA funding. All the funds have been maintained and put to useful purposes for the benefit of public libraries. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PLUMBERS, GASFITTERS AND ELECTRICIANS

Adjourned debate on motion of Hon. R.R. Roberts:

That the regulations made under the Plumbers, Gasfitters and Electricians Act 1995, concerning exemptions, made on 28 October 1999 and laid on the table of this Council on 9 November 1999, be disallowed.

(Continued from 24 May. Page 1099.)

The Hon. K.T. GRIFFIN (Attorney-General): The Office of Consumer and Business Affairs was approached by a food processing company concerning registration of its personnel under the Plumbers, Gasfitters and Electricians Act 1995 for the performance of maintenance work involving cold water plumbing on the company's processing plant and equipment, which is constructed of stainless steel.

The company advised that the cold water plumbing work performed on its processing equipment is highly specialised and its personnel undergo specific training to be able to perform the work. In particular, the work involves the fabrication and welding of stainless steel. Most plumbing

tradespersons are not trained through their apprenticeship on how to do this work.

Prior to the introduction of the Plumbers, Gasfitters and Electricians Act 1995, on 1 July 1995 the company's employees were legally entitled to perform these tasks. However, to comply with legislative requirements in place since that time, the company has been obliged to engage licensed plumbing contractors, at considerable expense, for the maintenance work performed on the company's plant and equipment.

It is both impractical and unreasonable to require the food processing company to employ plumbing contractors, who may themselves not be able to perform the required maintenance tasks, to observe work performed by the food processing company's employees in order that a certificate of completion and compliance can be issued for that work.

This regulation is appropriate and has been made on the basis that:

- The nature of the work being performed is cold water plumbing work on privately owned food processing plant and equipment.
- A testable backflow prevention device, which is registered with SA Water, has been installed at the perimeter of the complex and this device protects the public water supply infrastructure. Therefore, exempting the persons performing this work does not detract from the infrastructure protection purposes of the Plumbers, Gas Fitters and Electricians Act 1995.
- The employees of the company could legally perform the work prior to the introduction of the Plumbers, Gas Fitters and Electricians Act 1995.
- The exemption does not allow the company's employees to perform plumbing work on any of the common plumbing installations at the complex, such as the sanitary plumbing, that all plumbing contractors holding an unrestricted plumbing contractors licence can competently perform.

In concluding his remarks on 24 May 2000, the Hon. Ron Roberts suggested that mechanical services plumbers usually perform the specialised work that this exemption applies to. He also suggested that the Smiths Snackfood Company Ltd's employees are unqualified to perform the work in question, and allowing them to perform the work could lead to the outbreak of public diseases, if this work is not performed in a satisfactory way, resulting in contaminants being introduced into the production systems of the organisation.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: It is not right. However, the mechanical services plumber trade qualification does not in itself qualify a person to hold a plumbing worker registration under the act. Mechanical services plumbers must complete additional training through an appropriate bridging course in order that they can obtain a restricted plumbing worker registration limited to water plumbing.

Furthermore, the School of Plumbing Services at the Regency Institute of TAFE has advised that the mechanical services plumber trade training does not cover stainless steel welding. It has also advised that it has not trained any apprentices in this vocation for many years. Subsequent inquiries with the Apprenticeship Management Branch of the Department of Education, Training and Employment revealed that no person has entered into a contract of training for the declared vocation of mechanical services plumber in the past four years. The Smiths Snackfood Company Ltd's employees have been trained for this purpose and have been competently—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: As I said to you, what is the point of bringing in a contractor who is not necessarily trained in this work merely to stand by while the company's employees do the work competently? It is a nonsense. The Smiths Snackfood Company Ltd's employees have been trained for this purpose and have been competently performing the work that the exemption applies to for many years. Prior to July 1995, as I have already indicated, these employees were legally carrying out this maintenance work without the need to be licensed, and the employees have continued to perform the work, albeit under the observation of a licensed plumbing contractor up to the introduction of this regulation.

It is true that the maintenance work carried out on the food processing plant and equipment may affect the quality of the manufacturer's product from time to time. However, food quality is appropriately regulated under the Food Act 1985, and the product recall provisions contained in Division 1A of Part 5 of the Trade Practices Act 1974.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: Well, Garibaldi didn't have anything to do with the way in-house plumbers did their work.

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: That is the debatable issue; but that is the appropriate legislation under which this should be done. Requiring a contract plumber to be supervising the work which is being done by a company's competent employees is just a nonsense. There is just no useful purpose served by it. I am satisfied that the company has appropriate quality assurance processes and procedures in place to safeguard the public, and the company, against the risks associated with the sale, and public consumption, of contaminated products. It is absurd to suggest that a plumbing contractor engaged to carry out such work would be as knowledgeable as the Smiths Snackfood Company Ltd's own employees with respect to the food hygiene systems in place on site.

The government did not intend to increase the impact of regulation on industry through the introduction of the Plumbers, Gas Fitters and Electricians Act 1995. In fact, the government has maintained that nobody would be disadvantaged by the introduction of this legislation. It is quite clear that the company has been inadvertently disadvantaged by the introduction of the act. This regulation rectifies that situation and is supported by the Plumbers and Gas Fitters Advisory Panel, which is a body established under the act and comprised of key industry stakeholders for the purpose of advising me and the Commissioner for Consumer Affairs on matters concerning the administration of the act.

The Hon. Ron Roberts' comments suggest that any mechanical services plumber would be competent, and appropriately licensed or registered under the act to perform the maintenance work on the Smiths Snackfood Company Ltd's stainless steel plant and equipment. However, the information I have provided tonight shows that this is not necessarily the case. Furthermore, the fact that no apprentices are currently undertaking training in the declared vocation of mechanical services plumber suggests that there is a lack of industry demand for persons with this trade qualification, which could result in this trade becoming defunct in the future. Contrary to the views of the Hon. Mr Roberts, this

regulation is sensible and should remain in force, and therefore the government will be opposing the motion.

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

ATTENTION DEFICIT HYPERACTIVITY DISORDER

Adjourned debate on motion of Hon. M.J. Elliott:

That the Legislative Council requests the Social Development Committee to investigate and report on the issue of the impact of Attention Deficit Hyperactivity Disorder on South Australian individuals, families and the community, and in particular—

1. Recent stimulant medication prescription practices and trends within South Australia;
2. Appropriate diagnosis and treatment protocols;
3. The accessibility of the internationally recognised multi-modal treatment approach to South Australian families of young people with the disorder; and
4. Any other related matter.

(Continued from 3 May. Page 1011.)

The Hon. R.D. LAWSON (Minister for Disability Services): This motion of the Hon. Mr Elliott concerns the Attention Deficit Hyperactivity Disorder, and it proposes that the Social Development Committee of the parliament investigate and report on the issue of the impact of ADHD on South Australian individuals in the community, and identifies a number of specific issues which the Social Development Committee will be asked to investigate. The government will be supporting this proposal and the reference to the Social Development Committee. I notice that it is supported also by the Labor Party, and the Hon. Carmel Zollo indicated the support of the opposition for the motion.

While indicating government support, I would not wish it to be thought that all the claims made by the Hon. Michael Elliott are accepted as fact. However, he does outline a good deal of the literature and research on this important topic, one which we agree would be appropriate to be inquired into by a parliamentary committee.

The Hon. Michael Elliott was critical of the South Australian Department of Education and Training and, in fairness to the department and to the Minister for Education and Children's Services, it would be appropriate to indicate that the department has an extensive interest and has taken a number of actions in relation to ADHD and does provide extensive support for students with ADHD. I mention not all of them but some of them. For example, student development plans are prepared and they respond to individual student's behaviour patterns, and behaviour support personnel are available within the system to assist schools where necessary.

Health care plans are put in place when medication management is required. Parents and any other caregivers and school personnel work together to individualise and implement learning management plans for students with ADHD, and others. There is a statewide learning difficulties training and development program for school staff, which is provided by the DETE learning difficulties support team. This program is highly responsive to the varying needs in each school, including ADHD needs. There is a manual entitled 'Attention difficulties, poor impulse control, overactivity or ADHD', and it is available to all schools on the DETE web site and I am informed it is well used and supported.

DETE personnel meet regularly with the Attention Disorders Association of South Australia to manage the education of children with ADHD. In addition, numerous ADHD students are supported by the general intervention funding that is available through the early assistance grants program. There is also the basic skills test funding, flexible initiatives resourcing and additional special education funding. A number of funding programs through the department aid students with ADHD.

The Hon. Michael Elliott suggested that ADHD ought to be recognised as a discrete disability by the department. It is true that, in my own portfolio area of disability services, ADHD is not recognised as a disability as defined in the South Australian Disability Services Act. It is not specifically so defined in our legislation, it being regarded as a treatable medical condition rather than a permanent disability or handicap. The question remains open as to whether it would be appropriate to amend that legislation to include ADHD as a recognised disability.

Within the education field, ADHD is recognised as being not in itself a disability under the Students with Disabilities policy. Criteria are laid down and many children who have ADHD meet the criteria because of some co-existing condition. In those cases, the child's school is entitled to further funding and staffing support and the child is supported with a negotiated curriculum plan. Notwithstanding the rather bleak picture painted by the Hon. Michael Elliott in relation to the response of the Education Department to ADHD, the fact is that a large number of programs are in existence and the department is addressing the issue.

The Hon. Michael Elliott quoted figures, and alarming figures they are, about the number of young people taking amphetamines to treat ADHD. His figures were that the number had risen from just under 198 to almost 5 400 in 1998. He claimed:

> It is widely estimated that 50 000 Australian young people are currently using psychostimulants to treat ADHD.

The statistics as provided to me, whilst not as alarming as those provided by the Hon. Michael Elliott, namely, that 5 400 persons are taking psychostimulants to treat ADHD, are still enough to cause concern. Our figures are some 4 650 in March 2000, but when one compares that figure with some 60 in 1991, and I am speaking of the number of children authorised to receive treatment in this state, those figures are indicative of a substantial change in recent times, and one that warrants further examination.

It would not be true to say, and certainly the Hon. Michael Elliott did not suggest, that there is no literature on the subject of ADHD. Indeed, there is a great deal of literature on it. My attention was drawn to a recent article in the *New England Journal of Medicine*, which quotes the prevalence at a London school in one survey of 1.7 per cent, mostly boys, and in Germany a survey showed 17.8 per cent, again mostly boys. That is a marked disparity and the research into ADHD and the appropriate treatment of it is continuing, and we believe that it would be entirely appropriate for the Social Development Committee to examine the recent literature internationally as well as practice in this state.

ADHD has three main hallmarks: extreme destructiveness, impulsiveness, and sometimes hyperactivity. As the statistics indicate, and as the Hon. Michael Elliott also noted, most of those suffering from ADHD are school-age boys. Since the 1950s, stimulants have been recognised as an effective symptomatic treatment and they are now widely accepted as an effective but not the only treatment. As the Hon. Michael Elliott himself noted in his address in support of the motion,

a favourable response in a child to a stimulant medication is not necessarily a diagnostic of ADHD.

It is accepted that the best practice management of the condition involves access to a range of support services for the child and the family as well as medications. Dexamphetamine and methylphenidate, or Ritalin, which can be abused by some people and which are classified as drugs of dependence in South Australia, are widely prescribed for ADHD. Under our Controlled Substances Act, a medical practitioner is required to be authorised by the Health Commission where treatment exceeds two months in relation to the use of these particular drugs.

This state's criteria for the use of authorities is based on the New South Wales criteria. Treatment is generally limited to where the diagnosis of ADHD and the recommendation of stimulant treatment is by a paediatrician, neurologist or psychiatrist. For adults, treatment must be by a psychiatrist. Obviously, serious responsibilities are cast upon those who prescribe psychostimulants or amphetamines for the treatment of ADHD. Studies in South Australia show a correlation between the incidence of diagnosis and socioeconomic factors such as unemployment. Speculation exists about the correlation between the incidence of diagnosis and the availability of support services and counselling. This point, which was noted by the Hon. Mike Elliott, I think warrants further inquiry, investigation and report by the Social Development Committee.

It is worth mentioning that the Medical Board of South Australia and the National Health and Medical Research Council have both developed reports and guidelines, because of the rapid rise in diagnosis. The generally accepted view is that caution is required and that, previously, ADHD was under-diagnosed but that today's situation is closer to what would be expected. Undoubtedly, there are various opinions by experts in this field.

It is also generally accepted that some of the demand for prescription medication for ADHD arises from parents and other support groups who have applied pressure on medical practitioners to diagnose ADHD and prescribe these drugs. It is widely accepted that, when prescribed drug use increases in the community, problems of abuse can, and very often do, occur. There are other unintended effects of prescribing, especially if over prescription or unnecessary prescribing occurs.

The contributions of members to this debate indicate a wide interest in the community in this topic. The government is pleased to support the motion to refer the issue generally to the Social Development Committee for investigation and report as this will have the capacity of advancing community understanding of this issue.

The Hon. M.J. ELLIOTT: I thank those members who contributed to this debate and, indeed, some members who did not but who have privately expressed support. There is no doubt that this issue has mushroomed over the past couple of years. Whilst there has been an awareness of attention deficit disorder for some considerable time it is only in the last decade that we have seen this explosion of diagnosis and treatment, particularly with amphetamines, and an increasing awareness of how big this problem is.

Only yesterday, I raised a question relating to what appears to be under-diagnosis, particularly of girls in low income areas. There is no question that there are some big issues involved. Some people might want to debate causes, etc., but that was never the intention of this motion. This motion simply asks the Social Development Committee to look at the issue and report to this place. As this motion has received unanimous support, I look forward to the committee's report. I know that it will take some time, but I am sure that the families of those who are affected and professionals who work in this area will also await the committee's report with much anticipation. I thank members for their support.

Motion carried.

DRIVER HOURS

Order of the Day, Private Business, No. 26: Hon. A.J. Redford to move:

That the regulations under the Road Traffic Act 1961 concerning driver hours, made on 23 September 1999 and laid on the table of this Council on 28 September 1999, be disallowed.

The Hon. R.R. ROBERTS, for **the Hon. A.J. Redford**: I move:

That this Order of the Day be discharged.

Motion carried.

TAXIS AND HIRE CARS

Adjourned debate on motion of Hon. T.G. Cameron:

That the regulations under the Passenger Transport Act 1994 concerning vehicle accreditation, made on 17 June 1999 and laid on the table of this Council on 6 July 1999, be disallowed.

(Continued from 10 November. Page 366.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition does not support the proposal of the Hon. Mr Cameron because it does not support deregulation of the taxi industry. I agree completely with the minister when she said in her contribution to this motion that the taxi industry is extremely complex. I must also add that the taxi industry is an important link in the delivery of passenger transport services in South Australia.

I also note the recently released report of the National Competition Commission, which looked into the wider issue of taxi regulation. In doing so, I acknowledge the minister's comments which she made on this matter when questioned by a colleague in another place. On this occasion, which was very odd indeed, the minister and the member for Peake agreed that the NCC had '. . . erred in the way in which it had approached. . . ' the issue. The minister was referring to the commission's concentration on the New South Wales taxi market, and I agree with that comment.

It is no secret that the average taxi driver in this state struggles to earn a decent living. Common anecdotal reports of $4 to $6 an hour for a taxi driver do not suggest an industry overflowing with work. Add to this the extraordinary government charges imposed in recent budgets, particularly the increases to CTP, and the picture is not exactly rosy. Mr Bill Gonis, from Adelaide Independent Taxis, wrote to me and said:

Taxi plates have dropped by $25 000 in the last 12 months. Leases have gone from $320 per week to $220 per week. Three to 5 per cent of the 920 general purpose plates at any time cannot be leased. Incomes have dropped 15 per cent in the last two years.

He further states:

The taxi industry has led the nation on providing disabled services to the community in the last 15 years.

That is a very important part of the industry. I do not see how the public passenger services could be aided or enhanced by

supporting this motion. Therefore, I remain unconvinced that the regulation should be disallowed.

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

CONTROLLED SUBSTANCES

The Hon. CAROLYN PICKLES (Leader of the Opposition): I move:

That the regulations under the Controlled Substances Act 1984 concerning expiation of offences, made on 3 June 1999 and laid on the table of this Council on 6 July 1999, be disallowed.

I do not intend to discuss this in great detail because I dealt with this motion on 28 July 1999 when I put out my position in relation to this matter. I said then that I felt that the reduction in the number of marijuana plants was an ill-conceived move by the government. It was not very well publicised and, as was discussed earlier this evening, the problem with regulations is that they are not widely debated in the community. Most people in the community do not know what a government regulation is, and they are not often discussed in the media. I believe that they have an important role. The regulation was contained in the original legislation moved by Dr John Cornwall more years ago than I care to remember—

The Hon. T.G. Roberts: At least 11.

The Hon. CAROLYN PICKLES: At least 11. It is longer than that—1986, I believe. It obviously had the ability to be amended by regulation and, at that time, I recall that the debate did rage a little about whether or not 10 plants were too many. I understand that the government's purpose in moving this regulation is to inhibit the trafficking of marijuana to the eastern states. I was recently asked to listen to a radio broadcast and comment on it. It concerned an interstate senior police officer who indicated that, with the introduction of this regulation, there has been no difference whatsoever in the trafficking of large numbers of marijuana plants interstate. If the purpose of the regulation was to stop the trafficking, it has not succeeded. I believe that there are other ways to deal with this problem.

The Hon. Mr Elliott, in his contribution on 28 July, indicated that, in isolation, this regulation is not the way to go, and I concur with his remarks. In its response to this debate, I ask the government to advise what the police figures show in this area: the number of arrests made; and, by introducing this regulation, whether we are trapping the small users of marijuana instead of the Mr Bigs. I believe it is the Mr Bigs that the government should be concentrating on: they are the people who send marijuana plants interstate for profit and bring back to South Australia drugs that are far more dangerous—particularly in the case of young people. Once again, I refer honourable members to my contribution of 28 July and I urge honourable members to disallow this regulation because it has not worked. In time, I believe that the statistics will show—

An honourable member interjecting:

The Hon. CAROLYN PICKLES: I agree with that comment. All this regulation has done is ensure that smaller users of marijuana are dealt with by the law, not the large traffickers who are the ones the government and the police are endeavouring to stop.

The Hon. M.J. ELLIOTT: It is approximately 12 months since the government introduced this regulation. I believe that ample time has elapsed to indicate that it has not achieved what was claimed. If one looks at the speeches made 12 months ago, it was predicted that the regulation would not achieve what it was promulgated to do. Interstate police say that the amount of trade going over the border has not changed one iota.

As I said the first time the motion for disallowance was moved at the end of the previous session, I might not have had problems with a move to reduce the number of plants grown by individuals if it was done in the context of more significant change to cannabis laws. However, in isolation, this is knee jerk simplistic rubbish. It was never going to work. It might be true that some organised crime was using it as a way of growing small numbers of plants and using that as a form of quasi loophole. As long as a significant profit can be made, organised crime will continue. I guarantee that 95 per cent, if not more, of the people busted under this change of rules are small time dealers—

The Hon. T.G. Roberts: And small time growers.

The Hon. M.J. ELLIOTT: And small time growers. Even if they are dealers, they are small time growers. Whilst some people object to the growing and selling of marijuana, it is probably all that they sell. What the government has done is put pressure on small time disorganised crime and handed the market over to organised crime.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: That is right. It has handed the growing of cannabis back to organised crime. They probably cannot believe their luck. The Mr Bigs, the crooks in South Australia, are doing a damned sight better now than they did 12 months ago, because of this change in the regulation. That is the precise outcome of what has occurred, and that is precisely what we predicted would occur. In fact, now that we have the Mr Bigs making bigger profits and being more important distributors, their networks supply not only cannabis but also other drugs.

I congratulate the government, because it has now guaranteed that the young people who are using cannabis (and many people say they wish they were not) are now more likely than before to be offered other drugs that are of even more concern. That is precisely what the government has achieved; it is just gross stupidity. It was done for one reason. We now know, 12 months later, that it did not work, as it was predicted it would not work. It is time for all people in this place to face up to reality. This is not a vote about whether or not you think people should use cannabis: it is a vote about a regulation and its impact. The impact of this regulation is to give increased control of the cannabis market to organised crime and to increase the likelihood that young people will be offered drugs other than cannabis.

I ask people to think about that. Please do not vote on this regulation on the basis of whether or not you approve of people using cannabis: vote about what the effect of this regulation in isolation would be. I said at the time that in isolation this was dangerous, but as part of a larger package it could make more sense. Some of us might disagree on what that package should be—I can live with that—but I ask that people recognise that this measure in isolation is damaging to young people and has failed to achieve the original goal that was set for it. For those reasons, I urge all members, regardless of their views on cannabis, to support this motion to disallow.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

MATERIALS AND SERVICES CHARGES, REGULATIONS

The Hon. M.J. ELLIOTT: I move:

That the regulations under the Education Act 1972 concerning materials and services charges, made on 4 May 2000 and laid on the table of this Council on 31 May 2000, be disallowed.

This is the fourth time now that there has been a motion of disallowance of this regulation. It seems to me an enormous contempt of the parliament that parliament rejects a regulation and it is brought back in, and that is done repeatedly. I am concerned not only about the repeated disallowance and the government's persistence with it but also about its contempt of the parliament in the way it has gone about introducing it. In introducing it this time, it waited for the parliament to rise at the end of the autumn sitting before gazetting the regulation. Then the sitting started, and I had a motion for disallowance waiting to go. The first and second days came up and it was not tabled. The government had decided—most unusually, because such motions are usually tabled on the first day—that it would withhold it from the parliament knowing it had six days to table it, so there could not be a disallowance again. It held it up long enough so that the next two weeks of sitting expired, and then we were not sitting for another three weeks. So, it was an absolute contempt and avoidance of the parliament. There is no question about that and, regardless of what they think about the issue, some members of the government must at least feel uncomfortable that they have expressed views on a number of occasions but regulations are brought in and are given interim effect.

There has been a report on that matter from the parliament's committee on legislative review suggesting that that should not be occurring and it is not supposed to occur, but the government does it in any case, rather than allowing the parliament to take a position in relation to subordinate legislation. That is what subordinate legislation and regulations are about; theoretically, as an extension of legislation, regulations need the approval of both houses. The government is bringing them in, giving them immediate effect, withholding them from the parliament and then claiming that they have established a legal right to enforce the fees. If that is not a contempt of parliament, I do not know what is, and the members of the government should be deeply ashamed of that repeated behaviour. This year is the worst of the four attempts.

It is worth while going back further and reading the act and finding that the act does not even allow for regulations on fees. The government has drawn an extraordinarily long bow. I do not have all the paperwork with me; I think it may be clause 107 that is the general clause for the making of regulations, but there is nothing anywhere in the bill which in any way contemplates schools charging fees—nothing, anywhere. There is a significant legal question about whether or not the government even has the right to do it, and the government is lucky that so far it has not gone to a legal challenge. I know that the Solicitor-General has written to the Subordinate Legislation Committee expressing the view that it is okay, but the Solicitor-General has been wrong on a few other occasions.

The Hon. K.T. Griffin: Not many.

The Hon. M.J. ELLIOTT: He has certainly been wrong on a few.

An honourable member interjecting:

The Hon. M.J. ELLIOTT: Most of them had done something wrong before they made the extra mistake of hiring a lawyer to try to help them get out of it, but that is another story. I begin by stating that this has been knocked out three times already, but the government has been extremely devious in the way it has tried to give it legal standing, and I doubt that on any fair reading of the act it should have legal standing, anyway. That aside, the government has sought to make South Australia the only state in Australia that has compulsory fees. I understand the argument that some people are paying so why should not everybody, and so on. I have been a member of several school councils as both a staff representative in my earlier days and later as a parent, and I am aware that there is a very small number—and I stress that—of recalcitrant parents.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Unfortunately, part of what is happening here is making it worse. If we take Marryatville High School as an example—in fact, I cited it today in a question—its enforceable fees are $215, but its real fees are $450. The enormous danger that we face here—and I predict that this is the path we will follow if these fees become entrenched—is that parents will become increasingly aware that there is a compulsory fee and a non-compulsory fee, just as some parents are aware that previously none of the fees were compulsory. I suspect and expect that many more will not be paying the gap than were not paying at all.

The Hon. T.G. Cameron: At least they'll be paying something.

The Hon. M.J. ELLIOTT: Yes, but schools overall will probably find they start losing more. The next reaction from there will occur particularly under Partnerships 21 where school councils are struggling and the government refuses to supply the resources; school councils will say, 'We need the compulsory level of the fee increased, because we cannot survive.' This is the sort of pressure that starts being brought to bear because, under Partnerships 21, the way things will work is that parents will say, 'We need a French teacher or a computer', and the government's response will be, 'Well, that is up to your school council, because we give the money to it.' So, no longer will the government have any particular responsibility for levels of anything. It will be much easier for the government to pass the buck and say, 'If you do not have something, it is because the school council is not spending the money sensibly, and you have to persuade it.' School councils will increasingly be looking for other sources of funds, and after they have sold the front fence and probably the canteen to McDonald's and scratched every other dollar they can that way, they will come back looking for fees.

In fact, I invite members to look at the regulations as they now stand. Even now, all schools do not have the same fees: they are differential. What will happen is that the government—and it will look quite reasonable to start with—will say that the wealthier eastern suburbs should pay a higher fee because the parents can afford it. It will then set about effectively dividing the haves and have-nots within the education system.

In combination with Partnerships 21, all the wealthier public schools will be totally de facto private schools—it will not take too long to take that path—and suddenly you will find kids from lower income families, who will be a very small percentage of the total number of students, separated off from everyone else. It will be survival of the fittest and the law of the jungle, and they will miss out, and our poorer

public schools will look just like the American poor public schools. Increasingly, it will be dependent upon where you live and the wealth of your community. That is where this will drive us.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: There are many areas where that is still not true.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: No. A large number of parents in schools such as Marryatville, Unley, Blackwood and Brighton—and there are a whole range of these schools—have significant incomes but have made a deliberate and conscious decision that their children should be in the public system. Many of them make that conscious decision, as I have. I know, from talking to other parents at those schools, that they have made the same conscious decision.

As I see it, we are on the slippery path to increased division in a community that is already being increasingly divided. It is worth looking at what the *Australian* has reported over the past week and a half about what is happening in our society as regards wealth. If we have a division in terms of educational opportunity as well—

The Hon. T.G. Cameron: It has already happened.

The Hon. M.J. ELLIOTT: I would agree that there is already a division, but I can assure members that it is nothing like it will end up being. If we end up with an education system anything like the American system, where the final determinant is where you live, then inter-generational poverty will be more entrenched—and it is a problem already—than it is now.

It is not my intention to continue to cover the ground that I have previously covered on three occasions in this place. I hope that again this place takes the position that was adopted on the three previous occasions, that this regulation is not acceptable and that South Australia will not be the first state to take what is always proclaimed to be free education and make it something else.

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

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 September. Page 77.)

The Hon. T.G. CAMERON: This bill makes a number of amendments to the Listening Devices Act 1972 and is a result of the police experiencing practical problems when using electronic surveillance in criminal investigations. The bill seeks to balance the public interest between effective law enforcement with the right to be free from undue police intrusion. I suspect that this will be one of the challenging issues that we will have to deal with over the next few years.

There is no doubt that organised crime in particular is becoming much more clever in the way that it avoids police surveillance, and perhaps the only way that we can deal with the more sophisticated methods that organised crime is using is to walk down this path. However, that is a matter for the committee discussion. The bill seeks to update the provisions of the current act by taking into account technological advances. It also attempts to increase the protection of information obtained by the legislation and to increase the level of accountability.

Currently the Listening Devices Act 1972 allows for an application by a member of the police force or by a member of the National Crime Authority to a Supreme Court judge for a warrant to authorise the use of a listening device but does not allow video recording or tracking devices or allow for entry on to private premises to set up such equipment. This bill will allow officers to obtain authorisation to use and install such devices.

I will address the essential clauses in the bill. Clause 9 makes it an offence to publish information derived from a listening device, except in accordance with the act. Clause 8 allows a judge to authorise the installation, maintenance and approval of devices in premises, vehicles or items where consent for the installation has not been given. Clause 8, which creates new subsection (7b), authorises a warrant holder to enter any premises or interfere with any vehicle for the purpose of recording the conversation of a person who is suspected of having committed or be likely to commit a serious offence or gain entry by subterfuge; extract electricity; take non-forcible passage through adjoining or nearby premises and use reasonable force; and seek and use assistance from others as necessary.

New Section 6AC specifies that the commissioner must keep information gained in a register. New section 6B(1b) and new section 6C regulate the control of information and material obtained and guard against improper use. New section 6D requires the Police Complaints Authority to inspect the records once every six months and report the results of the inspection to the minister.

Clause 14 repeals existing section 10 and inserts new sections 9 and 10. New section 9 authorises police to search and seize listening devices which are in a person's possession without the consent of the minister; while section 10 allows for the Police Commissioner or a member of the NCA to issue a written certificate setting out the facts in execution of the warrant.

The bill also introduces a number of minor amendments for drafting clarity. In his response, could the Attorney address the question of innocent parties who may be caught on video or audio tape but who have no relation to the investigation? What protection will they have from the threat of ending up on illegal tapes? SA First supports the second reading but we will not be making a decision on this bill until we go through the clauses in the committee stage.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

STATUTES AMENDMENT AND REPEAL (SECURITY AND ORDER AT COURTS AND OTHER PLACES) BILL

Adjourned debate on second reading.

(Continued from 24 May. Page 1108.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading. The security and safety of court staff and general visitors to the courts should be of paramount importance. In saying this, I welcome the government's legislation. We are all familiar with the siege last year involving Mr Wayne Noel Maddeford who took a court reporter hostage and threatened to kill her with a knife that was in his possession, releasing her four hours later. Thankfully, there were no fatalities or serious physical injuries, but I am quite sure that the court reporter

and the other people present at the time suffered severe trauma from which some of them will probably never recover.

However, the incident highlighted the limitations of the court security arrangements. As a result, security has been upgraded, with searches conducted at court premises. The new security includes the installation of airport style metal detectors, x-ray scanning devices and hand-held metal detectors. However, I appreciate that current legislation does not clearly give the sheriff, as the court officer responsible, the authority to conduct searches. Therefore, I see this bill as formalising and clarifying the existing search practices, as has been done interstate.

As the Attorney states, there is a reference in the legislation to participating bodies, meaning the physical courthouses. There is also provision to declare any other body by regulation, which will enable the provision of security for, say, royal commissions. The bill outlines the powers vested in security officers to enable them to maintain security. This includes refusing entry to or expelling from premises a person who fails to comply with a security direction. The Attorney refers to reasonable force being authorised, and in the context of this legislation will he indicate what 'reasonable force' would entail? There are a further number of procedures outlined in the event of a security officer having to take another person into custody. For example, security will have the power to arrest escaped prisoners.

The third section provides security with powers to seek information from a person. The bill also provides a definition of a person obliged to attend court, as a person obliged to attend court is also obliged to be searched. This is opposed to someone who is not obliged, who then has a choice.

I note that the bill requires the conduct of searches to be done expeditiously, seeking to minimise humiliation. In the event of a physical search, a person will not have to remove underwear, nor may anything be introduced into the orifice of the person. Furthermore, there should be at least two persons present in the event of a physical search. The search should be conducted by a person of the same sex and should respect cultural and religious values. What happens in the event of non-English speaking people while they are being physically searched? Will the sheriff provide an interpreter?

The Law Society has raised the issue of exempting lawyers as officers of the court. I received correspondence from the Executive Director of the Law Society, which states:

> Since the Maddeford incident lawyers have been able to produce a Law Society plastic card, which has been acceptable to the sheriff and his security officers. It is a time convenience matter rather than a status matter for lawyers, as many are required to move between the several buildings in the court precinct, often with very little time to spare. At times, especially early in the morning, there are significant queues and delays at the security checkpoint. It should be possible to have a court issued or Law Society issued pass which can be used by solicitors and barristers of the courts.

Has the Attorney received similar representations, and what is his view on this issue? We have also received a preliminary telephone call from the PSA but I can deal with the issues raised at a later date. I support the second reading.

The Hon. IAN GILFILLAN: I indicate the Democrats support for the second reading of this bill. It is a bill which provides greater security at courts. It seeks to increase power to search people who attend court and to deny admission to members of the public who refuse to be searched.

It sets out three levels of search: firstly, an airport style electronic scan, which would require a person to walk through a scanning device or assume a particular stance for a hand-held scanning device; secondly, a physical search, which may require a person to remove outer garments of clothing and involve some kind of pat down search; and, thirdly, a search of a person who is required to attend the court but who refuses to submit to a search, whereby necessary force, through the authority of this bill, may be applied by the security officer or officers.

It is important that a safety provision is in place to balance the increased powers of search. Granting the right of an appeal is an essential part of this, and we support the amendments to the Ombudsman Act enabling the Ombudsman the jurisdiction to hear complaints in relation to the searches. I indicate our support for the second reading.

The Hon. J.F. STEFANI secured the adjournment of the debate.

NATIVE TITLE (SOUTH AUSTRALIA) (VALIDATION AND CONFIRMATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 June. Page 1312.)

The Hon. T. CROTHERS: In rising to speak to the second reading of this bill I want to revisit some history, particularly as it applies to the state of South Australia and to matters which I believe have an important place of relevance in this debate. As my contribution unfolds I am sure that all listeners will see the connection as it relates to this bill. Mr President, of all Australian states which are members of our commonwealth, South Australia is unique. I make this assertion because of the matter of European settlement as it relates to South Australia. The states of our commonwealth were initially used as a repository for convicts. In other words, mother England used these geographical locations to which I have just referred as a safe haven for clearing the prison hulks of the Thames Estuary of the tens of thousands of so-called convicted felons who were housed in these prison ships.

The date of the landing of the First Fleet at Botany Bay is not entirely coincidental, because a brief glance at the pages of history will clearly show that until Britain lost its conflict with the 13 American colonies Virginia and the South Carolinas were the geographic areas of the world which Britain had used as its dumping ground for its so-called convicted felons. Many of these poor wretches were political prisoners, both at that time and later. Many of these American prisoners were in fact from the two Jacobite risings of 1715 and 1745. In fact, the lady who history records as assisting in the escape of Bonnie Prince Charlie after the 1745 uprising, one Flora McDonald, was eventually incarcerated in Virginia as a convict. History records that she in fact died there.

Likewise, later on in the early part of 1800s many of the convicts were incarcerated at Botany Bay or in Van Diemen's Land, and then latterly at Morton Bay and Port Macquarie there were Irish political prisoners from the 1798 rebellion of the 'United Irishmen' and the uprising of the 'Young Irelanders' rebellion in 1848. So there we have it—one of the reasons, indeed perhaps the major one, for the original European settlements of this continent, then known to the world as Terra Australis. There was first the settlement at Botany Bay, then reaching out from there to Tasmania and

then up to Newcastle, Port Macquarie, and Morton Bay, which is close to the present-day city of Brisbane. I must add here that Victoria was settled by Batman, the Hentys and Fawkner, all of whom got there via Tasmania.

So, again, there it is, the whole of Australia's eastern seaboard was convict settlement and the convict settlement was completed, circa from 1788 to 1830, all emanating out of the original convict settlement of Botany Bay. But there were two exceptions to that rule, one of which is the present state of South Australia and the other being present-day Western Australia. If my memory serves me correctly, the Swan River Colony in present-day Western Australia was first settled by Captain Stirling in 1829, and South Australia followed within the next decade. The difference between the two settlements was that Western Australia, like its eastern coast settlements, was initially settled by convicts. In fact, one of them carried Captain Stirling ashore on his back; whereas the South Australian settlement was not.

I shall now attempt to describe it. These dates of settlement have a very important bearing on future and subsequent events as they unfolded over the years in South Australia. At this particular point of time in British history an MP who had been in the Westminster parliament for many years succeeded after a very long time in having the British parliament pass his anti-slavery bill. That man was William Wilberforce. The effect of his bill and all matters political was profound and, of course, it was around that time that John Fyfe Angas had formed the South Australia Company, which the been set up for the purposes of colonising South Australia. To legitimise the deed of arrangement or charter which this company was to operate under required the agreement of the then British government. The government minister who had oversight of the deed of arrangement for the South Australia Company's charter of operation was the then Secretary of the Colonies, Lord Glenelg, after whom is the Adelaide suburb of the same name called.

It is very, very important for listeners to understand the particular time frame of these events. I have earlier referred to the activities of William Wilberforce, who virtually singlehandedly had been able to outlaw the trade in black slaves from Africa, and because this had occurred around the time of the activities of Angas and Lord Glenelg's discussions over the indenture of the South Australia Company the matter of slavery and harsh treatment of indigenous people obviously coloured the thinking of Lord Glenelg and, to that end, and for those reasons, Lord Glenelg ensured that there was a very considerable level of protection written into the agreement in respect to South Australia's indigenous people. I think there was something similar done in Western Australia, but of much lesser force than was the case here in South Australia.

The other unique South Australian thing, which ensured that Lord Glenelg's protection measures were reasonably complied with was the composition of the original white settlers into this state. There were two very distinct types of settlers who came here. One type were the Silesian Lutherans who had suffered at the hands of the King of Prussia, who had them persecuted because their brand of Lutheranism was very different from the state's brand of Lutheranism, and the other type of settler, known to history as the Evangelicals, were, by and large, from the Methodist communities of Cornwall and South West England, who believed that because of the power which resided in the hands of the Church of England, which was the officially recognised religion of Britain at the time, the future for themselves and their children was extremely limited in England. So you can see, Mr President, that South Australia, which was going to practise extreme freedom of religious views and worship, held out great attractions for those two groupings of people.

For all the foregoing reasons, any bills that were enacted in this parliament in respect of pastoral leases always had clauses in them to ensure that Aboriginal people had the right of access, the right to hunt and fish and the right to dwell in the land that came under South Australian pastoral law. Such was not the case in other Australian states, with the possible exception of Western Australia, which as I have previously stated had some more limited access rights written into its pastoral leases.

Drawing all the foregoing facts together, one can see why I contend that South Australia of all Australian states stands unique in its treatment of Aboriginal South Australians relative to land use. I pay tribute to the great vision of Don Dunstan in this state and to the vision of David Tonkin, while he was South Australian Premier, for all their good work in respect of Aboriginal land rights.

I well recall the 1967 Australian referendum held over citizenship rights for indigenous people, when I and many thousands of other Australians of all political persuasions fought a protracted and at times bitter campaign for Aboriginal rights, a campaign that was ultimately successful at the referendum ballot. It would be remiss of me not to acknowledge the struggle of the Guringi people against Lord Vestey, the then proprietor of Wave Hill station, who was paying his Aboriginal stockmen with flour, tea and sugar and old second-hand clothes that they used to draw once a week from the company store. We must bear in mind that the struggle was just over 30 years ago and lasted for 12 months or more.

It is vivid in my memory because my own union sent those people $200 per month, a reasonable sum in those days, so Lord Vestey could not get away with the tactic of starving the Guringi people back to work. History sadly records that he tried that, but he did not succeed, so history also records the great victory the Guringis had in respect of human rights and human decency. One thing emerges out of the ruck of these two events: if we did not have overwhelming support for those two events, they would never have been won. Indeed, they could not have been won.

At this point I want to raise a matter that concerns me greatly as I witness public support for Aboriginal land rights and human dignity being whittled away. I contend that this is due in no small measure to the public utterances of some Aboriginals and the perception that flows from those statements to the wider Australian community. I commonly hear such comments as:

(a) Every time someone has a different view from that of the Aboriginal community then they, the Aboriginals, call him or her a racist.

(b) The government has given them far too much money.

(c) The money we give them is being frittered away on overseas jaunts and jobs for the girls and boys of the in-club Aboriginal community.

(d) They, the Aboriginals, are using the money they get from government as a gravy train.

(e) Aboriginal people are lazy. They just do not want to work.

These are just five examples of what I hear. There are many more things said and beliefs held by the wider community. Indeed, many of my Aboriginal mates and friends privately express similar views to me and many of them are now working within their own community to try to stop some of

the events which they see happening and with which they do not agree.

I hope they succeed because I fear that great damage is being done to Aboriginal interests by a few loud mouths who are more interested in their own wellbeing than in the wellbeing of the majority of the Aboriginal community. Every scam that is uncovered to the public eye further hurts the cause of justice for Aboriginals. Because I have spoken the truth here, as I and others perceive it, someone will stand up and say that I am a racist bigot. Let me remind people, however, that racism is not just a simple question of white versus black people. Racism can and indeed does occur over many issues other than the colour of one's skin. There can be religious racist bigotry, ethnic racist bigotry, racism based on difference, and finally but by no means exhaustively, the bigoted racism of the rich versus the poor.

Some examples of the foregoing are the treatment of Russian and Chinese peasants by their lords and masters, the treatment of the Ainu of northern Japan by other Japanese people, the treatment of Jewish people down through recorded history, the treatment of Negroes and Hispanics in the United States, and the treatment of Irish Catholics by the English for many hundreds of years. These are just some examples of different forms of racism, and there are many more.

Let us not forget the very principled and highly intelligent Aboriginals such as Tim Agius, Faith Bandler, Mick Dodson, Senator Aden Ridgeway, Noel Pearson and others too numerous to mention. These are Aboriginal people who have put their people's interests before self. These are people who repeatedly have used logical argument to further their people's cause. They are not the type of people who believe that the louder one shouts the more rectitudinality one adds to the advancement of one's position. That is not so, never has been so, and never will be so. The opposite is the case. History records that this type of behaviour retards the advancement of justice. To paraphrase Dr Johnson, 'Oh racism! What foul deeds are done in thy name.' The oft-heard cry is that racism is no substitute for logic and common sense, and as I said previously, it never has been and never will be.

Let me now complete the parameters of necessary understanding of this measure by quoting some examples of blatant racism for political advantage. In the 1880s, as Mr Gladstone was about to bestow home rule in Ireland, one of his political opponents, Lord Randolph Churchill, visited Belfast, hired the Ulster Hall and proceeded to play the Protestant card against Gladstone. This has come down to us in history as playing the orange card, named after the Orange Order, which was the major Protestant organisation in Ireland at that time. Certainly in the short term Lord Randolph succeeded, because it had the effect of bringing down the Gladstone-led Liberal government. It was short-term gain, however, for long-term loss of life, because had home rule been brought in by Gladstone it would have saved many thousands of lives in 1916, 1921-22 and again in the last 30 years of the past century.

The second example of blatant racism is the playing of the white farmer card by Dr Robert Mugabe, the President of Zimbabwe, in his endeavour to shore up the political fortunes of his ailing political party at the next Zimbabwean elections. This matter has yet to be played out but, to date, dozens of local people, both black and white, have been murdered. Thirdly, and much more germane to this bill, in order to try to revive his party's flagging political fortunes, John Howard has played the black card. He knows full well, as do others, that a lot of public sympathy from non-Aboriginal Australians has been eroded.

Some questions recently posed in a public survey reveal that the lowest opposition from the general community to one question was 62 per cent, and the question that attracted the largest opposition stood at 68 per cent. These questions were related to matters of importance to the Aboriginal community. I might add that it was an in-depth survey. It will take either a brave man or a fool to ignore this result. I bet that the Prime Minister can cite these facts and figures off by heart.

Listeners to and readers of this contribution will well recall what I said before: that matters of Aboriginal importance are only being won by having a majority of public support. This support obviously does not exist now. I, for one, do not believe that there is any more dishonesty amongst Aborigines than amongst the remainder of Australian society. It stands at about 4 or 5 per cent right across the population.

I say this: because the media is all too willing to report on these matters—and in the interests of transparency, so they should—I say to those Aborigines who are using Aboriginal funding as a gravy train to line their own pockets: stop, and stop right now, before you do even more inestimable damage to the 95 per cent of the Aboriginal people who are absolutely honest. The damage that you do now will set back the advancement of Aboriginal people by many decades. I have touched on this last topic as one who cares about all people being equally treated, as one who genuinely cares about the future of Aborigines. After all, my children are 50 per cent Aboriginal and my grandchildren are 25 per cent Aboriginal.

I now want to turn from the generalities relating to this bill to specifics of the subject matter. This bill perhaps owes its genus to a recent decision of the full bench of the Federal Court which, if my memory serves me correctly, was handed down on 5 April this year. The court case in question centred on a property in western New South Wales run by a pastoralist named Douglas Wilson. The size of this property was 4 381 hectares, and the matter was first brought to the attention of the courts by Douglas Wilson himself.

The background to this action is as follows: in 1996, Michael Anderson applied on behalf of the Euahlay-I Dixon people to the National Native Title Tribunal claiming rights over a large parcel of land that included the Wilson lease. This claim eventually resulted in Mr Wilson asking the Federal Full Court to decide whether his lease meant that he had exclusive possession of the land.

The consequences of this litigation resulted in the full bench of the Federal Court ruling that pastoral grazing leases did not extinguish native title under certain circumstances. Immediately after this decision was handed down, a spokeswoman for the federal Attorney-General, Daryl Williams, said that native title claims in western New South Wales would now have to be considered on a case-by-case basis.

Incidentally, I should add, so as to complete this circle of information, that the lease for Mr Wilson's grazing property was granted in August 1953 under the government's War Service Land Settlement Scheme. The decision of the Anderson v. Wilson case is directly related to matters in this bill: that is, whether and to what extent statutory leases exclude native title rights. I say that, because of the importance of this matter, more time is needed by all concerned who will or could be affected by this bill to study all the implications that may arise if this bill were to pass this Council.

The Attorney-General has previously said that all his bill will achieve is confirmation of the existing legal situation

with respect to leases. I believe that the Anderson v. Wilson decision kills that assertion of the Attorney-General stone dead and that, as a consequence, this bill, if passed, would give rise to the bucket loads of extinguishments so ardently talked about by the Hon. Tim Fischer and would, without any shadow of a doubt, give rise to potentially massive claims for compensation for compulsory acquisition without consent and, indeed, without due process taking place, leading to the widening of the gap in reconciliation with respect to human conflict and division throughout the Australian and South Australian wider community.

Clearly, this is not the sort of irresponsible outcome, whether or not it is intended, that any of us here would wish to see. In order to assuage these forebodings of mine, the Attorney-General must consult with all interested parties and bring to the table with him all the information that he has on this matter. I suggest that this approach will avoid this state being involved in expensive future litigation, particularly if some common ground agreement can be reached now.

There are other matters which flow from this bill, if passed, which I will not touch on at this time. I have recently canvassed most of my major concerns. As I see it, the government has three options: first, to proceed with this bill and have it defeated; secondly, to adjourn the matter for such a period of time needed to bring all interested parties to a meaningful conference with a view to try to reach common ground on some future legislation; and, thirdly, to withdraw the bill and leave the inheritance that has come down to us from Lord Glenelg and the South Australian Company at the time of the founding of South Australia for European settlement and, if necessary, use the Glenelg position and all that flows from it to defend our present position in this state. For all the foregoing reasons, I resolutely oppose this bill and I call on all members of this chamber to do likewise.

The Hon. J.F. STEFANI secured the adjournment of the debate.

DEVELOPMENT (SYSTEM IMPROVEMENT PROGRAM) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 1263.)

The Hon. T.G. CAMERON: I rise to support the second reading of this bill, although I have reservations about some of the proposed changes contained in it. I support the proposed amendment of the Hon. Mike Elliott regarding ecologically sustained development. Having placed objectives in the Local Government Act 1999, I cannot see why we do not include them in this act. Failure to do so will not only create an inconsistency but send a message that the parliament is only prepared to pay lip service to the idea of ecologically sustainable development.

The Australian Democrats will also propose amendments to include fish farming under the same definition in the Fisheries Act. In the absence of a specific act on aquaculture, I will support the Democrats' amendments. We have no idea at this stage what is being contemplated by the government except that an act is being prepared. I do not see why this proposal cannot be supported here and now and, if necessary, replaced at a later date if and when this aquaculture act sees the light of day.

The Hon. Mike Elliott raises a concern about clause 4 (section 20) regarding delegations, which I would like the minister to address. Why are development assessment panels and regional development assessment panels not required to be accountable in the same way as local councils? In the absence of a satisfactory explanation, I indicate my support for the deletion of section 22(a)(iii). Will the minister address the legal implications of giving local government the power to bypass its legal responsibilities by delegation to the DOP or the ARDAP?

The bill provides that ministerial approval to undertake public consultation will be required only where significant or unresolved state issues are involved. Will the minister outline what those state issues might be? Proposed new paragraph (i) of section 24 gives the minister broad powers to amend a development plan. I am inclined to support the view of the Hon. Mike Elliott. However, I am not satisfied with the minister's lack of reasoning to support this amendment. The minister will have an opportunity to set out the case for this amendment when she concludes the second reading debate.

Proposed new section 25(16) gives the minister unilateral power without consultation with the public or a council. Why is this new power necessary? What is wrong with the existing system that necessitates this change? I indicate that I will be looking at the amendments to be moved by the Democrats.

The Local Government Association has raised queries with respect to clause 20 and is seeking greater clarity in relation to the conflict of interest provisions for members of councils and regional panels. The association has suggested a number of amendments to the bill. I have received correspondence from the Local Government Association. I do not think it is necessary for me to outline its concerns as I understand that a copy of the correspondence has been forwarded to the minister and other honourable members. Will the minister outline the government's response and the outcome of any discussions between the Local Government Association and the minister on this issue?

In correspondence to me, the Local Government Association has advised that it has received legal advice from the LGA Mutual Liability Scheme (LGAMLS) that the council development assessment panels are not considered to be separate legal entities. Therefore, the provisions of section 99 of the Development Act would apply. Will the minister comment on any legal advice she has received on this point? Further, will the minister comment on the legal advice the LGA has received from the Local Government Association Mutual Liability Scheme?

In his contribution, the Hon. Mike Elliott expressed concerns about the secretive nature of the regional development assessment panels and the single council development assessment panels and argued for a provision to provide for public access. In part, he stated:

> I believe there is no good reason why the same rules of openness that apply to local government should not relate to development assessment panels.

In the absence of a convincing alternative argument, I will support the honourable member's amendments, but I invite the minister to respond.

Will the minister advise the reasons why the members of these panels are not subject to the conflict of interest provision that applies to councillors and council subsidiary members? Clause 17 inserts a new section 45A which provides the minister with the power to order an investigation. I am not persuaded that the power is necessary and indicate that I will be opposing it. The proposal to allow appellants to be liable for the real costs of legal fees—and not the relevant court scale—is interesting. Will the minister advise whether this

provision applies anywhere else and, if so, where? Or, is this some kind of precedent? An unintended consequence of this proposal could be to deter clients. Justice should not be determined by who has the biggest wallet.

The Australian Democrats are also proposing that developers who require access to water in volumes that require a water permit should secure such a permit before any approval is granted under any other act. On face value, this appears to be a sensible proposal, and I invite comment from the minister on this point. I indicate that at this stage, subject to comments from the minister, I will support the Democrats amendments. SA First supports the second reading but it has strong reservations about many aspects of this legislation.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will take the opportunity to wind up the debate, appreciating that at this moment I do not have all the answers to all the questions that the Hon. Terry Cameron has just raised. I would like an opportunity to speak with him and other members in this place and the other place plus the wider community about some of the matters that have been raised in the second reading contributions. I was put to the test last Thursday by my cabinet colleagues when looking at the parliamentary program for what we thought would be two weeks with an optional third week but now appears to be three weeks of parliament in reality. There are new matters to be introduced and debated over the next three weeks, and my colleagues were keen to know which bills could be addressed promptly and which would not be complex in terms of their negotiation, debate or possibly conferences. I could not say with any clear conscience that the Development (System Improvement Program) Amendment Bill would be a streamlined process in terms of debate.

At that stage I had not received the final form of the Australian Democrats amendments, so I did not quite know what I was dealing with, and I was well aware that the Labor Party also wished to see those amendments and consider them. I subsequently spoke with the shadow minister for planning, Mr Pat Conlon, and advised him that in the circumstances I believed that we should not proceed with the bill in this session but that we should use the break to consider a lot of the new matters raised in the Democrats amendments, once we had seen them. I also advised other members of the parliament of that matter, including the Hon. Mike Elliott. When I spoke to Mr Elliott on the Thursday or Friday, the amendments were still not in a final form and I have still not seen them.

I would also highlight that it is with some disappointment that I have reached the conclusion that we do not advance the debate through the committee stage and further this session, because the proposals in this bill have been around for some time. They arise from recommendations in the Halliday report. That report was commissioned to provide a customer survey of the development and planning system in South Australia. The conclusion generally was that we had possibly the best system in Australia but that it needed fine tuning; in particular, we needed to do much more work on broadcasting widely and educating more broadly about the provisions in the bill—the safeguards and the requirements on councils and the wider community. So, many of the recommendations in the Halliday report are of an administrative nature. A small proportion required legislative change, and that is what is before us now.

I had prepared the draft bill ready for introduction last November. After discussions with the LGA and at the request of the former President, Ms Rosemary Craddock, I agreed that there could be further discussion with the LGA and that we would brief members generally and introduce it before the renewal of the session in March. It was hoped that we could get the bill through both Houses in time for the May local government elections. Then, as part of the education and consultation process, ordinary members of council would have had the advantage of all the reforms that this parliament had considered were necessary to fine tune the Development Act.

Clearly, it has not been possible to achieve what was desirable, and that is to have a comprehensive, updated education package for all new members of local government and the wider community. Nevertheless, that education and informative process will start early next month with joint seminars hosted by the LGA and Planning SA across the regions and the metropolitan area of Adelaide. Of course, as part of those consultations and information sessions, participants will have to be advised that a bill is before the parliament, the content of which is yet to be determined. As I said, the administration and information is in fact the larger part of the reforms that Ms Bronwyn Halliday suggested were necessary in fine tuning the Development Act.

Finally, I must thank the Attorney-General for alerting me to the protocol—that it was not necessary to allow the bill to lapse but that we could take it into the committee stage and then in the new session the bill could simply be reinstated so we do not have to start the process again from scratch. Therefore, I thank members of this place for agreeing that this bill can go into committee and then be adjourned at clause 1 and that we will use the recess to spend time going through all the matters that members would like considered as part of the bill and reforms to the development system in this state in general.

I respect the Hon. Terry Cameron's contribution and how, on quite a number of matters, he is prepared to hear both sides of the story and make up his mind at that time. I am keen to meet with him and go through those issues with him, equally with the Labor Party which has an open mind in terms of the bill and Labor amendments.

There are other matters such as building inspections and general private certification of work and of the planning process that must be considered as part of the reform of the development system in South Australia. During the recess I look forward to seeing how we can advance this bill. I thank members in the meantime for their contribution to the second reading debate.

Bill read a second time.

HISTORY TRUST OF SOUTH AUSTRALIA (OLD PARLIAMENT HOUSE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 May. Page 1069.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I hope to see the speedy passage of this bill, which I introduced on 29 March this year. I thank all members for promptly addressing the content of the bill, which envisages that Old Parliament House be transferred, in terms of ownership and management, from the History Trust of South Australia to the government and managed, in turn, by the parliament.

I introduced the bill and all members made their second reading contribution on the understanding that there were still

some financial issues to be satisfied between the Treasurer, the President and the Speaker on behalf of all members of parliament in terms of maintenance costs.

I am able to advise today that those discussions have been resolved amicably and not only that funds will be transferred between the History Trust and the parliament but also that some additional funds will be provided to the parliament for ongoing maintenance purposes. With the resolution of those financial matters, we will now be able to advance this bill further.

I also highlight that questions have been asked about two clauses in this bill, and I will clarify those matters. In particular, clause 9 allows the Governor by proclamation to vest any outstanding assets or liabilities of the History Trust relating to Old Parliament House in a minister or, with the concurrence of the committee, in the Joint Parliamentary Service Committee. This provision has been included on the basis of advice from Parliamentary Counsel in order to ensure that all relevant assets and liabilities of the History Trust relating to Old Parliament House, if any, can be dealt with in an appropriate manner on the commencement of this legislation. It is purely a technical mechanism in the nature of a transition provision. The provision is not intended to in any way influence or alter any arrangements that may be in place or contemplated with respect to the management of Old Parliament House. These are separate issues unaffected by this provision.

Clause 10 ensures that references to the Parliament (Joint Services) Act, to 'Parliament House', will now be taken to include Old Parliament House. Such references occur in sections 24, 28, 29, 29A and 33 of the Act. The advice from Parliamentary Counsel is that it is appropriate in each case to ensure that the references include Old Parliament House, and this is accepted as being appropriate.

A further matter was raised by the Hon. Sandra Kanck about the restaurant that used to operate in Old Parliament House. I had given an informal undertaking, as she mentioned, that the restaurant would remain. This became increasingly difficult for a variety of reasons, including non-payment of rent and other disputed maintenance issues. It was with enormous regret that I had to speak with the restaurant proprietor and cease that arrangement. When I look back on six and a bit years as minister, it was probably one of the most unsatisfactory experiences with which I have had to deal. A broken promise in terms of an informal undertaking is the least of the difficulties that I have had to deal with in relation to that issue. I regret that was one of the consequences of what I think has worked generally as a very positive move for the parliament and the people of South Australia in terms of the working relations of this parliament, the committee system and the public spaces, and also in terms of the budget of this parliament because it has meant we have not had to build a new annex to accommodate occupational health and safety issues and disability discrimination issues in terms of access.

On that note, I would like to also mention that the Hon. Carolyn Pickles is not able to be here at this moment, but she has indicated to me that she wishes the bill speedy passage.

Bill read a second time.

In committee.

Clause 1.

The Hon. SANDRA KANCK: I am seeking reassurance from the minister in relation to the stability of funding for the History Trust because this process that we are going through will take away a source of funding for the History Trust.

The Hon. DIANA LAIDLAW: I am sorry if I missed responding on that issue before. In summary, I can advise that as part of the budget negotiations for this coming financial year, Treasury and the arts, on behalf of the History Trust, have reached the following accommodation: that the transfer of the building will mean that the History Trust has appropriation reduced from $156 000 to $136 000, but this is more than offset by being relieved of the obligation to maintain Old Parliament House which is currently costing $35 000 per annum. The History Trust will, in fact, be ahead by $15 000. The reference to the sums of $156 000 and $136 000 relates to the need for the History Trust to cover its rental at the Edmond Wright Building in King William Street. That rental would not have been incurred if the History Trust had still been housed in the building that it owned, namely, Old Parliament House.

The History Trust has supported the bill knowing that its financial circumstances would be addressed in the budget for the coming financial year, and now the parliament also is satisfied that its budget concerns are addressed. That has triggered this bill to be advanced tonight.

Clause passed.

Remaining clauses (2 to 10) and title passed.

Bill read a third time and passed.

STATUTES AMENDMENT AND REPEAL (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Adjourned debate on second reading.

(Continued from 1 June. Page 1259.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of the bill. By our count it amends 17 different acts—and by recent amendment there may be others in addition to that, but I cannot really be sure; it is certainly very comprehensive—in what the Attorney-General says are uncontroversial ways. At this stage I intend to deal briefly with each of the acts of which I am aware.

The Attorney has an amendment to Part 1, 'Preliminary' (dated 27 June), which affects the introduction of GST-related clauses. Those clauses relate to parts 5 and 10, to which I will refer later. Part 2, which deals with the Associations Incorporation Act, merely changes a number in a reference to a chapter in the commonwealth Corporations Law. It is consequential on a 1998 change to the Corporations Law. Obviously, that is of no specific concern. Parts 3, 6, 8 and 15, which deal with the Correctional Services Act, the Criminal Law Consolidation Act, the Criminal Law (Sentencing) Act and the Young Offenders Act, (a) allows persons who are serving time for an offence committed while a juvenile who, during their sentence, commit an offence as an adult, for example, escaping after turning 18, to be sentenced as an adult for that later offence; (b) ensures that the departmental officers have statutory authority to enforce community service orders; (c) to complete the new fine enforcement scheme that allows the court to sell any property which is seized to satisfy a fine debt.

Part 4 deals with the Crimes at Sea Act. These changes are of a technical nature to accommodate (a) the withdrawal of Norfolk Island from the national scheme; (b) to make it clear that the act does not apply to acts covered by the Crimes (Aviation) Act; and (c) to prevent the act automatically commencing before the other states are ready with complementary legislation. Part 5, which deals with the Criminal Injuries Compensation Act, permits lawyers to pass on to

clients the cost of the GST imposed on court-regulated charges, which otherwise would have to be absorbed by lawyers. The Attorney has an amendment on file to clause 2 (dated 27 June), which affects this part of the bill.

On the assumption that the bill will not be passed before 1 July, the amendment to clause 2, which I mentioned above, provides that this part of the bill will be taken to have come into operation on 1 July. The opposition also has an amendment on file to this part, which proposes a different change to the act. The opposition's amendment has nothing to do with GST but is designed to prevent anyone being compensated if they are injured and hence become a victim whilst themselves committing a criminal act. On 1 June the Hon. Paul Holloway explained it in these terms:

> My amendment, which I think is self-explanatory, seeks to address community concerns centred on a very public case where, during the course of committing a crime, the perpetrators of the crime were injured by the resident who was seeking to protect himself. In this case, the injured criminals were successfully compensated. I think there is a strong community expectation that perpetrators of crime should not be rewarded. I will have more to say on that amendment when we debate it during committee.

I will expect to hear from the Hon. Paul Holloway on that matter, as he promised. I am anxious that the amendment may go too far. It is possible that a person may be very seriously injured while loitering with intent to commit a very minor offence. Under Labor's intended amendment this person would be ineligible as a crime victim for any compensation. I feel that a person's initial crime or intent to commit a crime should be relevant as to whether they receive any compensation but should not necessarily exclude any possibility of compensation. The Criminal Law Consolidation Act is discussed earlier under part 3.

Part 7 deals with recording DNA profiles of tissue, blood samples, etc., on a police database. At present profiles may be stored on a permanent database when a person has been convicted. I ask the question: convicted of what? There is an apparent ambiguity in the law, and some sections of the act suggest that profiles may be stored when a person is convicted (a) only of the offence with which they are charged—is that the intention? Other sections of the act would permit storing profiles when a person is convicted (b) of an alternative offence, such as manslaughter when charged with murder.

The amendment will ensure that paragraph (b) is applicable throughout the act. The Attorney has an amendment on file (dated 30 May) to this portion of the bill. In a letter dated 30 May and marked in red 'Urgent', the Attorney explains that a court this year has criticised the wording of section 49(2) of the act as 'not ideal'. The 30 May amendment does not alter the law. It merely clarifies that those who are not convicted because of reduced mental capacity (and therefore are liable to supervision) will also have their DNA profile stored in the database, which is what the act already provides. This recording and filing of DNA data is treading on very sensitive ground on the basis of privacy and the availability of this material to other agencies.

Part 8 deals with the Criminal Law Sentencing Act, and I refer to the remarks I made regarding part 3. Part 9 deals with the Election of Senators Act. As a result of a commonwealth amendment in 1998, the nomination period for senators has been reduced by one day. Commonwealth law prevails over state law, so this amendment makes the complementary change in state law.

Part 10 deals with the Environment, Resources and Development Court Act. It permits lawyers to pass onto clients the cost of GST imposed on court regulated charges which otherwise would have to be absorbed by lawyers. I note that the Attorney has on file an amendment to clause 2 (dated 22 June) which affects this portion of the bill as well as the earlier one. On the assumption that the bill will not be passed before 1 July, the amendment to clause 2 provides that this part of the bill will be taken to have come into operation on 1 July.

Part 11 deals with the Evidence Act. When evidence is taken by affidavit overseas, it can be sworn only before an ambassador, consul or other high-ranking diplomat of the Australian Department of Foreign Affairs. This amendment would also allow evidence taken by other locally engaged employees, authorised under a commonwealth act, to be admissible in South Australian court proceedings.

Part 12 deals with the Expiation of Offences Act. The second reading explanation is very unclear as to these amendments. The existing situation is as follows:

1. There is an offence.

2. There is an expiation notice issued (an on-the-spot fine) under section 6. This cannot be issued more than six months after the offence.

3. There is a reminder notice issued under section 11.

4. If the fine is not paid, the Magistrates Court may issue an enforcement order against the offender, under section 13(2), as long as it is still within six months of the offence. The order is equivalent to a conviction and a court ordered fine.

5. The offender may apply for a 'review' of the order, under section 14, arguing, among other things, that they did not receive either the original notice or the enforcement order. Any application for review must be made within 30 days of getting an enforcement order.

6. If the court finds that the offender did not get the notice, the court may then 'revoke' the order, under section 14(4), but the offender is taken to have received a new order at the time of the revocation.

7. By this time, it is almost certainly more than six months after the offence was committed, and therefore the new order is invalid as soon as it is issued.

Therefore, if any offender wishes to avoid paying a fine, all he or she has to do is to argue and convince a magistrate that a notice was not received. The bill addresses this problem by providing that, where an order is revoked for these reasons, a new expiation notice is taken to be issued and is enforceable for a period of 12 months from the date of the revocation. No doubt the Attorney will confirm or enlighten us about that in the second reading or committee stages.

Part 13 deals with the Magistrates Court Act. Minor civil actions are those worth less than $5 000 or typical neighbourhood disputes. Section 38 of the act currently provides that these disputes are to be heard informally, with a court 'inquiring' rather than as an 'adversarial' contest. To this end, and to keep costs down, lawyers are banned, unless one party is a lawyer, all parties agree or the court believes one party would be unfairly disadvantaged thereby. A number of minor changes are proposed, aimed at facilitating this informal dispute resolution process. The amendments ensure that:

(a) The current provisions discouraging the parties' use of lawyers are applied also to interlocutory applications—the District Court had recently assumed otherwise.

(b) Although appeals to the District Court are possible in these minor matters—they are called 'reviews' in the act—lawyers should not be used in these appeals either.

(c) The District Court, after hearing an appeal, has the power to remit the issue back to the Magistrates Court.

(d) Appeals are not taken any further than the District Court, unless the District Court reserves a question of law for the Supreme Court.

The Civil Litigation Committee of the Law Society has informed me that it is quite concerned about this amendment and will write to me on that matter. Its position is that lawyers should not be excluded from District Court appeals. Although the sums involved are small, legal precedents can be established. For example, a litigant who loses a $4 000 appeal because he or she is denied legal assistance in court may have hundreds of similar clients with similar small debts, all of which could be at risk because of the precedent created.

It may seem a little odd that on many occasions I support the removal of lawyers where issues can be satisfactorily resolved. I think this needs to be explored a little further before this bill becomes law and, once again, I am looking for the Attorney's analysis of this concern, both mine and that of the Civil Litigation Committee of the Law Society.

Part 13A deals with the Real Property Act, and the Attorney placed this measure on file as an amendment dated 26 June. Access to records at the Lands Titles Office is subject to fees and charges and has been since 1979. The Attorney states (and it is an amazing admission) that there may have been no statutory power to charge these fees for the past 21 years. I do not know quite what the legal consequences could be of that if that is established. The charges may be contrary to section 65 of the act, which provides:

> Any person shall have access to the register book and to all instruments filed and deposited in the Lands Titles Office for the purpose of inspection during the hours and upon the days appointed for search.

Clearly there is no identification or scope for fees and charges. The amendment inserts a new regulation-making power under section 277 of the act to make regulations for fees and charges for searching the register and obtaining copies of material searched.

Part 14 amends the Wills Act. This is a second attempt to amend the act (an attempt in 1988 has not achieved its intended purpose) to facilitate the acceptance by courts of: (a) wills that do not satisfy specific formalities; and (b) informal revocation of wills. The Law Society has made a submission, as follows:

> Generally speaking, the amendment appears to be acceptable. It is, however, unfortunate that we now have a fourth version of section 12(2) and that is it is different from the proposal of the National Committee for Uniform Succession Laws. It is suggested that consideration be given to expressly make the amendment apply without affecting the validity of any grant made in the meantime (or anything done or not done as a consequence of such a grant) to any rule whenever made and whether the testator died before or after the commencement of this amendment. Otherwise it is possible to have the scenario of different tests being applied to wills and different tests of revocation.

I cannot say that I have got my head totally around that contribution. No doubt you have, Mr President, because you look to be listening very intently.

The Hon. K.T. Griffin: I have been.

The Hon. IAN GILFILLAN: You have? I look forward to the Attorney's response to that as well in the second reading summary or in committee. Part 15 deals with the Young Offenders Act, and I have referred to that with respect to part 3. Part 16 repeals the Australia Acts (Request) Act 1999. That was passed in anticipation of a yes vote in the referendum of 6 November 1999 and, since the republic referendum unfortunately was defeated, the act is useless. If any future referendum is successful, the act would be to have repealed anyway, so it may as well be repealed now. I have no problem with that.

Although the Attorney may well say that these measures are uncontroversial, they are of some substance and they certainly deserve the scrutiny and attention of this Council. I indicate our support for the second reading of the bill.

The Hon. T.G. CAMERON: I will be very brief. The bill makes minor technical amendments to a variety of bills put forward in the Attorney-General's portfolio. This has been brought about because of commonwealth legislation, legislative sections that are out of date or loopholes or omissions that have been discovered.

Most of what I was going to say has been said by other speakers so I will not go through all the following changes but there are changes that have been made to about a dozen acts. I indicate that SA First supports the second reading and, unless it hears strong evidence to the contrary during the committee stage, will be supporting this legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the second reading of the bill. The Hon. Ian Gilfillan has raised a number of issues and what I propose is that I will respond to those in committee. One of those he raised related to an amendment to the Wills Act where the Law Society has recommended and urged that the amendment be made retrospective. I have given consideration to the representations by the Law Society. I am not persuaded that we ought to be making the amendment retrospective if only for the reason that, if rights have accrued under the law as it is, then it seems to me to be unreasonable to legislate in a way which will take those rights away.

Although the Law Society is asserting that there may be some complexity occurring as a result of the fact that the amendment is not made retrospective, I think we just have to live with that. I do not expect a major problem, if any, if the rules are different for those estates where the death has occurred before this bill comes into operation as opposed to where there are estates where the deceased dies after this bill comes into operation. We can have more of a debate about that in committee. Whilst I understand the point the Law Society makes, I remain to be persuaded of the merit and the justice of the position they promote.

The Hon. Paul Holloway raised an issue about the Criminal Injuries Compensation Act and we will debate that in greater depth in committee. A major review of that act is being undertaken and is nearing completion. I expect that a number of amendments will be made to the act as a result of that review. I hope, although I cannot say with 100 per cent certainty, that a bill dealing with issues arising from the review of the Criminal Injuries Compensation Act will be introduced in the next parliamentary session. My preference would be to see the issues raised by the Hon. Mr Holloway in his amendments dealt with in a more considered way in the context of the results of the review of the Criminal Injuries Compensation Act.

The government is sympathetic to the concerns that have prompted the honourable member to move the amendment, but it is unduly harsh in its operation and I believe that there

are some practical legal difficulties with it. It is not a small and uncontroversial amendment that can be properly dealt with in a portfolio bill: it is a significant change to policy. Whilst I cannot blame the honourable member for trying to have the issue dealt with in the portfolio bill, I hope that agreement can be reached that this is the sort of issue that ought to be the subject of wider debate and, most particularly, consultation with victims of crime.

There are some additional reasons why I think it is inappropriate to deal with these amendments in this bill at this time. I would hope that, in expressing those, the shadow attorney-general will not pick up the cudgels and assert that this is a rort which the opposition endeavoured to close off and that the government and others would not give support. I know that the shadow attorney-general has raised this issue on occasions—

Members interjecting:

The Hon. K.T. GRIFFIN: I know that he has had this issue in mind for some time, and I do not want to get trapped into a situation where we are trying to deal with this sensibly but we find that, from a government perspective, it backfires.

The Hon. Ian Gilfillan interjecting:

The Hon. K.T. GRIFFIN: I know that. However, I do know it is an issue that the shadow attorney-general has raised. I believe it is an issue more appropriately dealt with in a wider policy debate than in a portfolio bill. In committee we can deal with that issue and other issues that may have been raised that I have not adequately dealt with.

Bill read a second time.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 June. Page 1302.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the second reading of this bill. A number of points were raised by the Hon. Carmel Zollo, and in particular she asked about the amendment of section 34 concerning the conditions of restaurant licences. The amendment is not intended to prevent restaurants from serving liquor to a customer seated at a table or to a customer attending a function at which food is served, even where that customer does not order a meal, where the licence conditions permit trade of this kind. Rather, it is intended to deal with a problem being faced by the licensing authority, the police and the general community, in that some restaurants are simply closing as dining facilities in the late evening and then continuing to trade as nightclubs or entertainment venues into the early hours of the morning.

Such licensees argue that, as long as the hours of trading as a restaurant exceed the hours of trading of some other facility, the current requirements of section 34(2) are being met. This is not the intention. A venue that wishes to trade as a nightclub or entertainment venue should seek the appropriate licence, as the Hon. Trevor Crothers has explained. This amendment is simply designed to make sure that the business of being a restaurant is the venue's predominant business at all times. I will move an amendment to make clear that this clause is subject to any condition imposed on the licence. Licensees may apply for an exemption if they wish to operate their restaurant in such a way that it is not at all times predominantly engaged in supplying meals to the public.

The Hon. Carmel Zollo also asked me to comment on the merits of a suggestion from the Law Society that the certificate of approval be made subject to particular planning conditions so as to allow some flexibility in issuing licences. In my view, development approval which is of a general nature is logically prior to licensing approval, which is far more specific. The Liquor and Gaming Commissioner recently convened a legal practitioners forum at which this issue was discussed. I understand that at the forum there was general support for the measures proposed in this bill, and I am therefore not satisfied that the Law Society's submission reflects the general view of practitioners in this jurisdiction.

Further, it is a waste of the resources of the licensing authority to determine contested applications when in reality the development might not eventuate because planning approval is not granted. Importantly, the licensing authority needs to know the conditions which the development authority will attach, for example, such matters as car parking, before it is able to make a properly informed decision as to whether a licence should be granted.

The honourable member further asked me to elaborate on the proposed power of the commissioner to impose disciplinary sanctions by consent. It commonly occurs that a licensee does not dispute an alleged breach and is able to agree with the commissioner as to an appropriate penalty, such as giving an undertaking or otherwise. At present the commissioner is able to obtain a written undertaking in lieu of further disciplinary action. The proposed provision goes further and permits the commissioner by agreement also to impose other disciplinary measures. I stress that this can occur only if the licensee agrees. As a matter of practice of course this agreement would need to be recorded in writing. However, the act does not prescribe any particular form. This is a matter that can be worked out administratively. I stress that this provision in no way cuts down the right of a licensee to contest any allegation of a disciplinary nature and to have the matter determined by the court.

The honourable member raised concerns about clause 37(c) of the bill, which provides that it will be a further ground for a barring order if the licensee or a responsible person for the licensed premises is satisfied that the welfare of the person, or of a person residing with that person, is seriously at risk as a result of the consumption of alcohol by that person. The honourable member has queried whether this provision will result in the imposition of a new duty of care on the part of the licensee. The honourable member encouraged me to explore this issue further and I now advise her that I have considered the point and taken advice on it and, in order to allay the honourable member's concerns, I will be moving an amendment to clause 37(c) of the bill to ensure that neither a licensee nor a responsible person may be found liable for damages or compensation as a result of a failure to exercise his power to bar.

The Hon. Mr Gilfillan also raised that issue as I recollect and the amendment will hopefully address the concerns that he raised. I am informed that a private person who seeks to place legal proceedings on a provision of this type will face rather formidable obstacles. Certainly provisions conferring powers on public authorities have been held to give rise to private rights of action in some limited cases. While licensees and responsible persons are certainly not public authorities, this amendment will make clear that no such liability will arise under the act. I propose that we will deal with the committee stage of the bill on the next day of sitting.

Bill read a second time.

RACING (CONTROLLING AUTHORITIES) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The *Racing (Controlling Authorities) Amendment Bill 2000* represents the culmination of an extensive dialogue between the Government and the racing industry regrading the preferred method of governance and management for the entire industry to enable the industry to meet the strategic challenges of the future.

In early 1999 the Government began a review of the present governance and management arrangements and particularly the nature and operations of the Racing Industry Development Authority (RIDA). At the same time it was decided to also consider the nature and operations of the existing controlling authorities being:

- South Australian Thoroughbred Racing Authority (SATRA);
- SA Harness Racing Authority (SAHRA); and,
- SA Greyhound Racing Authority (SAGRA).

The dialogue underpinning the review process included canvassing of written and oral submissions from any interested party within the industry. Submitters were invited to present views on a wide range of industry matters and particularly the nature, composition and method of appointment of controlling authorities.

In August 1999 a discussion paper, summarising and canvassing issues raised in the above submissions was released and again comment was sought from the industry.

Through this process the view that clearly emerged was a preference for a minimal role for Government and the corporatisation of the individual codes. The Government agreed to support the codes to achieve their preferred corporate model.

Each code has subsequently embarked on its own corporatisation process by developing Memorandums and Articles of Association which detail the nature and power of the corporation's membership and the composition and powers of the Board of Directors. Each code's corporate documentation is different and represents the individual nature of the codes makeup and strategic issues.

The Racing (Controlling Authorities) Amendment Bill supports the codes in their corporatisation process through the abolition of RIDA and the existing controlling authorities. Instead the Governor will by proclamation designate a body as a controlling authority. These new controlling authorities will be the corporations established by the respective codes to carry out those functions conferred on the corporation by the code.

Members would be aware that the Government has announced its intention to pursue the disposal of its interest in the Totalizator Agency Board (TAB) and is in discussions with the racing industry with a view to formalising the arrangements between the codes and the TAB prior to its disposal. Until such time as the parties otherwise agree the financial provisions of the *Racing Act* related to distributions to the codes will remain intact, save the RIDA Fund.

The bill provides that the Minister may, by order, distribute the RIDA Fund as at the date of commencement to the codes. Payments presently made by clubs to the RIDA Fund will cease at the date of commencement.

In view of the industry's push for a minimalist role for Government the bill also provides for:

- the abolition of the Racing Appeals Tribunal as a statutory body and instead the industry will become responsible for the administration and determination of matters of appeal
- the transfer of responsibility for bookmakers and on-course totalizators to the Gaming Supervisory Authority and the Liquor and Gaming Commissioner.

Employees of RIDA will be transferred to the public service by proclamation in accordance with the *Public Sector Management Act*.

I commend the bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal. The operation of section 7(5) of the *Acts Interpretation Act* (providing for commencement of the measure after 2 years if an earlier date has not been fixed by proclamation) is excluded. This is to provide flexibility should the arrangements with the racing industry relating to the disposal of TAB be finalised and relevant legislation be agreed to by the Parliament.

Clause 3: Amendment of long title

The long title is amended to remove otiose references to repeal and amendment of Acts.

Clause 4: Amendment of s. 5—Interpretation

A new definition of authorised officer is added for the purposes of the new Part on enforcement.

The amendments confer functions on the Gaming Supervisory Authority and the Liquor and Gaming Commissioner and consequently definitions of the Authority and the Commissioner are added.

The amendment to the definition of racing totalizator rules is consequential to the transfer of functions in relation to those rules from the Minister to the Gaming Supervisory Authority (see the amendment to section 67) and the other amendments are consequential to the controlling authorities becoming purely industry bodies.

Clause 5: Substitution of Parts 1A, 1B, 2 and 2A

The Parts repealed are as follows:

Part 1A—Racing Industry Development Authority
Part 1B—Funds for Racing Industry
Part 2—Controlling Authorities
Part 2A—Racing Appeals Tribunal

Consequently, RIDA will be brought to an end and the establishment of controlling authorities and an appeals mechanism left to the racing industry. The special industry Funds will be abolished but, under this measure, the amounts that would have been paid into the Funds will be paid directly to the industry established controlling authorities.

New Part 2 provides for the recognition by proclamation of controlling authorities established by the racing industry for each of the codes (horse racing, harness racing and greyhound racing).

Clause 6: Amendment of s. 51—Functions and powers of TAB

Currently, TAB is required to consult with RIDA with respect to promotion or marketing related to racing. The amendment requires the consultation to be with the controlling authorities.

Clause 7: Amendment of s. 63—Conduct of on-course totalizator betting by racing clubs

Clause 8: Amendment of s. 64—Conduct of on-course totalizator betting when race meeting not in progress

Clause 9: Amendment of s. 65—Revocation of right to conduct on-course totalizator betting

The amendments transfer the following functions of RIDA to the Gaming Supervisory Authority:

- to authorise a non-registered racing club to conduct on-course totalizator betting in conjunction with a race meeting held by the club (section 63(1a));
- to authorise a racing club to conduct on-course totalizator betting in conjunction with a race meeting held by the club on races of other forms held within or outside Australia (section 63(6));
- to authorise a registered racing club to conduct on-course totalizator betting on races of any form held within or outside Australia when a race meeting is not in progress at the racecourse at which the totalizator betting is to be conducted (section 64);
- to revoke, suspend or restrict a racing club's authority to conduct on-course totalizator betting if of the opinion that the club has contravened or failed to comply with the Act (section 65).

Currently, section 63(7) requires the approval of RIDA for the conduct of on-course totalizator betting by a racing club in the event of cancellation of a race meeting. The amendment removes the requirement for approval.

Clause 10: Amendment of s. 67—Totalizator rules for authorised racing clubs

Totalizator rules for authorised racing clubs are made by the Minister under section 67. This function is transferred to the Gaming Supervisory Authority. The requirement for consultation with controlling authorities and TAB remains unchanged.

Clause 11: Amendment of s. 69—Application of amount deducted under s. 68

These amendments take into account amendments proposed by the Statutes Amendment (Lotteries and Racing—GST) Bill 2000.

The amendments do not alter the distribution of money amongst industry, the TAB and the Hospitals Fund, but simply provide that amounts currently directed to industry through the SATRA Fund, the SAHRA Fund and the SAGRA Fund are to go directly to the relevant controlling authority and that amounts currently directed to the RIDA Fund are to go directly to the controlling authorities in the respective shares currently specified in subsection (2)(b) for other purposes.

The arrangement under which TAB could pay amounts to RIDA for distribution amongst the relevant industry funds is discontinued

but the ability of TAB to pay an advance to industry with the approval of the Minister is continued.

Clause 12: Amendment of s. 70—Application of percentage deductions

The amendment has the effect of allowing an authorised racing club to keep the percentage of totalizator bets currently paid to the RIDA Fund.

Clause 13: Amendment of s. 70A—Refund of GST payable by racing club

This amends a provision inserted by the Statutes Amendment (Lotteries and Racing—GST) Bill 2000. Under section 70A RIDA is required to pay amounts in respect of GST to authorised racing clubs. This amendment transfers that responsibility to the Treasurer and appropriates the Consolidated Account accordingly.

Clause 14: Amendment of s. 71—Fixing the amount of betting unit

Section 71 enables the TAB and controlling authorities to gazette betting units. Currently, the approval of the Minister is required. The amendment requires the approval of the Gaming Supervisory Authority in relation to gazettal by controlling authorities and retains the requirement for approval of the Minister in relation to gazettal by the TAB.

Clause 15: Amendment of s. 76—Application of fractions by TAB

The amendment requires the amount of fractions retained by TAB that is currently paid to the RIDA Fund to be paid directly to the controlling authorities in the respective shares specified in section 69(2)(b).

Clause 16: Repeal of s. 77

The repeal removes the requirement for racing clubs to pay the amount of fractions retained by the racing club under section 73(4) to the RIDA Fund. Currently, the controlling authority could authorise a club to apply the fractions for the purposes of the club in any event.

Clause 17: Amendment of s. 78—Unclaimed dividends

The amendment requires the amount of unclaimed dividends currently required by TAB to be paid to the RIDA Fund to be paid directly to the controlling authorities in the respective shares specified in section 69(2)(b).

Clause 18: Amendment of s. 82A—Agreement with interstate totalizator authority—interstate authority conducts totalizator

This is a consequential amendment relating to the repeal of section 77 and the retention of fractions by racing clubs.

Clause 19: Amendment of s. 83—Returns by authorised clubs

The amendment requires racing club returns to be forwarded to the Liquor and Gaming Commissioner rather than the Minister.

The other amendments to section 83 are consequential.

Clause 20: Amendment of s. 84—Facilities for police to be provided by authorised racing clubs

The amendment transfers from the Minister to the Gaming Supervisory Authority the function of requiring specified facilities at a racecourse to be made available to the police.

Clause 21: Amendment of s. 85—Interpretation

Currently, the Minister approves events (other than races) for the purposes of Part 4 to enable bookmakers to accept bets on the events in certain circumstances. This function is transferred to the Gaming Supervisory Authority.

Clause 22: Repeal of s. 98

Section 98, which required RIDA to pay money received under the Part to the Treasurer, is repealed. The provision is no longer necessary since the functions of RIDA under the Part are transferred to the Gaming Supervisory Authority and the Liquor and Gaming Commissioner.

Clause 23: Amendment of s. 100—Licences

Clause 24: Amendment of s. 101—Applications for licences

Clause 25: Amendment of s. 102—Conditions to licences

Clause 26: Amendment of s. 103—Terms of licences

Clause 27: Amendment of s. 104—Suspension and cancellation of licences

Clause 28: Amendment of s. 104A—Power to impose fines

Clause 29: Amendment of s. 105—Registration of betting premises at Port Pirie

Clause 30: Amendment of s. 106—Applications for registration of premises

Clause 31: Amendment of s. 107—Conditions to registration

Clause 32: Amendment of s. 109—Term of registration

Clause 33: Amendment of s. 110—Suspension and cancellation of registration

All of these clauses involve the transfer from RIDA to the Gaming Supervisory Authority of the functions of licensing bookmakers and registering premises at Port Pirie for bookmaking purposes.

Clause 34: Amendment of s. 112—Permit authorising bookmaker to accept bets

Clause 35: Amendment of s. 112A—Grant of permit to group of bookmakers

Clause 36: Amendment of s. 112B—Revocation of permit

These clauses involve the transfer from RIDA to the Liquor and Gaming Commissioner of the function of granting permits to licensed bookmakers to accept bets on races or approved events made on a day and within a racecourse, in registered premises or at any other specified place.

Where betting is to take place at a place other than a racecourse or registered premises, the occupier must be consulted before permits are granted. An additional requirement to obtain the approval of the Minister is included.

Clause 37: Amendment of s. 113—Operation of bookmakers on racecourses

The amendment transfers from the Minister to the Gaming Supervisory Authority the function of appointing an arbitrator to determine the prescribed fee for a racing year in default of agreement between the controlling authority and the South Australian Bookmakers League Incorporated.

Clause 38: Amendment of s. 114—Payment to Commissioner of percentage of money bet with bookmakers

Clause 39: Amendment of s. 114A—Payments of GST on behalf of bookmakers

Clause 40: Amendment of s. 116—Recovery of amounts payable by bookmakers

The amendments provide for payments to be made to and by the Liquor and Gaming Commissioner rather than RIDA.

Clause 41: Amendment of s. 117—Licensed bookmakers required to hold permits

Clause 42: Amendment of s. 120—Commissioner may give or authorise information as to betting

These amendments are consequential to the transfer of functions from RIDA to the Liquor and Gaming Commissioner.

Clause 43: Amendment of s. 121—Unclaimed bets

The amendments transfer the function of holding unclaimed bets in accordance with the rules from RIDA to the Liquor and Gaming Commissioner.

Clause 44: Amendment of s. 124—Rules relating to bookmakers

The amendments transfer the function of making rules relating to bookmakers from RIDA to the Gaming Supervisory Authority.

Clause 45: Insertion of Part 5—Enforcement

The new Part deals with enforcement of the Act by the Liquor and Gaming Commissioner and the appointment of inspectors for that purpose.

125. Commissioner's responsibility to Authority

This section provides that the Liquor and Gaming Commissioner is responsible to the Gaming Supervisory Authority for the constant scrutiny of betting operations of a kind authorised by the Act (other than operations of TAB).

126. Appointment of inspectors

This section allows for the appointment of Public Service inspectors and for the provision of identification cards by the Liquor and Gaming Commissioner.

127. Power to enter and inspect

The powers under this section are provided to the Commissioner, the members and secretary of the Authority, inspectors and police officers (collectively called authorised officers). The circumstances in which the powers may be exercised are set out in subsection (2). A warrant is required in respect of entry to a place in which there are not any operations of a kind authorised under the Act being conducted.

Clause 46: Substitution of s. 146A

Section 146A currently deals with aspects of the independence of members of TAB. The section is repealed.

The new section allows the Minister to delegate powers or functions under the Act.

Clause 47: Repeal of ss. 147 and 148

Section 147 currently deals with the power of controlling authorities to bar persons from racecourses and 148 with the power of racing clubs to remove persons from racecourses. These sections are considered unnecessary and are repealed.

Clause 48: Repeal of Schedules 1 to 3

These Schedules relate to repeals, amendments and transitional

provisions. The provisions are exhausted and are consequently repealed.

Clause 49: Transitional provisions—Minister

This clause includes the following transitional arrangements:

- rules for totalizator betting conducted by racing clubs made by the Minister under section 67 are to continue in force as if made by the Gaming Supervisory Authority;
- an approval of an event by the Minister under section 85 (for betting by bookmakers) is to continue in force as if given by the Gaming Supervisory Authority.

Clause 50: Transitional provisions—RIDA

This clause includes the following transitional arrangements:

- assets may be transferred by order of the Minister from RIDA to a specified controlling authority;
- an authorisation or notice given by RIDA under Part 3 in relation to a racing club is to continue in force as if given by the Gaming Supervisory Authority;
- a licence or registration in force under Part 4 in relation to bookmaking is to continue in force as if granted by the Gaming Supervisory Authority;
- a permit or authority in force under Part 4 in relation to bookmaking is to continue in force as if granted by the Liquor and Gaming Commissioner;
- rules for bookmaking made by RIDA under Part 4 are to continue in force as if made by the Gaming Supervisory Authority;
- proceedings or processes commenced by or in relation to RIDA may be continued and completed by or in relation to the Crown.

Clause 51: Transitional provisions—SATRA

This clause includes the following transitional arrangements:

- assets may be transferred by order of the Minister from SATRA to the controlling authority for horse racing;
- all references in instruments (for example, enterprise agreements and continuing contracts) to SATRA are converted to references to the controlling authority for horse racing;
- rules for horse racing adopted or made by SATRA under Part 2 continue in force;
- proceedings or processes commenced by or in relation to SATRA may be continued and completed by or in relation to the controlling authority for horse racing;
- employees of SATRA become employees of the controlling authority for horse racing without reduction in salary or status and without loss of accrued or accruing leave entitlements.

Clause 52: Transitional provisions—SAHRA

This clause includes the following transitional arrangements:

- assets may be transferred by order of the Minister from SAHRA to the controlling authority for harness racing;
- all references in instruments (for example, enterprise agreements and continuing contracts) to SAHRA are converted to references to the controlling authority for harness racing;
- rules for harness racing adopted or made by SAHRA under Part 2 continue in force;
- proceedings or processes commenced by or in relation to SAHRA may be continued and completed by or in relation to the controlling authority for harness racing;
- employees of SAHRA become employees of the controlling authority for harness racing without reduction in salary or status and without loss of accrued or accruing leave entitlements.

Clause 53: Transitional provisions—SAGRA

This clause includes the following transitional arrangements:

- assets may be transferred by order of the Minister from SAGRA to the controlling authority for greyhound racing;
- all references in instruments (for example, enterprise agreements and continuing contracts) to SAGRA are converted to references to the controlling authority for greyhound racing;
- rules for greyhound racing adopted or made by SAGRA under Part 2 continue in force;
- proceedings or processes commenced by or in relation to SAGRA may be continued and completed by or in relation to the controlling authority for greyhound racing;
- employees of SAGRA become employees of the controlling authority for greyhound racing without reduction in salary or status and without loss of accrued or accruing leave entitlements.

Clause 54: Acts Interpretation Act not affected

This clause provides that the *Acts Interpretation Act 1915* applies, except to the extent of any inconsistency with the measure, to the amendments effected by this Act.

SCHEDULE

Amendment of Gaming Supervisory Authority Act

The Schedule makes consequential amendments to the *Gaming Supervisory Authority Act* to reflect the functions given to the Authority and the Liquor and Gaming Commissioner under the amendments to the *Racing Act*.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

WATER RESOURCES (WATER ALLOCATIONS) AMENDMENT BILL

The House of Assembly disagreed to the Legislative Council's amendments.

ALICE SPRINGS TO DARWIN RAILWAY (MISCELLANEOUS) AMENDMENT BILL

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

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

That this bill be now read a second time.

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

Leave granted.

The passage of this legislation will be an important step in the realisation of the construction of a railway link between Alice Springs and Darwin and the facilitation of the operation of train services between Adelaide and Darwin. The new rail link will also provide a new gateway to Asia, providing a new trade route to Asia via Darwin.

This Bill reflects the culmination of almost a century of work to bring about the construction of a railway linking Darwin to South Australia and from there to the rest of the Australian rail network. This marks an important moment in Australia's history.

The railway is a strategic infrastructure project that forms an essential part of the state's economic strategy. It will build on the momentum for economic growth that this government has fostered, lift confidence in the state's economic future and will provide opportunities during both the construction and operational phases for South Australian industry.

This Parliament has previously considered three other Bills related to the Railway; one dealing with the authorisation of an agreement between the South Australian and Northern Territory governments to facilitate the construction of the Railway; one dealing with the form and commitment of the South Australian financial support for the project; and one establishing the Access Regime.

This latest Bill is a logical progression of this work that has continued to progress after an extensive and competitive submission process was conducted, resulting in three international consortia, all with significant Australian partners, being short-listed to provide detailed proposals. The preferred consortium selected by the AustralAsia Railway Corporation ('AARC') from this process was the Asia Pacific Transport Pty Ltd ('APTC').

APTC comprises: Brown & Root, a major US based multi-national engineering and construction company that incorporates SA based project managers Kinhill as bid leader; SA based civil construction company Macmahon Holdings; rail maintenance construction companies Barclay Mowlem and John Holland; SA based US rail operator Genesee & Wyoming; and MPG Logistics as logistics manager. As can be seen, this consortium has significant South Australian and Australian consortium members.

As a result of extensive negotiations between AARC and APTC, various issues have been identified that require amendments to the project legislation before contract arrangements can be finalised. These issues relate to the form of SA Government financial support and various other issues. This Bill aims to address these issues.

The Bill also specifically authorises the implementation of a Concession Deed, which is the main instrument by which the parties to the Deed (APTC, AARC and the SA and NT Governments) establish their respective rights and obligations to the project in a legally enforceable way.

In essence the Bill seeks to convert the current $25 million loan guarantee to either a concessional loan or a grant. This is being done to overcome a technical legal issue associated with the loan guarantee, which in current legislation, does not allow for the

capitalisation of interest, above the principal amount. Capitalisation of interest will be necessary during the construction and early operational phases of the project, until APTC generate sufficient operating cash flow to commence repayment of the loan.

Arising from their due diligence on the project, APTC have sought a number of amendments to facilitate construction and operation. In this regard, it is proposed that APTC have priority use of the corridor for the purposes of operating train services, to ensure that trade between the State and the Northern Territory is not impeded once APTC commence operation on the existing railway corridor between Tarcoola and Alice Springs.

APTC have also sought some flexibility for the State to have a regulation making power with the force of law to amend other Acts, should legal impediments arise during the early part of the construction phase that may require legislative remedies. It is proposed to limit this Regulation making period to 12 months.

The Bill has been developed in close collaboration with the Northern Territory Government. Accordingly, the Bill is consistent in many respects with similar legislation which has now passed in the Northern Territory Legislative Assembly

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Definitions

This amendment will insert a definition of 'Concession Deed' and a definition of 'consortium' into the Act in connection with other amendments to be effected by this measure.

Clause 4: Insertion of s. 5A

A 'Concession Deed' is being negotiated in respect of the construction, operation and maintenance of a railway as part of the authorised project. It is proposed to give specific authorisation to the implementation of this instrument. A similar provision is proposed to be enacted in the Northern Territory.

Clause 5: Amendment of s. 6—Extent of financial commitment

Section 6*(b)* of the Act authorises the Minister to give a guarantee or guarantees with respect to debt associated with the authorised project up to a total amount of $25 million plus GST. It has now been decided to replace this provision with a provision which will authorise the making of a loan or loans up to a total principal amount of $25 million plus any GST (with the arrangements for payments with respect to the loan to be determined by the Minister after consultation with the Treasurer), or, alternatively, if the Minister is satisfied that it is necessary or desirable in order to facilitate implementation of the authorised project, after consultation with the Treasurer, the provision of funds up to the total amount of $25 million plus any GST. Section 6 will now also include a reference to the Concession Deed.

Clause 6: Amendment of s. 9—Buildings and development work regarded as complying

An amendment will ensure that the operation of section 9 of the Act extends to the provision of relevant approvals, certificates and other things under the *Development Act 1993* with respect to relevant buildings and development work. It is also to be expressly provided that a relevant authority under the *Development Act 1993* cannot, as a condition of giving an approval with respect to work on the railway, require the upgrading of another part of the railway.

Clause 7: Insertion of ss. 10 to 14

Specific provision is to be made so as to ensure that any interest or right in or in relation to land forming any part of the rail corridor between Tarcoola and the Northern Territory border is modified to the extent necessary to enable the consortium to construct, operate and maintain a railway within that corridor.

A second provision will apply certain provisions of the Northern Territory *Law of Property Act* so as to provide a consistent regime with respect to certain issues arising under the leasing arrangements for the railway, subject to certain modifications.

A third provision relates to the bringing of proceedings by or against the South Australian Crown or the Northern Territory Crown in connection with the authorised project.

A fourth provision will allow the Treasurer, by notice in the *Gazette*, to exempt transactions or instruments connected to the authorised project from the imposition from specified taxes, duties or other imposts. The Treasurer will also be able to grant exemptions from legislation related to the imposition or administration of a tax, duty or impost.

A fifth provision will allow the Governor to make regulations amending, or modifying the operation of, the principal Act or any other Act, in relation to any matter arising from, connected with or consequential on any aspect of the authorised project. Such a regulation will be capable of having effect from a day earlier than the day on which the regulation is made, but not earlier than the day on which this new provision is brought into operation. The power to make regulations under this provision will expire after 12 months.

Clause 8:Amendment of Railways (Operations and Access) Act 1997

It will be made clear that the access regime under the Act cannot extend to the railway to which the *AustralAsia Railway (Third Party Access) Act 1999* applies. Secondly, the provision relating to an exemption from the requirement to fence a rail corridor is to be revised to make it clear that an operator of a railway is not required to contribute to the replacement or repair of a fence.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

RECREATIONAL GREENWAYS BILL

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

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): 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.

Walking, cycling, horse riding and skating are growing in popularity as major outdoor recreational activities throughout South Australia.

While health and fitness are important, equally South Australians are seeking a sense of adventure, achievement and fun whilst enjoying the natural environment.

South Australia already boasts a network of recreational trails in excess of 3 000 km, providing quality experiences with panoramic views, natural flora and fauna attractions and historical and cultural areas of interest.

Presently however, the network and its future development is restricted primarily by lack of access certainty. Many agreements providing for access are ad hoc in nature and subject to regular change.

The Recreational Greenways Bill helps to overcome this uncertainty by providing for the registration of Access Agreements on the relevant Certificate of Title.

Access Agreements will be negotiated between landowners, both private and public, and the Minister. Agreements will provide for such things as:

- type of permitted use;
- indemnification and waivers of liability; and,
- opening and closing times;

The bill is also designed to facilitate cooperation between the State and Local Governments, Private Land Owners and Local Community Groups through amendments to the Development Act which provide for management agreements over land comprising or adjacent a Greenway.

These agreements will operate to ensue the preservation of the relevant amenity of the land by clearly defining the rights and obligations of the parties to the agreement.

Taken together, access and management agreements will ensure the continued access to recreational trails and ensure these assets are managed in accordance with community expectations.

I commend the bill to honourable members.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

Clause 3 sets out definitions of terms used in the bill.

Clause 4: Relationship with other Acts

Clause 4 ensures that the bill will not derogate from the provisions of any other Act except where the contrary intention appears.

Clause 5: Establishment of greenways
Clause 5 provides for the establishment of greenways. A greenway can only be established over public land if the authority responsible for the land has entered into an agreement for that purpose with the Minister responsible for the bill.

A greenway can only be established over private land that is subject to an access agreement under Part 4 or an easement for the purposes of the greenway.

Clause 6: Public consultation on proposed greenway
Clause 6 requires the Minister to invite members of the public to provide submissions in relation to a proposed greenway. The Minister must have regard to all submissions made in response to the invitation.

Clause 7: Consultation with adjoining owners and pastoral lessees
Clause 7 requires that a copy of the notice under section 6 be served on owners of land adjoining the proposed greenway and on the lessee of a pastoral lease over which a proposed greenways will pass.

Clause 8: Variation or revocation of proclamation
Clause 8 provides for the variation or abolition of a greenway.

Clause 9: Restriction on use of land subject to a greenway
Clause 9 provides that the use of land that comprises a greenway by the owner of the land is subject to the rights of the Minister and members of the public to use the land for the purposes of a greenway. It should be remembered that the land can only become a greenway in the first place with the consent of the owner of the land or, in the case of public land, with the consent of the authority that owns the land or in whom the care, control and management of the land is vested.

The clause also provides that approved management plans under the *Coast Protection Act 1972* and adopted plans of management under the *National Parks and Wildlife Act 1972* take precedence over greenways.

Clause 10: Declaration of greenways subject to native title
Clause 10 provides that the declaration of a greenway is subject to native title (if any) over the land comprising the greenway.

Clause 11: Public right of access to greenways
Clause 11 sets out the right of members of the public and visitors to the State to use greenways.

Clause 12: Closure of greenways
Clause 12 provides for the closure of greenways.

Clause 13: Offences in relation to use of greenways
Clause 13 provides the offences and penalties for the misuse of greenways.

Clause 14: Ability to enter into agreements
Clause 14 enables the owner of private land to enter into an access agreement for the purposes of a greenway.

Clause 15: Nature of agreement
Clause 15 explains the nature of access agreements. An access agreement attaches to the land so that the current owner of the land is a party to it and is bound by it. An access agreement is subject to native title (if any) over the land when the agreement was made.

Clause 16: Access agreement may include indemnity, etc.
Clause 16 makes it clear that an access agreement can provide an indemnity for the benefit of a party to the agreement.

Clause 17: Variation of access agreement
Clause 17 provides for the variation of an access agreement.

Clause 18: Requirement to note an access agreement, etc.
Clause 18 provides that an access agreement has no force or effect until the agreement is noted on the title to the land by the Registrar-General. This is an important provision in view of the fact that subsequent owners of the land are bound by the agreement.

Clause 19: Enforcement of agreement
Clause 19 provides for the enforcement of access agreements.

Clause 20: Minister's functions

Clause 21: Powers of the Minister

Clause 22: Other functions and powers of the Minister
Clauses 20, 21 and 22 set out the Minister's functions and powers under the bill.

Clause 23: Nature of easement
Clause 23 sets out the nature of an easement acquired over land by the Minister for the purposes of a greenway. The Minister can only acquire such an easement with the agreement of the owner of the land.

Clause 24: Minister's power of delegation
Clause 24 provides for the delegation of certain powers by the Minister.

Clause 25: Appointment of authorised officers
Clause 25 provides for the appointment of authorised officers.

Clause 26: Other authorised officers
Clause 26 provides that police officers are authorised officers for the purposes of the bill. Forest wardens under the *Forestry Act 1950* and wardens under the *National Parks and Wildlife Act 1972* are also authorised officers but only in relation to greenways in a forest reserve or a reserve under the relevant Act.

Clause 27: Powers of authorised officers
Clause 27 sets out the powers of authorised officers.

Clause 28: Hindering, etc., persons engaged in the administration of this Act
Clause 28 provides for offences in relation to the administration of the bill.

Clause 29: Power of arrest
Clause 29 provides for a power of arrest. There is a similar power in the *National Parks and Wildlife Act 1972*.

Clause 30: Gifts of property
Clause 30 provides for gifts made to the Minister for the purposes of the bill.

Clause 31: Offence of trespassing on private land from greenway
Clause 31 creates an offence of trespassing on private land from a greenway if the trespasser has a firearm or is accompanied by a dog.

Clause 32: Application of fees and penalties
Clause 32 provides that fees and penalties paid under the Act must be used for the administration of the Act.

Clause 33: General defence
Clause 33 provides a general defence.

Clause 34: Proceedings for offences
Clause 34 provides that an authorised officer or a person authorised by the Minister may commence proceedings for an offence against the Act.

Clause 35: Service of notices
Clause 35 provides for the service of notices.

Clause 36: Regulations
Clause 36 sets out regulation making powers.

SCHEDULE
Amendment of Development Act 1993
The Schedule amends section 57 of the *Development Act 1993* to provide that a greenway authority may enter into a land management agreement under section 57 in relation to a greenway or, where an access agreement so provides, other land. A greenway authority is the Minister under the bill or an association that has been approved for that purpose by the Minister.

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

ADJOURNMENT

At 11.40 p.m. the Council adjourned until Thursday 29 June at 11 a.m.