LEGISLATIVE COUNCIL

Thursday 3 May 2001

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

PROSTITUTION

Petitions signed by 62 residents of South Australia concerning prostitution, and praying that this Council will strengthen the present law and ban all prostitution related advertising to enable police to suppress the prostitution trade more effectively, were presented by the Hons Caroline Schaefer and Carmel Zollo.

Petitions received.

TRANSPORT, ADELAIDE HILLS

A petition signed by 399 residents of South Australia concerning the transport needs of residents of the Adelaide Hills, and praying that this Council will call on the member for Kavel and the Minister for Transport to urgently address the needs of people living in the Adelaide Hills and provide them with new weekend bus services or taxi transfers from existing weekend services, was presented by the Hon. Sandra Kanck.

Petition received.

A petition signed by 378 residents of South Australia, concerning the transport services to many areas of the Adelaide Hills, and praying that this Council will extend the metropolitan bus fare structure to cover the Adelaide Hills, including Mount Barker, Nairne, Mylor, Echunga, Meadows and Macclesfield and do all in its power to increase public transport services to towns in the Adelaide Hills and urgently extend the Nightmoves bus service beyond Aldgate, was presented by the Hon. Sandra Kanck.

Petition received.

GENETICALLY MODIFIED FOOD

A petition signed by 29 residents of South Australia, concerning labelling of genetically modified foods, and praying that this Council will:

1. Legislate to require labelling of all foods with any genetically modified components;
2. Legislate to require adequate segregation of genetically modified crops; and
3. Urge the commonwealth to prevent the introduction of any further genetically modified foods into Australia until and unless the commonwealth establishes an independent monitoring and testing regime

was presented by the Hon. Sandra Kanck.

Petition received.

RADIOACTIVE WASTE

A petition signed by 23 residents of South Australia, concerning the transport and storage of radioactive waste in South Australia, and praying that this Council will do all in its power to ensure that South Australia does not become the dumping ground for Australia's or the world's nuclear waste, was presented by the Hon. Sandra Kanck.

Petition received.

ADELAIDE PARKLANDS

A petition signed by 21 residents of South Australia, concerning the City of Adelaide (Adelaide Parklands) Amendment Bill 2000, and praying that this Council will protect the parklands by stopping the erection of buildings and other structures on the parklands by rejecting the City of Adelaide (Adelaide Parklands) Amendment Bill 2000, was presented by the Hon. Ian Gilfillan.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

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

Food Act Report, 1999-2000
South Australian Council on Reproductive Technology Report, 2000.

QUESTION TIME

ELECTRICITY SUPPLY

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

Leave granted.

The Hon. P. HOLLOWAY: Yesterday, when given the opportunity simply to debate the issue of the Treasurer's performance on electricity, government members in the House of Assembly gagged debate. This was done under the wafer thin pretext that the Premier was not present. The fact is that he was attending what was little more than a publicity stunt in his favourite city, Sydney. Even though the other place has sat for just three days in the past five weeks, the Premier chose one of those sitting days to meet with AGL. The Premier has also claimed that he would seek an ACCC inquiry into South Australia's power prices. In today's media yet more questions have arisen on the Premier's brave calls on AGL and the ACCC. My questions are:

1. Will the Treasurer confirm that, in fact, AGL actually sought meetings with the Premier at an earlier date, given the media statement today by Bill McLaughlan, AGL's Corporate Affairs Manager, that 'We had actually called the Premier and sought meetings in the past because we are concerned about the issue as well,' and his further statement, 'We would have happily come to the Premier'?

2. Has the Treasurer also received approaches from AGL about the power crisis and, if so, on what dates?

3. Given the Premier's attempt to draw the ACCC into the Olsen government's power crisis, is the Treasurer aware of today's statement by Rod Shogren from the ACCC that the issue is not one for the ACCC but 'a matter for the states'?

4. Given that Mr Shogren from the ACCC says that the delay in the introduction of business and domestic consumers into the contestable market raises issues of contracts entered into between the generators and the retailer, stating, 'If the retailers are in a position where they are buying power at some volatile wholesale price and having to supply it at some lower regulated price, well, they're going to be unhappy about that,' has the government obtained legal advice on the state's position, should it attempt to regulate prices charged by AGL; and what was that advice?

5. Given the statements of Mr Shogren from the ACCC that the ACCC has no power to regulate power prices and that the power crisis in South Australia is caused not by AGL but by 'a shortage of power' and that 'it is a matter of regret that interconnection seems to have been put off for various reasons,' how confident is the Treasurer of a good hearing from the ACCC in the Olsen government's attempts to have that body reviewed and act on prices charged in the South Australian electricity market?

The Hon. R.I. LUCAS (Treasurer): I think yesterday's events in the House of Assembly give clear testimony to the people of South Australia of the differences between leadership in the Labor Party and in the Liberal government in South Australia. What we had in contrast yesterday was a Leader of the Government, Premier John Olsen, taking decisive action to try to solve the problems and an opposition leader who just wanted to play politics. So, on the one hand, we had a whingeing, whining opposition leader and, on the other hand, we had a decisive leader being seen to take action, and not being diverted by threats from Mike Rann and Kevin Foley (the members for Ramsay and Hart) that Mr Olsen's pair would not be honoured.

The Premier was not to be diverted by those threats from Mr Foley and Mr Rann. He did as any decisive leader would do: he took decisive action and went ahead and had the meeting with AGL and, if one reads the press statement issued by the Premier this morning, one sees that he was certainly pleased with the initial response that he received yesterday from his discussions at the most senior levels of the company—I understand with the chairman, the chief executive officer and others.

So, in relation to the first two questions from the honourable member, I think it is shameful that the opposition leader sought to play politics yesterday, withdrawing pairs in a sneaky, snide, snivelling way, perhaps typical of his approach to leadership of his own party but, on the other hand, breaching convention and protocol in relation to parliamentary pairs in the House of Assembly. But that is the way the Leader of the Opposition behaves in all these matters. The people of South Australia will have seen yesterday a huge misjudgment by the Labor Party. At a time when the Leader of the Government is trying to help solve the problem, the opposition is interested only in playing politics by, in a sneaky, snide, snivelling way, withdrawing pairs from the Leader of the Government while he is trying to solve the issue. I would hope that the Leader of the Opposition was getting more sage advice from his senior advisers in relation to how he should handle these particular—

An honourable member interjecting:

The Hon. R.I. LUCAS: No—

An honourable member: Hear, hear!

The Hon. R.I. LUCAS: No, his advisers in relation to these issues. There are people in that group who would understand that the people of South Australia—

An honourable member: Name them.

The Hon. R.I. LUCAS: No, I will not name them, but there are people who have been around this place for many years and who would know that the chief weakness of an opposition leader like Mr Mike Rann is that he is seen to be whingeing, whining, knocking and snivelling in terms of his approach to government initiatives in an endeavour to try to solve the problems that confront South Australia and the national electricity market. All that yesterday did was to contrast decisive action by the Leader of the Government and cheap political opportunism by the Leader of the Opposition in South Australia. The people of South Australia saw that, at a time when the opposition was trying to play politics, and again, today, while the government, through its leader, is seeking to take decisive action, they are interested only in passing another censure motion in me to add to the one that I collected as Minister for Education some two or three years ago.

The Hon. R.R. Roberts: I remember it well.

The Hon. R.I. LUCAS: The Hon. Ron Roberts remembers it well. So I will have a censure motion as Minister for Education and a censure motion as the minister responsible for electricity. I might say that it can go down with the five or six censure motions that, when we were in opposition, we managed to successfully move against Labor ministers.

Members interjecting:

The Hon. R.I. LUCAS: We always honoured pairs. We do not stoop to cheap political opportunism by trying to pinch an extra vote on a censure motion because a member of the then government is away. We honoured pairs, and I challenge the deputy leader to find one example, in my 20 years in parliament, where we have not honoured that convention of pairs in this chamber in relation to these important issues. The only people who have threatened to withdraw pairs, and who have done so, have been members of the Labor Party.

The Hon. Carolyn Pickles: When?

The Hon. R.I. LUCAS: When?

The Hon. Carolyn Pickles: Not in here.

The Hon. R.I. LUCAS: Yes, in this chamber. You will not pair certain members of parliament.

The Hon. Carolyn Pickles: They are not government members.

The Hon. R.I. LUCAS: So, it depends on who they are: if they are an Independent they are not allowed to be paired. We have honoured the conventions—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —in relation to pairs. It really has been only the Labor Party—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, I am. I have had a number of meetings with various representatives of AGL. To my recollection, I have not met the new chairman of AGL (but I would have to check). I have had a number of meetings with AGL, and we have certainly put the point of view very strongly on behalf of the government that, if AGL, as a corporate citizen in South Australia, wants to make short-term advantage out of the difficulties that the national market is confronting in South Australia, it is certainly the government's very strong view that it will be to the long-term detriment of the company, in addition to it being to the detriment of the operations of industry and business here in South Australia and also other parts of the national market. I understand that the Premier put that message very strongly, in similar terms—and, knowing the Premier, they would have been even more strident, forceful and persuasive than a mere Treasurer would have been able to muster to the Chairman and the new Chief Executive Officer of AGL.

I am not the keeper of the Premier's diary; therefore, I am not in a position to indicate the nature of any discussions about possible meetings that secretaries representing AGL might have had with secretaries representing the Premier's office. But what I do know, in general terms, is that it is difficult in trying to find a time when the diary of a chairman of a major national company such as AGL and the diary of a Premier can coincide. It is not uncommon that it might take

a few days to find a convenient and preferable time when both of them happen to be in the country or in the state or in the city. Clearly, the appropriate time for both of them to get together was late yesterday afternoon, and it was at that stage that cheap political opportunism was taken by the Labor Party, in particular, to try to prevent the Premier from getting to that meeting. In relation to the comments allegedly made by Mr Shogren, the commissioner—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I do not know. As I said, I accept that the honourable member has indicated they are statements that have been made by Mr Shogren. I have not had a chance to read the transcript of the interview and, obviously, until I have had an opportunity to do so, it would be foolish of me to comment in any detail. If the honourable member is saying that Mr Shogren had suggested that the dilemmas facing the national market at the moment have nothing to do with ACCC, then I would be surprised if he went as far as that and I—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: As I said, it is therefore not a matter for the ACCC. I would be surprised if Mr Shogren would have gone as far as saying that the ACCC has any influence over the problems confronting the national market. No-one is saying that it has influence over the whole national market, but clearly it is a prominent player. It had to approve all the contestability timetables, vesting contracts and a range of other arrangements that we put in place in terms of competition policy for our electricity businesses in South Australia. I recall that we had to have not only video conferences but a series of meetings with senior representatives of the ACCC throughout our process to enable us to change things to suit the ACCC.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, we had to seek approval. During the process—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, the honourable member does do not understand what I am saying. We actually had to satisfy the ACCC on a number of aspects of what we were doing. In the end, it was not a decision that we could take and say, 'Blow you ACCC, you are not involved in this process.' We had to get the approval of the ACCC. If the honourable member was suggesting that Rod Shogren's comments were that there was no role for the ACCC in all this, I would be very surprised if Rob Shogren went as far as that, but I qualify all that by saying that I have not seen the transcript of all his remarks and it would be foolish of me to make a detailed response until I have had a chance to look at those comments and consider them.

In relation to what advice the government is seeking, we have done, are doing and will continue to seek advice of all forms and nature, including legal advice. We do not intend to share the detail of that advice in a public forum. We are trying to sort through the issues with the key players. As I said, the Premier has taken decisive action in relation to this issue in seeking meetings with the chair of AGL, in having discussions with the ACCC and the government through the Premier, me, other ministers and officers, and we will continue to work assiduously in putting together a package that will respond to the problems that we are confronting in the national market at the moment.

An honourable member interjecting:

The Hon. R.I. LUCAS: When you get an honourable member asking six questions every time, you have to have some time to respond.

Members interjecting:

The PRESIDENT: Order!

GENETICALLY MODIFIED FOOD

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about genetically modified food.

Leave granted.

The Hon. T.G. ROBERTS: In two interstate papers today there is a headline story about the same subject. First, in today's *Age* 'Workers spread seeds from GM trial' and, secondly, in the South Australian edition of the *Australian* there is an article under the heading 'GM crop breach prompts call to end field trials'. The dangers of the escape of genetically modified seeds and crops has been a question that has not been answered in this state, particularly in the South-East. Local government is trying to wrestle with the federal legislation in the absence of any state direction and protocols. That means that, if it declares an area genetically modified free, that does not necessarily equate to the local government authorities being able to stop genetically modified field trials from taking place in their areas.

The problem in relation to the latest seed dumping is that seeds were accidentally carried off a secret Aventis Cropscience trial plot by workers last month. The workers say that they were not told that they were handling GM plants, were not given protective clothing and were not told to brush down clothing to remove any seeds. Authorities were alerted by a resident who became suspicious after one worker emptied seeds out of their shoes in her home. Four workers have since signed statements outlining the circumstance in which they harvested the canola. The article goes on to describe the powerlessness of local government in this area.

In relation to the introduction of the federal legislation, an Interim Office of Gene Technology Regulation was set up, but although it has been set up there does not appear to be too much policing. In the article a spokeswoman for the Interim Office of the Gene Technology Regulator said:

> Aventis had said that the workers were told to take precautions. The office had reminded Aventis of the guidelines for containing GM material, but could do little else—

because only self regulation applies—

> The spokeswoman said breaches could attract fines up to $1 million once gene technology legislation came into force on 21 June, but until then, the interim office had no authority to prosecute or even enter private properties to check whether guidelines were being observed.

There are other problems associated with field trials of genetically modified food. However, I will not raise them during question time as the time has been shortened by the first question and answer. My questions are:

1. What interim plans has the government put in place to announce, police and monitor trial crops of GM food in South Australia, given that the federal interim legislation does not provide protection?

2. Is the minister confident that the federal legislation, once implemented, is adequate to protect the environment, South Australia's and Australia's confident international reputation of being clean and green, and community interest in this issue?

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

AMUSEMENT STRUCTURES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Treasurer a question about a new stamp duty for amusement operators.

Leave granted.

The Hon. CARMEL ZOLLO: Operators of amusement machines in South Australia are bewildered and angered by the meanness of the state government. I am informed by the association that the reason for this new stamp duty is that this government now interprets amusement machines as rental businesses and wants to charge stamp duty on the gross takings from all coin operated amusement machines. This means another point-of-sale tax (on top of the GST) on every coin a player puts into a game, a jukebox or a kiddy ride.

This 'bailment of goods' interpretation by Revenue SA, which classes operators of amusement machines as renting instead of profit-sharing, which is the system currently used by operators, will hit the industry hard and mean loss of jobs. In an industry already struggling because it is largely unable to pass on the GST to consumers, it appears that operators are also being victimised for implementing a code of ethics by providing location agreements.

I understand that this impost is also being touted as retrospective, which also brings into the equation federal taxes already paid and wading back through five years of taxes paid. I am further informed that, when operators in New South Wales recently challenged a similar tax interpretation, the court found in favour of the operators. The association points out that operators (excluding party hire companies) do not receive a fixed rental income. For example, operators of amusement machines often lose income in circumstances outside the control of the operator because of a change of ownership of the site, breakdowns that cannot always be repaired quickly, breakdowns that are not reported to the operator, and changes in the marketing of the site or simply poor management of the venue where amusement machines are installed. My questions are:

1. Does the Treasurer agree with the interpretation of this new impost by Revenue SA and can he explain why this change will be made?

2. Will the Treasurer make available to the Amusement Machine Operators Association the Crown Law opinion regarding this new duty which has so far been refused to the association?

3. Does the Treasurer consider it fair that kiddy rides, such as a pony ride or a mini-motorbike often located outside the local supermarket, be treated in such a manner or are the state's finances in such a desperate position that the Treasurer now needs to make a grab for children's pocket money?

The Hon. R.I. LUCAS (Treasurer): There is no new head of stamp duty that has been introduced by the government. I am aware that this issue has been raised with Revenue SA and the Commissioner of Taxation. I am seeking advice from the commissioner as to the legal position in relation to the issues raised by the Hon. Ms Zollo. In the end, we will need to go back and see which government actually introduced the law. If there is an issue with the law, it may well have been a Labor government that introduced this legislation.

The Hon. Carmel Zollo: It's a new thing.

The Hon. R.I. LUCAS: No. There is no new head of stamp duty. This government has introduced no new head of stamp duty. I will be seeking advice as to which government introduced the head of stamp duty in relation to this issue.

An honourable member interjecting:

The Hon. R.I. LUCAS: I don't know the answer to that. In the end, we rely, first, on the Commissioner for State Taxation's view and, ultimately, if there is a problem, on advice that I take from Crown Law as to what the law actually says in relation to state taxation matters. There are processes that we go through. We are in the middle of a process at the moment where the issues have been raised, and we have asked the commissioner to have a look at the issues that have been raised by this group. We are working our way through that process. I have not yet had advice as to what the law says and what legal advice we might have had. I have not seen any legal advice that the government has received so I am not surprised that the organisation that has raised the issue has been refused a copy of the legal advice.

As a matter of principle, as the Attorney-General has often outlined to the Council, the government does not provide freely copies of Crown Law advice on these issues. That is a standard legal principle that the Attorney-General has expounded and the government has followed for many years—and not only this Attorney-General but the attorneys-general before the current one. So, it should not be a surprise to this organisation or to others that copies of any legal advice the government might have are not being freely provided to the group because they have asked for it. The issue has been raised and we are considering it. Until I get legal advice and the advice from the Commissioner for State Taxation I am not in a position to say much more.

MOUNT GAMBIER TO WOLSELEY RAIL LINE

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Transport a question about rail.

Leave granted.

The Hon. A.J. REDFORD: Last week I was pleased to see that the minister announced that she was calling tenders from companies to operate the South-East rail line from Mount Gambier to Wolseley as a commercial enterprise, and further and importantly to consider conversion of the line to standard gauge. I note in her press release that she indicated that the tender call was designed to solicit from the private sector bids that prove that the private sector operators would operate services on an ongoing commercial basis, and only when that is proven would the government entertain funding to standardise that upgrade.

Indeed, the minister correctly pointed out that the priority would enable Mount Gambier and the economy along that line to be linked into the national standard gauge network and provide a seamless rail access to all Australian mainland states, and in particular to Darwin and the ever burgeoning South-East Asian and Asian marketplace. I note that this will also provide the successful South-East economy—and it is a very important part of the South Australian economy—with options in terms of transport and enable more competitive prices to be achieved in terms of delivering products to national and international markets. In the light of all that, my questions are as follows:

1. Will the minister outline the discussions she has had with industry both prior to and since her announcement and the reaction of industry to the announcement?

2. What benefits will flow to the port of Adelaide as a consequence of this announcement, and in particular if there is a successful tenderer leading to the standardisation of the railway line from Wolseley to Mount Gambier?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The tenders have been called for the South-East rail line, seeking operators on a commercial basis, and then, as the honourable member said, the government would be seriously looking at the standardisation of the line. There is no point spending taxpayers' dollars in standardising the line and then wishfully hoping that it might be used in some form, let alone on a commercial basis.

We are confident from an earlier call for registration of interest that a number of operators can be taken seriously as bidders to operate a commercial business. This is a very exciting opportunity for South Australia in terms of seeing the possibility of the re-opening of rail lines that have been closed for some years and, further, to see that producers, in this instance, in the South-East, have an option of an alternative means of transporting their produce to market, and for export.

The documents indicate that the closing date for tender applications is Tuesday 29 May. I also point out that the tender documents provide for the government to facilitate sole operation of the line by the operator. This is a big issue for South Australia because, if we can provide this undertaking of what is technically called 'closed access' to the operator, we are more likely to secure private sector funding in the standardisation of the line and, therefore, minimise state investment.

This is also a big issue in terms of competition policy. Honourable members may be aware that, in relation to the Darwin-Adelaide line, it took some seven months to get confirmation through the ACCC that the consortium, as an investor in the line, could be the sole operator for a number of years. In the case of the South-East line, the state government is able to provide closed access to the operator because it is an intrastate service and not an interstate service and, therefore, it is not bound by competition policy rules or subject to the Competition Policy Council.

It is also an important issue in relation to the lobbying by the Victorian government. I recently received a letter from the Victorian Minister for Transport who had heard that the tender documents might provide the operator with a closed access line. He was appealing to me to provide open access, as is the proposal by the Victorian government for the standardisation and their investment in rail lines in that state. I see no benefit in providing open access as is being pleaded for by the Victorian government. I also see an advantage in making sure that the government's priority is Mount Gambier to Wolseley in relation to linking in to the Adelaide-Darwin line linking the South-East into the Melbourne, Sydney and Perth markets as well as Asia, as the honourable member noted.

I see no advantage and, in fact, a potential severe disadvantage for the port of Adelaide if the rail line is standardised and goes east to Portland at this time. That is not off the agenda. The main issue for the government is to see that there is a commercial operator, to see that the line is standardised and to see that we can win freight from road—

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: Well, we do have that land corridor and we will be seeking to maximise the use of it on a commercial basis in the future. We also wish to see freight won from road to rail, but it will take some time to encourage producers in the South-East to have confidence in rail. They were not well served by Australian National in the past and they need to be convinced to do business with rail and that they will be provided with a reliable and secure service at a competitive cost in relation to a road transport alternative.

So, certainly there are discussions between Transport SA, business in the South-East and the Regional Development Board; and those discussions will continue while the tender applications are open and during the subsequent formal request for proposal process. It is an important time in freight transport infrastructure and investment in this state that we have come to the stage where we can seriously look at options for reopening the rail lines in the South-East—they have been closed for some years—investment in standardisation and a return to rail as a serious freight forwarder in this state.

The Hon. A.J. REDFORD: As a supplementary question: in considering the funding to standardise the railway line, will the minister take into account cost savings that might be generated in road maintenance as a consequence of a reduction in road transport usage of roads?

The Hon. DIANA LAIDLAW: It is a good question, and it has certainly been foremost in my arguments to Transport SA. Transport SA is traditionally a road based organisation, and we are building up our expertise, knowledge and skills in rail with a new rail unit and more personnel, but it is a hard task to move Transport SA to believe that there is a future for freight other than in road, because that is the business it knows. There are offsetting costs to road investment by a return to freight being carried on rail. That is the argument that I have pursued and it is the argument that will now prevail in Transport SA. While I am not sure that I have completely convinced Treasury, it is certainly supporting this call as a testing of the market. I thank the Treasurer for his support to date in terms of the call for expressions of interest. When one looks at the road investment projections—

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Oh no; it's getting better by the day. When one looks at the projections for road funding in the South-East, one sees that they are enormous, given the productivity of the region. My very strong view is that we have the asset in the rail corridor and we do not have the asset in the rail line; there would be big offsetting advantages in the return of freight to rail from road. There would be not only road investment advantages but also road safety advantages, with spin-offs for tourism if we can get some of these heavy vehicles off our roads.

ELECTRICITY SUPPLY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Administrative Services a question about answers to previously asked questions on the electricity supply.

Leave granted.

The Hon. M.J. ELLIOTT: On Tuesday 10 April I asked the Minister for Administrative Services several questions about the 300 contestable government bodies. The next day, recognising that the minister might not have had answers at his fingertips on the first day, I asked it again, at which point the Hon. Mr Lawson said, 'I will take the questions on notice so that I can provide a considered and proper response and one that is entirely accurate, and I will undertake to do so.' The questions, 'How many megawatts of power are con-

sumed by the 300 contestable customers, what is the current cost of electricity for those customers and what is the peak demand of those customers?' are questions to which I would expect the minister to have answers in his office. My questions are:

1. Did the minister have answers to those questions in his office? If so, why has he not supplied them to this place?

2. If he does not have those answers, how is he going about the whole process of handling these contract negotiations? Or, indeed, should I just be thankful that he does not take any time to answer the questions rather than 15 minutes not to answer them?

The Hon. R.D. LAWSON (Minister for Disability Services): The process of the South Australian government going to the electricity market to obtain prices is well under way. A briefing was conducted towards the end of April which, I am informed, was very well attended. It is not a simple process, as the honourable member seems to believe. It is not simply a question of taking 300 contestable sites: it is a question of examining how sites—

The Hon. P. Holloway interjecting:

The Hon. R.D. LAWSON: The Hon. Paul Holloway asks whether we were well prepared for this. The government was extremely well prepared for this market, and the people in contract services devoted time to working out an appropriate strategy to ensure that, for its own sites, the government obtains the best electricity prices possible. As I say, the process is well under way and I am advised that submissions are expected within the next week. It is expected that all submissions will be in by 11 May, and they will thereupon be evaluated.

The honourable member's question concerning the number of sites contestable, I think, underestimates the complexity of the issue. For example, a number of hospitals and schools are separately metered in respect of separate campuses and the like. Whether they will be aggregated or disaggregated for the purposes of obtaining the very best price is a matter that will be evaluated in the processes currently being undertaken. As to the detail of the honourable member's questions, I do not have that information to hand but, as I said previously, I will bring back a reply in due course.

The Hon. M.J. ELLIOTT: As a supplementary question: does the minister have answers to these questions in his office, and has he supplied any of this to the Treasurer so that he can start working on the budget?

The Hon. R.D. LAWSON: It is not a question of the minister having in his office details of any contractual arrangements that the government undertakes under the auspices of the State Supply Board. Government procurement is not conducted from ministers' offices: it is conducted in accordance with the due prudential regulations by the responsible departments. A whole-of-government approach is being adopted. I have received reports about the process of the tendering and I am satisfied that it is progressing satisfactorily and will lead to a good result.

STATE DEBT

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Treasurer a question on the subject of state debt.

Leave granted.

The Hon. L.H. DAVIS: I went through my holding file the other day and I discovered a gem of an article from the *Australian Financial Review* of Friday 26 May 2000. It was a colour piece by Tony Harris, a very well respected journalist with the *Australian Financial Review*, about the Hon. Michael Egan, Labor Treasurer in New South Wales. This piece was written just days after the Hon. Michael Egan had delivered the 2000-01 budget for New South Wales.

The Hon. P. Holloway: Is that before or after they won a record majority?

The Hon. L.H. DAVIS: Well, you can just listen to this because you will find the article most interesting, Paul. I will speak slowly so that you can keep up with it. The article comments as follows:

> Michael Egan's most stinging recent political loss was his inability to persuade the NSW Labor Party to support the sale of the government-owned electricity generation, transmission and distribution corporations. Union self-interest overcame the public interest.
>
> Selling electricity bodies was always going to be difficult for a Labor government. When the Premier, Bob Carr, supported his Treasurer and Minister for Energy [Michael Egan], victory seemed in sight. But the unions trounced the parliamentary Labor Party. . .

Then Mr Tony Harris returns in his article to a discussion that he had with the Hon. Michael Egan. He concludes the article by saying this (and this was written less than 12 months ago):

> Egan believes high real rates of interest can cause major problems for governments with large debt.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: Just listen, Terry, and it will finally silence you. It continues:

> Leaving a government free of debt would, he says—

this is Michael Egan, Labor Treasurer of New South Wales speaking—

> make the best memorial to a competent, professional Treasurer.

Egan is happy to accomplish that over the next several years. My questions are:

1. Was the Treasurer aware of that comment of the Hon. Michael Egan, Labor Treasurer of New South Wales?

2. Is the Treasurer in a position to advise the Council what the current state debt is in New South Wales compared to South Australia?

3. Is the Treasurer in a position to advise what the value of the publicly owned electricity assets are in New South Wales as of now compared to what they may have been if the Hon. Michael Egan and Premier Bob Carr had been able to sell off the electricity assets when they wanted to?

The Hon. R.I. LUCAS (Treasurer): No, I was not aware of the comments made by the Hon. Michael Egan in that *Australian Financial Review* article until the issue was raised by the Hon. Mr Davis. I have to say that it is succinct and important advice to governments of all persuasions (and, of course, he is a Labor Treasurer) in terms of getting the financial foundations of your state right. If that article was written 12 months ago, at that time Australia was in an environment of increasing interest rates—or they would have started soon after that, I think: we saw increases in interest rates of something like 1.25 per cent, 1.5 per cent as interest rates were ratcheted up on four or five separate occasions. With the changed economic conditions, we have seen reductions in interest rates over the past three or four months or so. Clearly, for any organisation that has debt (and that includes government), an environment of declining interest rates is obviously an important bottom line benefit for the business or for the organisation that has to carry that debt.

I have indicated previously that, if one has a state debt of the order of $8 billion to $9 billion and interest rates were to

increase, on average, 2 per cent, the state of South Australia would be looking for extra interest cost payments in the order of $150 million to $200 million a year. Given that the new emergency services levy is currently collecting in and of the order of (I do not have the exact figure) $70 million to $80 million a year in terms of collections from the community, interest costs of almost $200 million would give a fair comparison as to the impact on a state budget and on a community if one had to raise that additional $200 million—almost the equivalent of two to three times the current level of collections from the emergency services levy.

The Labor Party sought to make significant political capital out of the impost on the community of the $70 million to $80 million. Of course it will be interesting to see whether it does anything about it, should it ever be elected to government. But an interest cost that is two to three times the size of that indicates the exposure to interest rate movements upwards that a state government budget would have if we were to see relatively minor interest rate increases of, as I said, 1 per cent to 2 per cent, on average. When one goes back to the late 1980s—

The Hon. L.H. Davis: It was 1989.

The Hon. R.I. LUCAS: —1989, the late 1980s, we saw home mortgage interest rates of 17 per cent and 18 per cent; business borrowings in the low 20s—22 per cent and 23 per cent; and farmers borrowing at 22 per cent, 23 per cent or 24 per cent. Should we reach those sort of calamitous circumstances ever again, having a state debt of $8 billion to $9 billion would clearly create very significant problems in terms of a state government having to raise massive amounts of additional state taxation or incur massive reductions in state government expenditure in key areas such as schools and hospitals.

The Egan message is absolutely correct. In terms of the value of the assets, at the time Michael Egan and Bob Carr were talking about the sale or privatisation of their assets, the market was barking numbers of about $23 billion to $25 billion. Of course, no-one can prove or disprove this figure, but the market is now barking somewhere certainly south of $20 billion, and I have seen estimates as low as $15 billion or $16 billion. Potentially, it is a reduction in value of greater than $5 billion, perhaps up to $8 billion to $9 billion, on the value of the assets—and they are the taxpayers' assets. It is the taxpayers' assets that are being devalued in New South Wales.

As I said yesterday, they also have the problem of having to use taxpayers' money to bail out bad decisions to the tune of $400 million to $500 million in one court case alone because one of the electricity businesses made a bad business decision, which, it is rumoured, ended up costing the taxpayers some $400 million to $500 million. In terms of the exact level of the New South Wales government's debt, I would need to check that figure and I would be happy to bring back an answer to that particular aspect of the question.

QUEEN ELIZABETH HOSPITAL

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Minister for Transport, representing the Minister for Human Services, a question about the Queen Elizabeth Hospital administration.

Leave granted.

The Hon. R.R. ROBERTS: For many years now I have been a great supporter of the Queen Elizabeth Hospital. I can remember when my friend and colleague Kevin Hamilton was fundraising in the early 1990s—

The Hon. T.G. Roberts interjecting:

The Hon. R.R. ROBERTS: I did walk with him; in fact, so did the member for Custance—he still has the blisters! Many people have held the Queen Elizabeth Hospital in high regard. The Queen Elizabeth Hospital was opened some 30 odd years ago with great fanfare because it bears the name of the monarch—and consent was given for it to be named after Queen Elizabeth the Queen of Australia. Many of us in this parliament and people living in the western suburbs have had a great love for the Queen Elizabeth Hospital.

In the last seven years we have seen the change in the Queen Elizabeth Hospital, and it is unfortunate that, on many occasions, we have been subjected to adverse reports about the administration and the cost. I do not think that this is the time to talk about who is to blame, and I do not think it is even worth going into much detail to point out the concerns of those dedicated specialists who work at the Queen Elizabeth Hospital and who made the extraordinary decision to come out and criticise the government of the day.

However, what has been apparent for some time is that the administration of the hospital has been in some crisis. I believe that Mr Nick Hakof, the CEO, resigned—I have heard a number of figures—about 11 months ago but, suffice to say, it was some time ago. That has caused a great deal of concern for the Friends of the QEH, and I am sure that other members in this chamber have also received correspondence from the Friends of the Queen Elizabeth Hospital today. What has been of great concern is the fact that we have not been able to contract a chief executive officer for some time. I am not sure whether it is because of the state of the hospital or the contracts available, but the high-flyers seem to be staying away in droves.

The minister recently announced the appointment of a new chief executive officer for the Queen Elizabeth Hospital. That announcement was made in March. The minister advised that Mr Peter Campos from Western Australia would commence on 1 May. As I said, the position has been vacant for some time since the resignation of Nick Hakof. It has been reported to me that the chief executive officer did not commence on 1 May as announced by the Minister for Human Services and is unlikely to commence that position very soon. Will the minister say whether this is so, and will he provide details of any problems or concerns, whether they be with the contract or the administration, that are holding up the appointment of a chief executive officer of one of our principal hospitals in South Australia?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will promptly follow up the question asked by the honourable member and bring back a reply.

DUBLIN CATTLE YARDS

In reply to **Hon. IAN GILFILLAN** (16 November 2000).

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

The honourable member would be aware that the government has consistently indicated on many occasions in recent years that a $1 million package is available for the construction of the cattle saleyard complex at Dublin. The funding is subject to matching funding being made available by livestock agents Elders and Wesfarmers Dalgetys. The government has always wanted to be assured that the industry had confidence in the future of saleyards before committing tax payers money.

Only in early January 2001 did the minister receive a formal application for the funds. This was despite numerous attempts by the minister and officers of his department to assist in the progression of the development and an offer to tailor the loan conditions to finalise this project.

In addition a grant of $211 000 has been approved from the Regional Development Infrastructure fund to assist with costs of infrastructure, naturally subject to the saleyards development proceeding.

It is quite clear what the government's position is and that the funds are available. Verbal comment has been received on the level of agents support however neither the developer nor the government have the agents' commitment in writing. Lack of progress on this development has not been as a result of inaction by the government or its servants but as a result of lack of response to numerous requests for a formal development proposal which includes a commitment from industry.

WORKCOVER

In reply to **Hon. M.J. ELLIOTT** (17 November 2000).

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises has advised that:

1. In June 1996 WorkCover directed claims agents not to assess any further payments under the LOEC (Loss of Earning Capacity) provision.

2. With regard to your assertion that only one worker has been involved with LOEC since 1996, I can advise that this is not the case. Currently, there are 70 workers on the system who have had or will have LOEC determinations in the current financial year. For those claimants, a yearly determination is made and will continue to be made until retirement or redemption.

FISHERIES COMPLIANCE UNIT

In reply to **Hon. IAN GILFILLAN** (14 March).

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

1. A major fraud investigation was conducted into activities in the Southern Zone rock lobster fishery during 1998-99.

An additional $891 000 was spent on compliance in the Southern Zone rock lobster fishery during 1998-99 to investigate the irregularities identified through the quota monitoring system.

2. A proportion of this additional resourcing requirement came from existing compliance services. The balance of funding came from PIRSA with an additional contribution from the rock lobster licence holders in subsequent years.

3. The Southern Zone rock lobster industry responded to the fraud problems in 1999-2000 by increasing their licence fee contribution to compliance funding by $100 000 over three years for quota audits and paying an additional $128 000 over two years as their contribution to the increased cost in 1998-99. In this current year, the Southern Zone Rock Lobster industry is paying $1.2 million through licence fees as their contribution to fisheries compliance and monitoring activities in the fishery.

FIRE BLIGHT

In reply to **Hon. T.G. CAMERON** (14 March).

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

1. The antibiotic streptomycin has been routinely used in countries where the disease fire blight is established. This chemical together with copper sprays are routinely used at key periods to prevent the development of fire blight disease symptoms. The literature describes these treatments as preventative or protector treatments but not eradicator treatments.

Producers in areas where fire blight is established also routinely undertake pruning procedures to remove infected tissues which can act as subsequent sources of inoculum for the spread of the causal bacterium.

The removal of infected tissues and the use of antibiotic sprays could potentially be used to mask the presence of fire blight disease symptoms within an orchard.

2. The South Australian Government is certainly concerned about the possible introduction of the disease fire blight into Australia and into this state. In early December 2000 the government formally responded to a document entitled 'Draft Import Risk Analysis on the Importation of Apples (Malus x domestica Borkh.) from New Zealand' which had been released by Biosecurity Australia for stakeholder consideration. The conclusion of the South Australian Government response was that, based upon the deficiencies identified in the draft document, entry of NZ apples not be permitted until the issues were appropriately addressed.

At the time, a media release was made which reaffirmed this stance 'The State Government is recommending that New Zealand apples continue to be banned from being imported into Australia until concerns about the level of risk it poses for South Australia's apple and pear industry are addressed.

TAN, Dr ARNOLD YANG HO

In reply to **Hon. SANDRA KANCK** (14 March).

The Hon. K.T. GRIFFIN: The Minister for Human Services has provided the following information:

The following table demonstrates the chronology with respect to proceedings against Dr Arnold Yang Ho Tan. Dr Tan made extensive use of legal processes which had to be brought to a conclusion before the matter could progress under the Medical Practitioners Act.

Date	Event
30 December 1992 - 14 August 1996	Police raid on Tan's surgery. Tan arrested and charged with rape.
10 February 1997	Director of Public Prosecutions decides to abandon criminal (rape) proceedings.
11 February 1997	Investigation on behalf of the Medical Board commences. Continues over following sixteen months.
19 February 2001	Magistrates Court advised that criminal proceedings withdrawn.
11 September 1997	First request on behalf of Medical Board to interview Tan in relation to allegations.
18 February 1998	Tan (after deferring six times) participates in interview. Investigation continues.
18 June 1998	Complaint laid by Registrar before the Medical Board of South Australia.
8 July 1998	Notice to Tan pursuant to section 57 of the intention of the Medical Board to conduct an inquiry.
6 August 1998	Pre-hearing conference. Adjourned at Tan's request to 10 September 1998.
10 September 1998	Pre-hearing conference. Medical Board hearing listed for 21 December 1998.
21 December 1998	Hearing before the Medical Board. Complaint referred to Medical Practitioner's Professional Conduct Tribunal.
28 January 1999	Complaint laid by the Medical Board before the Tribunal. Tan initiates judicial review proceedings.
19 July 1999	Judicial review commences.
23 August 1999	Judicial review concluded.
5 November 1999	Decision of Martin J on judicial review delivered. Application by Tan dismissed.
19 November 1999	Tan files Notice of Appeal to Full Court against decision of Martin J.
13 March 2000	Full Court Appeal.
2 June 2000	Full Court decision delivered. Appeal by Tan dismissed.
27 June 2000	Application filed by Tan for special leave to appeal to the High Court against Full Court decision.
11 August 2000	Application by Tan to Supreme Court to stay the listing of Tribunal hearing before High Court application heard. Application refused.
24 August 2000	Tribunal hearing listed to commence 19 February 2001. (Numerous applications on behalf of the Medical Board to list the Tribunal hearing were made between 39 November 1999 and this date. All applications were opposed by Tan and refused by the Tribunal.)
13 November 2000	Legal argument before Tribunal preliminary to hearing.
16 February 2001	Argument before the High Court. Application by Tan for special leave to appeal dismissed.
19 February 2001	Tribunal hearing commences.

21 February 2001	Tan pleads guilty to four counts of unprofessional conduct.
23 February 2001	Submissions by parties in relation to penalty. Tribunal reserves decision on penalty to date to be fixed.

POLICE PROCEDURES

In reply to **Hon. T.G. ROBERTS** (27 March).

The Hon. K.T. GRIFFIN: The Minister for Police, Correctional Services and Emergency Services has been advised by the Commissioner of Police of the following information:

1. The Department of Immigration and Multicultural Affairs (DIMA) manage the incidents involving refugees at the Detention Centre Woomera in the first instance. SAPOL assists DIMA upon request and has in the past provided the following assistance: negotiation; investigative; technical service support and prosecution services.

Training for South Australia Police employees in procedures and protocols for disturbances involving the mentally ill, Aboriginal people, culturally different races or refugees, includes a multicultural module, lectures on prejudice and discrimination, cultural issues, migration, the Aboriginal culture and community constables. A domestic violence module includes training on the positive resolution of domestic violence matters and the impact of racial, cultural and sexuality issues on the reporting and handling of these incidents. Training on issues such as conflict resolution and empathy is included in the client service module.

Further to training conducted at the recruit level, training is also provided to police on a variety of multicultural and indigenous issues in courses such as the Domestic Violence Course, the Victims of Crime Education Course and the Child Abuse Investigators Course. The focus of the training is to educate the police regarding their response to indigenous family violence, multicultural and other issues.

An example of pro-active police activity regarding domestic violence is the 'No Domestic Violence' (NDV) pilot projects, which have been conducted at the South Coast and Port Adelaide Local Service Areas. This project is aimed at identification and early intervention in domestic violence matters.

South Australia Police Community Constables work in improving and establishing interaction between the Aboriginal community and the police. There are currently a total of 34 community constables who are available to assist in both the country and metropolitan areas.

With respect to mental health issues, the Assessment & Crisis Intervention Service (ACIS) is available and used by police where necessary in dealing with mentally ill people. Police undertake training relating to mental health issues and this is further explained in the answer to the second question. A memorandum of understanding is currently being developed between the Commissioner of Police and the Chief Executive of the Department of Human Services regarding how people who have, or are suspected of having, a mental illness are dealt with by police and the mental health services.

2. The South Australia Police implemented a four-day Incident Management & Operational Safety Training (IMOST) course in early 2000. The IMOST course includes training in oral tactics, communication skills, conflict resolution principles and incident management. A representative from ACIS also delivers training on mental health issues on this course.

Approximately 3 200 operational police officers undertook this training and are required to undertake IMOST refresher training each year. Police recruits also undertake this training prior to graduation from the Police Academy.

Further to this, police supervisors also receive separate training in the management of high risk incidents and a mental health module is currently being developed for delivery to all police supervisors.

The police use trained negotiators in the metropolitan and country areas who are assisted by police psychologists. Negotiators and psychologists are on-call 24 hours a day. Negotiators are experienced police officers who are trained in negotiation techniques including mental illness issues, personality disorders, cultural considerations and the use of interpreters. Negotiators also undertake regular training to maintain their skills.

The South Australia Police are continually examining policies and procedures and enhancing their practices to ensure the best service is available, equally and without prejudice, to the entire community.

SHOP TRADING HOURS, RIVERLAND

In reply to **Hon. IAN GILFILLAN** (13 March).

The Hon. R.D. LAWSON: In addition to the answer given on 13 March 2001, the following information is provided:

The specific questions asked by the District Council of Renmark Paringa in their survey of interested parties were an indication that:

> 'I support the introduction of deregulation of trading hours for shops in the Renmark Paringa District'.
>
> 'I do not support the introduction of deregulation of trading hours for shops in the Renmark Paringa Business District'.

Respondents were also allowed space on the questionnaire to provide comments or reasons for supporting or not supporting each position. In addition respondents were given the opportunity to indicate if they were a resident or non-resident and if they were shop owners or shop assistants.

PASSIVE SMOKING

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about employees being subjected to environmental tobacco smoke.

Leave granted.

The Hon. NICK XENOPHON: Yesterday, the New South Wales Supreme Court awarded Mrs Marlene Sharp $466 000 to be paid by a Port Kembla hotel and a Port Kembla club for the throat cancer that she contracted as a result of working in those venues as a bar attendant for 11 years and 12 years, respectively. The evidence accepted by the court was that Mrs Sharp has a high risk of developing a secondary cancer to the throat cancer that she developed as a result of passive smoking. The court found that her former employer, the Port Kembla RSL Club, had been negligent and breached its duty of care by exposing Mrs Sharp to an unnecessary risk.

On 9 February 1991, the Federal Court of Australia, in a decision delivered by Mr Justice Morling in a case brought by the Australian Federation of Consumer Associations against the Tobacco Institute of Australia, found that passive smoking was causally linked to health problems including asthma and cancer. Indeed, the editorial in today's *Advertiser* describes passive smoking as a gratuitous cruelty. My questions are:

1. What steps will the minister's department take in particular with respect to his occupational health, safety and welfare inspectors who are responsible for enforcing the legislation following the Marlene Sharp decision to ensure that workers, particularly in the hospitality industry, are not needlessly exposed to the risk of contracting serious health conditions including lung and throat cancer from passive smoking in the workplace?

2. Does the minister consider that inspectors have the power to declare workplaces smoke free under current occupational health and safety legislation; and, if so, will he support inspectors in declaring workplaces smoke free?

3. Will the minister support workplaces that do not adopt a smoke-free environment for their employees being subjected to a higher WorkCover premium?

4. How many WorkCover claims have been made with respect to health conditions caused by passive smoking since the inception of the WorkCover scheme?

5. When will the minister respond to my question to him in relation to the issue of environmental tobacco smoke asked on 15 March 2001?

The Hon. R.D. LAWSON (Minister for Workplace Relations): The Occupational Health, Safety and Welfare Act of South Australia does impose on employers an obligation

in respect of each employee employed or engaged by the employer to ensure that, as far as is reasonably practicable, the employee is, while at work, safe from injury and risks to health and, in particular, the employer shall provide and maintain, so far as is reasonably practicable, a safe working environment.

I have seen the reports of the New South Wales decision and I have also read the decision in the Federal Court of Mr Justice Morling in the early 1990s in the action against the Tobacco Institute. It seems to me that the notion in our legislation about the provision of reasonably practicable measures to ensure employee safety is a relatively elastic concept. I believe that the decision recently announced, if sustained on appeal, will have a measurable bearing upon the practicability of maintaining a workplace which has a substantial element of tobacco smoke within it. I will examine the implications of that decision and its relationship to the duty of care provisions in the Occupational Health, Safety and Welfare Act and seek advice from the inspectorate on its view of its application.

The honourable member asked whether the inspectors had the power to declare workplaces smoke free. It is my understanding that that power is not conferred upon inspectors under either the act or the regulations. Once again, I will seek more detailed advice and bring back a response to that.

In relation to the honourable member's questions concerning WorkCover premiums and the number of claims made in respect of conditions associated with passive smoking, I will refer them to my colleague, the Minister for Government Enterprises, who has ministerial responsibility for the WorkCover Corporation.

In relation to earlier questions asked by my colleague, I will hasten those who are advising me on an appropriate response. I think it is fair to say that a response to the issue of passive smoking involves not only occupational health, safety and welfare but also health aspects. I know the Minister for Human Services made a statement this morning concerning this decision and the activities of the anti-tobacco task force which is within his portfolio responsibilities, and I know that other ministers have responsibility for licensed premises, so a whole-of-government response will be appropriate in respect of this issue.

WORKERS REHABILITATION AND COMPENSATION (DIRECTIONS OFFICERS) AMENDMENT BILL

The Hon. R.D. LAWSON (Minister for Disability Services) obtained leave and introduced a bill for an act to amend the Workers Rehabilitation and Compensation Act 1986. Read a first time.

The Hon. R.D. LAWSON: 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 Act provides for the constitution of the SA Workers Compensation Tribunal. The Workers Compensation Tribunal comprises of Presidential Members and Conciliation and Arbitration Officers with designated functions.

The President of the Workers Compensation Tribunal has recommended that the position of Directions Officer be created. It is envisaged that only one Directions Officer will need to be appointed. In common with other courts and quasi-judicial tribunals, experience has shown that the best way of ensuring matters before the Workers Compensation Tribunal are expeditiously disposed of is to have in place systems that provide for appropriate pre-trial orders and which monitor compliance with the orders and directions given.

The Tribunal has already implemented systems of this kind and they have led to a significant reduction in the time lag between cases being ready for trial and trial dates being provided. It is essential that these systems be managed by officers who have that specific responsibility. For the past 12 months these duties have been undertaken by an Acting Deputy President of the Tribunal on a trial basis. It is now proposed that these duties could be completely performed by someone of a lesser standing and qualification. A Directions Officer would, however, have to be legally qualified and have sufficient experience in the relevant area. The specific functions of the Directions Officer would be to peruse the back files and ascertain the routine nature or otherwise and scope of the dispute with a view to issuing appropriate pre-trial orders. The Officer would be expected to impose appropriate limits upon the extent of factual enquiries to ensure that the disputes are not unnecessarily protracted. The officer will monitor compliance with orders made and impose appropriate sanctions for non-compliance in accordance with the Rules.

The Directions Officer will be responsible for ensuring that the parties have identified the real issues in dispute; have agreed all matters capable of agreement; have taken all reasonable steps to limit the duration of the hearing; and are able to proceed to trial on the dates allocated. The Act as presently framed would only allow a President, under Section 81, or a Conciliation and Arbitration Officer to perform these functions.

Parties appearing before the Workers Compensation Tribunal will benefit in matters being resolved within more acceptable time frames by increasing the preparedness of parties to proceed to trial thus expediting matters.

Because some of the orders made may affect parties' substantive rights and liabilities, provision for appeals (with leave to the Full Bench of the Tribunal) will be provided for.

Cost of funding is borne by the compensation fund under Section 64 (3)(c) of the Act. The work of the proposed Directions Officer already is being undertaken by an Acting Deputy President, which is being funded through current allocation. Therefore, this funding can be expected to be transferred to the new position of Directions Officer.

Finally, the Bill provides that a Directions Officer will be a legal practitioner with at least five years standing and the appointment will be for a period not exceeding five years (with the ability to reappoint at the expiration of a period of appointment). An industrial magistrate will also be able to perform the functions of a Directions Officer, if directed to do so by the President.

I commend the bill to honourable members.

Explanation of clauses

The provisions of the Bill are as follows:

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—Interpretation

A definition of 'directions officer' is required in connection with the substantive amendments to the Act.

Clause 4: Amendment of s. 78—Constitution of the Tribunal

The position of 'directions officer' is to be created for the purposes of the Tribunal.

Clause 5: Insertion of new Division

It is proposed to insert a new Division into the Act to provide for the position of 'directions officer' of the Tribunal. The Governor will make an appointment. A person will not be eligible for appointment to the position unless he or she is a legal practitioner of at least five years standing. An appointment will be for a term not exceeding five years, and an appointment may be renewed from time to time. An industrial magistrate will also be able to perform the functions of a directions officer, at the direction of the President.

Clause 6: Amendment of s. 84D—Issue of evidentiary summonses

These are consequential amendments.

Clause 7: Amendment of s. 86—Appeals

A decision of a directions officer will be subject to appeal to a Full Bench of the Tribunal. However, leave will be required for an appeal on a question of fact.

Clause 8: Insertion of s. 86B
A directions officer will be able to reserve a question of law for determination by a single presidential member of the Tribunal.

Clause 9: Amendment of s. 88—Immunities

Clause 10: Amendment of s. 88A—Contempts of the Tribunal
These are consequential amendments.

Clause 11: Amendment of s. 88E—Rules
This amendment will specifically authorise the making of rules associated with the powers of directions officers in proceedings before the Tribunal.

Clause 12: Amendment of s. 88H—Power to set aside judgements or orders

Clause 13: Amendment of s. 90A—Time for lodging notice of dispute
These are consequential amendments.

Clause 14: Insertion of s. 94AB
A directions officer will be authorised to conduct pre-trial hearings in connection with proceedings before the Tribunal. A directions officer will be able to issue orders and give directions in accordance with the rules of the Tribunal to assist in ensuring the proper and timely progress of proceedings. Pre-trial proceedings under this provision will be able to be conducted in conjunction with other preliminary proceedings, if appropriate.

Clause 15: Amendment of s. 95—Costs
This is a consequential amendment.

Clause 16: Amendment of s. 97A—Constitution of Tribunal for proceedings under this Part
A directions officer will be able to exercise the jurisdiction of the Tribunal under Part 6B of the Act (Special Jurisdiction to Expedite Decisions).

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

EQUAL OPPORTUNITY (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 13 March. Page 1013.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the second reading. This bill has had a very long gestation period and its introduction has been long anticipated and long overdue. The government first promised reform in this area when it was still in opposition. Sadly, it has taken it eight years—and the prospect of a looming election—to finally deliver. By anyone's standards, that is an unacceptably long time—although I have to say that it is better late than never.

Mr Brian Martin QC, now the Hon. Justice Martin of the Supreme Court, was asked by the Attorney-General in April 1994 to undertake a legislative review of the South Australian Equal Opportunity Act 1984. In the introduction to his report (which he completed later that year in October), Mr Martin QC (as he then was) said:

> The equal opportunity and anti-discrimination laws are an essential feature of the fabric of our community. They provide a framework of values and standards of conduct within which the community operates. The system of social justice created by these laws is crucial to the development of a truly just and equitable society.

If we acknowledge that rapid social and industrial changes have occurred, then government and the parliament have a responsibility to ensure that public policy and legislation reflects those changes, which is why this bill is so important. I do not believe that the current legislation satisfactorily reflects modern society in all areas so I welcome this opportunity for the parliament to make some important changes.

The opposition intends to deal in detail with this important bill in committee where we have a number of amendments. I will indicate some of the amendments, in general, because we are still working our way through this process. While the Attorney might criticise me for our delay, for some time now we have had a working group looking at this whole area. I pay tribute to Stephanie Key in another place, who was formerly the shadow minister for industrial relations, who had intended to introduce a private member's bill on this subject but was overtaken by the government bill. Therefore, some of the amendments prepared at that time will now be moved to the government legislation.

Some frustration has been felt in the community about this perceived lack of action and we have been working on this issue for some time. We are fine tuning some of the amendments. We have consulted widely with user groups, which I think is very important if we are to have a bill that will last us through several years, as this original legislation has done.

Most of the amendments that the opposition is moving tend to follow a number of Justice Martin's recommendations, some of which the government has chosen to ignore. Closer examination of the government's bill reveals that what it gives on the one hand it takes with the other. The opposition's amendments also reflect the way in which our society has evolved from one where a family unit once consisted of a married male, female and children to one where a family may be blended, there may be only one parent or there may be same sex couples with children.

Modern working lives have also changed enormously. A nine to five day and a five day week is not necessarily the norm any more. We are all familiar with the numerous studies that show workers are working much longer hours these days, including weekend work, in most cases—if it is a married couple (male and female) or even a same sex couple—with both of them working. The advent of late night shopping has had an enormous impact on working lives, and the impact that it has on private lives and families then puts pressure on government for improved services such as child care, and so on.

When the government commissioned the report, it devised a total of nine terms of reference. I think it is worth briefly referring to them. The terms of reference are:

- The effectiveness of the sexual harassment provisions and whether, in the light of the recent amendments to the Commonwealth Human Rights and Equal Opportunity Commission Act, any changes should be considered.
- Whether discrimination on the basis of family responsibilities should be added to the act and, if so, in what form.
- The legislative matters raised in the 1993 annual report of the Commissioner. At that time Dr Josephine Tiddy was the Commissioner.
- The overlap and inter-relationship between commonwealth and state equal opportunity and anti-discrimination laws, and whether any duplication should be removed and, if so, in what way.
- The requirement in section 95(9) of the Equal Opportunity Act that the Commissioner for Equal Opportunity legally represent a complainant before the Equal Opportunity Tribunal, and the requirement that the Commissioner approve legal representation at conciliation conferences.
- The requirement in the act that the Commissioner act as both investigator and conciliator and as well assist the complainant in the presentation of the complainant's case to the tribunal, and make recommendations to deal with any conflict that may arise from these roles.
- The effectiveness of the age discrimination provision of the Equal Opportunity Act in achieving the objectives of dealing with discrimination on the basis of age.
- Whether or not the jurisdiction of the Equal Opportunity Tribunal should be removed to the District Court in its Administrative Appeals Division or some other process for resolving complaints be provided.

- Any other matter that comes to [the minister's] attention in the course of the review and which [the minister at the time] consider[s] should be the subject of the report.

In response, a comprehensive report and numerous recommendations were made. I intend to briefly refer to the recommendations made under these chapters as they help to contextualise the government's bill and the opposition's amendments. These recommendations form the basis of the government's consultation with community and industry: the bill is the outcome of that process. The following are recommendations from the report:

Sexual harassment:
The extension of the act to match the range of coverage provided by the federal Sex Discrimination Act and to include those relationships identified in para 3.1 of that chapter. . . (11 recommendations in total).

Family responsibilities:
Recommend that the act be amended to prohibit discrimination on the ground of family responsibilities in the areas of employment, accommodation, education and the provision of goods and services. . . (Five recommendations in total).

Racial vilification:
Recommend against amending the act to include a general provision prohibiting racial vilification or racial harassment and that further consideration of these issues be undertaken subsequent to the introduction of any relevant laws by the federal government.

Independent contractors:
Recommend the appropriate amendments to put independent contractors in the same position as employees in respect of discriminatory practices.

Elected members of councils:
The act be amended to prohibit sexual harassment of council employees by elected members of council.

Access to premises:
Section 84 of the act to be repealed and replaced by a section in terms identical to section 23 of the federal Discrimination Disability Act (Two recommendations in total).

Disability:
The act be amended to include mental illness and HIV positivity as grounds for discrimination (Five recommendations in total).

Reasonableness:
Subject to recommendation (ii) and (iii), the act be amended to impose the burden of proving that a requirement is reasonable upon the respondent (Three recommendations in total).

Fees:
The exemptions contained in sections 85k(3)(a) and (b) should be reviewed and amended in order to reflect unambiguously the government's policy.

Associates/presumed/past grounds:
The act be amended to prohibit in all areas covered by the act, discrimination against a person on the basis of the age, sex, sexuality, marital status, pregnancy and impairment of an associate or relative of a person against whom the discrimination is directed (Five recommendations in total).

Time limit:
The act be amended to extend the time limit for complaints from six to 12 months (Four recommendations in total).

Power to require information:
The act be amended to provide that the commissioner may require the complainant to produce relevant documents (Three recommendations in total).

Institution of inquiries:
Retain in present form.

Representative actions:
The act be amended to include the ability to pursue representative actions subject to the existence of appropriate criteria (Four recommendations in total).

Substantial ground:
This section to be retained without amendment.

Enterprise bargaining:
The commissioner not be given specific power to intervene before industrial courts or commission.

Overlap and inter-relationship:
The existing dual system and cooperative arrangements should continue and the state should not withdraw from its support of and commitment at a state level to the philosophy and principles underlying human rights legislation (Five recommendations in total).

Commissioner's role:
The Commissioner retain the dual role of 'investigator and conciliator' (Six recommendations in total).

Age:
The operation of the provisions be carefully monitored as experience increases in respect of various issues of concern.

Tribunal:
The jurisdiction of the Equal Opportunity Tribunal be vested in the court in its Administrative Appeals Division or a separate division in a manner similar to the vesting of jurisdiction in the Environment, Resources and Development Court (Six recommendations in total).

The government has elected to implement a number of the recommendations, specifically: expanding the grounds of discrimination; making changes to the complaint process; and the role of the commissioner. These are positive changes, which I welcome. First, and in accordance with the Martin report, the bill adds 'mental illness' to the present definition of impairment. I welcome this move. However, the opposition has concerns regarding the government's very narrow definition of mental illness, which reflects the Mental Health Act. In response, the opposition is considering an amendment along the lines of the federal Disability Discrimination Act, as it is a much broader definition which more accurately reflects the nature of mental illness.

While on this subject, I would like to refer briefly to a letter I received from the Mental Health Reform Alliance expressing its support for the inclusion of mental illness in the bill. I received the letter on 27 April 2001, and I quote the Chairperson, Helen Gibbs, as follows:

> The inclusion of mental illness under state anti-discrimination law is long overdue, South Australia now being the last Australian state to make provision under its Equal Opportunity Act. The omission was noted in the 1993 Australian National Inquiry into the Human Rights of People Affected by Mental Illness (i.e. the Burdekin Report) when South Australia was noted to have been the only state to have specifically made mental illness exempt from state anti-discrimination legislation. . . for people affected by mental illness, such legislative provision is a necessary step towards enabling them to pursue improved social conditions.

Secondly, the bill proposes to include in the definition of physical impairment the state of being infected with the HIV virus. Again, I welcome this amendment and note Justice Martin's comments in his report, as follows:

> South Australia is the only jurisdiction which fails to provide protection for persons who are HIV positive.

However, the opposition is considering a further amendment in this area. Will the Attorney clarify the proposal that '. . . reasonable measures to stop the spread of infection are not discriminatory'? Will the Attorney explain or define what he means as 'reasonable steps'?

The government's bill follows up the recommendation in relation to independent contractors by extending the act's coverage to that area. As the Attorney states, independent contractors such as nurses and contract cleaners are engaged in employment-like situations and therefore should have equal protection as non-contractors. I agree and support the provision.

The opposition also supports extending protection of the act to 'relatives' of a person who possess a certain characteristic, and this was recommended in the Martin report, which states:

> The individual is entitled to be judged on merit. It is unfair to discriminate against a person because of a characteristic possessed by an associate or relative of that person.

That appears on page 129 of the Martin report.

While the government adopted the recommendation regarding relatives, it chose not to include the recommenda-

tion regarding 'associate'. The opposition is considering an amendment to add the word 'associate' as well as 'relative'. In modern society it is unrealistic to restrict people's experiences and interactions to relatives only. Friends and associates are just as important and significant as relatives, the latter being a more traditional description.

The bill adds discrimination on the basis of potential pregnancy, and I support this inclusion. The government's bill also creates grounds of discrimination by prohibiting discrimination on the ground of caring responsibilities or identity of spouse. The provision goes on to prohibit discrimination in the provision of goods, services or accommodation on the basis of association with a child, and I completely support this.

The government's bill also expands the scope of the sexual harassment provisions, which measure I welcome. However, the opposition is considering a number of amendments to further strengthen the provisions. I do not intend to go into detail at this point, but we will discuss that further during the committee stage of the bill.

The opposition has concerns about new subsection (h) of this section, which provides an extension of the defence in respect of sexual harassment. Section 6(h) provides:

> It is a defence to a complaint of sexual harassment under this section for the respondent to prove that the respondent did not know and could not reasonably be expected to have known that the complainant was a person whom it was unlawful for the respondent to subject to sexual harassment.

We do not believe this is an acceptable defence, and we will consider opposing this subsection.

I note the proposed changes to the law relating to the liability to the employer for sexual harassment committed by an employee. The bill now proposes that employers will be vicariously liable for unlawful acts undertaken by their staff. I think it is important for members to understand some of the shocking behaviour in the workplace, and I would like to outline a couple of examples, in which I will have to use language which is not necessarily parliamentary. I will quote some examples that have been given to me.

The leading hand sexually harasses a 15 year old female apprentice. He takes her to a trade show and offers her alcohol, then pulls up her T-shirt, casually asking her whether he can 'have a look at her tits'. She is young and frightened and not sure what to do. She complains and is dismissed. As an apprentice she has no rights under current unfair dismissal law. Under current EO law the company she works for is not vicariously liable, even though they have no policies or procedures in place with regard to sexual harassment.

The second example is a 29 year old casual care worker who is taken into a room by the manager of a respite care facility. He sexually assaults her and then tells other employees that she is an outrageous flirt and asked for it. She has counselling at the Rape Crisis Centre. Again, there is no case against her employer—

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: Well, there is no case against the employer under the current act despite no policies in place. I am happy to give the Attorney details of some of these cases.

The Hon. K.T. Griffin: That sounds like a criminal offence which should be reported to the police.

The Hon. CAROLYN PICKLES: It does to me, too.

The Hon. K.T. Griffin: They are issues which we ought to try to find out.

The Hon. CAROLYN PICKLES: There have been issues in this place, I remind the Attorney, that were very public and would probably have been criminal offences, which prompted me and, later, the Attorney to move amendments to the act to make it unlawful for members of parliament to sexually harass their staff. I am still waiting for further reports on what kind of training we are to be given. I have been in this place a number of years since those amendments were made and I still have not received any training. Maybe it is considered that I do not need it, but maybe there are a few members of parliament who do need it.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: I am not looking at you. In fact, I am not looking at any member in this place. I am simply saying that it is an example of how we pass laws and make undertakings that we will provide training and none has taken place.

The Hon. A.J. Redford interjecting:

The Hon. CAROLYN PICKLES: Having known the Hon. Mr Roberts for a number of years, I believe that his behaviour towards his staff has always been exemplary. These two examples give a tiny insight into what is going on in the workplace and I hope that the bill will provide improved protection and cover in these situations. While the opposition believes that this is a step in the right direction, we will certainly be looking at amending the section to ensure that employers do more than pay lip service to equal opportunity laws.

For example, I do not support the government's proposal that the viability of a business should be an issue when assessing a sexual harassment complaint. Employers must understand by now that they have a legal obligation to ensure that their employees behave in an acceptable way. Employers should be required to do everything they can to educate and train their staff about this important area of the law. If they choose to flout the law, they should then be subject to the full force of the law.

The opposition supports a proposal in the bill to widen the current provisions dealing with access to premises by people with a disability. This is an issue that was raised in the Martin report and I am pleased to see the government taking action. I acknowledge, however, that there will be circumstances where the costs of alterations to buildings, for instance, would impose unjustifiable hardship on small businesses, particularly, and therefore support the bill in this regard.

The government proposes to abolish the Equal Opportunity Tribunal and confer the jurisdiction on the Administrative and Disciplinary Division of the District Court. The opposition supports this proposal. However, we hope that most cases are conciliated and settled before they proceed to that next stage.

The opposition has some very serious concerns regarding the conduct of investigations by the commission, which is proposed in clause 45 of the bill. We are still in the process of finalising our amendments to this clause, but I think it is worth generally indicating our position. Similar concerns apply also to clause 46, which is the manner in which a commissioner may deal with alleged contraventions. The opposition will be proposing amendments to this section, also.

In relation to the extension of time, the government has clearly chosen to ignore the Martin recommendation which is as follows, and I quote from page 134 of the Martin report:

I, therefore, recommend that the section be amended to enable the lodgement of complaints within 12 months and there be a discretion vested in the commissioner to allow an extension of time in certain prescribed cases. The government has elected to retain the six months without a discretionary provision. It is totally unrealistic to expect a potential complainant to deal with the trauma of the unlawful act, say, sexual harassment, and lodge the complaint all within six months. This clearly has the effect of reducing the number of complaints.

I am aware that I have not discussed all the aspects of the bill, and we will go into some of these issues in more detail in the committee stage, but I have sought to highlight those which will be the basis of possible negotiation in the progress of the bill. While I have indicated the general flavour of our amendments, they by no means represent our final position, as there are many more being finalised.

I urge the Attorney to have patience in this regard and I would be very pleased to sit down with him and with the shadow attorney-general to go through some of these amendments in more detail outside the confines of parliament to see whether we can progress it more expeditiously. The Attorney has offered briefings on the bill. I believe that it is a very important piece of legislation. Historically, I think we were the first place in Australia to introduce such legislation and, as we are now in the process of amending it 26 years later, I think that as far as possible it is important to have general agreement on the way that it will operate because, no doubt, it will be legislation that will be in force for many years to come, and through a change in governments.

I place on the record that we are concerned, also, to ensure that same sex couples have the same rights as heterosexual couples, and this bill gives us an opportunity to move in this direction, which I welcome, and I hope other parties are prepared to consider a similar view. I understand that we will be dealing further with our amendments. I will certainly be pleased to expedite placing them on file, but it has been a fairly complex process and, as I have indicated, this is a very important piece of legislation and, as an opposition, we have consulted widely, as did the Attorney, although there was some criticism about the shortness of time people had to respond to the Attorney. So, I believe it is an ongoing process and, while it is in this place, there may well be some more amendments which will be moved in another place if we run out of time. It is my intention to try to move this along as quickly as I can, but I think we have to be very careful to try to get it right this time. Having said that, it will not be six years.

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

PROTECTION OF MARINE WATERS (PREVENTION OF POLLUTION FROM SHIPS) (MISCELLANEOUS) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) introduced a bill for an act to amend the Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987. Read a first time.

The Hon. DIANA LAIDLAW: 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.

Australia is a signatory to the International Convention for the Prevention of Pollution from Ships ("MARPOL") and Australian States are expected to implement MARPOL resolutions once ratified. South Australia has, to date, met its obligations through the *Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987* (previously known as the *Pollution of Waters by Oil and Noxious Substances Act 1987*) and the regulations made under that Act.

This legislation has, for some time, implemented Annexes I and II of MARPOL, which deal with pollution by oil and pollution by noxious liquid substances carried in bulk. Annex III of MARPOL, which relates to the disposal of harmful substances carried by sea in packaged form, and Annex V of MARPOL, which regulates the disposal of garbage, were adopted by the amendments in the *Pollution of Waters by Oil and Noxious Substances (Miscellaneous) Amendment Act 1998*, which came into operation on 10 September 2000 in accordance with section 7(5) of the *Acts Interpretation Act 1915*.

The International Maritime Dangerous Goods Code contains the desired labelling, packaging and stowage requirements for numerous harmful substances necessary for the effective implementation of Annex III but as the Code is not made under State or Commonwealth legislation it cannot be adopted with the existing regulation making powers. An amendment to the regulation making powers of the Act is therefore necessary to enable the highly technical and prescriptive standards of the Code to be adopted and incorporated in the regulations under the Act.

The purpose of the *Protection of Marine Waters (Prevention of Pollution from Ships) (Miscellaneous) Amendment Bill 2001* is to make the necessary amendments to the regulation making powers of the Act and to introduce other provisions to improve the general effectiveness of the Act. These provisions are described below.

The Bill amends the definition of a "prescribed incident" that requires reporting to include such incidents as a grounding or fire, which may lead to the pollution of State waters. This is necessary to remain consistent with amendments to Protocol 1 of MARPOL.

The Bill also addresses problems in prosecuting the master and owner of a vessel which spills oil or a noxious liquid substance as a result of damage to a vessel caused through negligence. Currently, under MARPOL, the master and owner of a ship are essentially only liable to prosecution if they acted with intent to cause damage, or acted recklessly and with knowledge that damage would probably result. This means that acts that are merely negligent currently do not give rise to liability for prosecution under the MARPOL Convention.

An example of an incident that could be attributed to the negligence of the master or owner of a vessel would be where damage to the vessel occurs as a result of the navigation of the vessel in State waters without appropriate navigation charts for the area. Another example is that of negligence by omission to undertake routine maintenance of a vessel which subsequently suffers damage as a result of the omission. South Australia has experienced both of these scenarios in recent times but fortunately on those occasions no oil was spilt.

In 1998 the Australian Maritime Safety Authority (AMSA) advised that there had been little response from the other international parties to MARPOL in support of the issue of negligence. However, AMSA advised that the New Zealand legislation, which adopts MARPOL, approached the issue of negligence from a different perspective. I am advised that amendments to Commonwealth legislation were introduced into the Federal Parliament on 4 April 2001 to address the issue of negligence along similar lines to that of New Zealand.

Queensland's Parliament amended the Queensland *Transport Operations (Marine Pollution) Act 1995* in mid 2000 to address, amongst other things, the issue of negligence.

In light of the Queensland legislation, and the proposed Commonwealth amendments, an amendment to the South Australian Act, at this time, to address negligence is appropriate.

The Bill also establishes a maximum corporate penalty of $1 000 000 for the discharge of oil or oily mixture into State waters from an apparatus which is defined in the Act as a pipeline, a structure on land or a receptacle used for the storage of oil used in the exploration for or recovery of oil. Whilst pollution from an apparatus is not covered by MARPOL, it is appropriate that the proposed penalty be the same as that applicable to pollution of State waters by oil or noxious substances from a ship.

In the event of an oil or hazardous substance spill in State waters the Government responds using the South Australian Marine Spill Contingency Action Plan to contain the spill, mitigate damage to the environment and clean-up the spill. The Bill provides indemnity from liability for Crown employees and agents directed to take action under the Plan.

The Government will consider whether any further amendments to the *Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987* are required after the completion of legal proceedings against Mobil for the July 1999 oil spill at Port Stanvac. In the interim, this legislation will further strengthen the accountability of those involved in the operation of vessels, or other apparatus, for any pollution which may result from their actions.

I commend this bill to honourable members.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 8—Prohibition of discharge of oil or oily mixtures into State waters

Section 8 of the current Act provides, subject to three exceptions, that the master and owner of a ship are guilty of an offence if there is a discharge of oil into State waters. One of the exceptions, is if the oil escaped in consequence of damage, other than intentional damage, to the ship or its equipment. Intentional damage is defined as damage arising in circumstances in which the master or owner of the ship acted with intent to cause the damage or acted recklessly with knowledge that damage would probably result. The proposed amendment provides that if the damage arises as the result of a negligent act or omission on the part of the master or owner of the ship then, as in the situation where the damage is intentional damage, the master and owner will be guilty of an offence. The proposed amendment also makes the master and owner guilty of an offence if the intentional, reckless or negligent damage resulted from an action of an employee or agent of the master or owner.

Clause 4: Amendment of s. 18—Prohibition of discharge of substances into State waters

This clause provides the same amendment to section 18 as clause 3 provides to section 8 but whereas section 8 deals with the discharge of oil into State waters, section 18 is in relation to the discharge of a noxious liquid substance.

Clause 5: Amendment of s. 25A—Duty to report certain incidents

Section 25A of the principal Act provides the manner in which a 'prescribed incident' must be notified. The proposed amendment broadens the definition of a 'prescribed incident'.

Clause 6: Amendment of s. 26—Discharge of oil into waters from vehicles, etc.

Clause 6 alters the current penalty for the discharge of oil from an apparatus into State waters from a flat penalty of $200 000 to a penalty of $200 000 if the offender is a natural person and $1 000 000 if the offender is a body corporate.

Clause 7: Insertion of s. 28A

Clause 7 inserts a new provision into the Act to provide for a *South Australian Marine Spill Contingency Action Plan*. This Plan is to set out the action to be taken where there has been or there is likely to be a discharge to which the Act applies.

Clause 8: Amendment of s. 40—Immunity

The current Act provides for the immunity of inspectors acting under the Act. The proposed clause extends this immunity to any other employee or agent of the Crown engaged in the administration or enforcement of the Act for an act or omission in good faith in the exercise or purported exercise of a power or in the discharge or purported discharge of a duty under the Act. A liability that would ordinarily attach to a person attaches instead to the Crown.

Clause 9: Amendment of s. 43—Prescribing matters by reference to other instruments

Section 43 of the principal Act provides that regulations or orders under the Act may make provision for a matter by applying, adopting or incorporating any regulations, rules, codes, orders, instructions or other subordinate legislation made, determined or issued under any other Act or under any Commonwealth Act. Clause 9 proposes extending this to include any code published by the International Maritime Organization. The clause also provides that if a document is applied, adopted or incorporated in the regulations or orders a copy of it must be kept available for inspection by members of the public at an office determined by the Minister, and evidence of its contents may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the document.

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

LEGISLATIVE REVIEW COMMITTEE: ROCK LOBSTER POTS

Adjourned debate on motion of Hon. A.J. Redford:

That the report of the committee concerning the allocation of recreational rock lobster pots be noted.

(Continued from 4 April. Page 1250.)

The Hon. T.G. ROBERTS: The motion before us is the result of some very hard work done by a very worthwhile committee on a very important subject. I attended a meeting at the Millicent Community Club in the South-East, and the evidence given at that meeting covered, I think, all the issues relating to the report, and the motion that the report be noted. One outcome about which I would like to comment, and which I think will go a long way in coming to terms with the fear of professional fishermen that amateurs are putting in too much effort, or getting too much of the catch, is that there is now some accommodation of both the amateurs' position and the professionals' position. Given the debacle that occurred with the lottery system of licences, some controls (and I guess I should have indicated that first) needed to be implemented over the resource because of the value of the resource, and no-one on either side of the chamber is denying that. The real question is how we best manage the resource and achieve the best return for the state and for those professional fishermen who risk their lives, on many occasions, in earning their catch. It is not an easy occupation, and it is not made any easier by the weather.

The markets at the moment, the weather and the state of the industry are such that the volumes of the catch this year (I think it closed on Monday) were achieved far earlier than expected and the value of the catch, I think, surprised a lot of people—although those sorts of prices will probably be maintained for some time, given the state of the fisheries that exist in other countries, where competing product is becoming harder to catch, and the stocks are being affected by overfishing in nearly all fish management areas. In addition, the marine environment in which they historically have been caught is now becoming more and more polluted, to a point where the double impact of too much effort and polluted waters has now left Australia (and those countries in the southern hemisphere generally, in the waters of the Atlantic, the Pacific and the Indian oceans, that are less polluted than our northern seas) in a position where it is important that there is cooperation between governments. This is required to protect the resource and to reduce effort, where it is required, and to manage effort so that the resource can be managed for future generations to earn their livelihood and for the state to return benefits from those catches, as it is a community resource, so that the next generation can benefit from it. So, it is a timely snapshot of the rock lobster industry.

I understand that a gong has just been handed out to the industry for the best managed industry nationwide as a resource. The southern rock lobster area, in particular, has a good history of management and the committee, I think, was able to bear testimony to the contributions that were made by amateurs and professionals.

The position in relation to the future of the allocation of pots to amateurs needs further examination, and certainly needs a little more work done on it. I think that the suggestion of broadening the number of pots to be allocated, which gives everyone an opportunity to at least own a pot and make a

considered decision as to whether they want, as an amateur, to participate in that recreational activity, has a lot of good going for it. I think that more pots does not necessarily reflect more effort, because there are many people (including me, at one time) who had pots, and they were always a decoration in the bottom part of the shed that sometimes you dusted off. In the main, the fact that you had them there was insurance that, if you wanted to use them, you could. But it is the same in most cases—

The Hon. A.J. Redford: An extraordinary number of licence holders do not put their pots in at all.

The Hon. T.G. ROBERTS: That's right.

The Hon. A.J. Redford: They just keep the licence because they think they might not get another chance if they change their mind.

The Hon. T.G. ROBERTS: Yes. So, there is some insurance there that the government can make a bit of profit in relation to the allocation if more people own pots—certainly that licensing revenue would be reflected in the government being able to put something back into the recreational area. As the committee has recognised, the other issue connected with the broadening of the allocation is environmental tourism—recreational tourism, in this case. There are a lot of people who—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Yes. It is unknown and unheard of, particularly with respect to European and overseas visitors, who have no idea about how to catch lobster, or whether the stock is available in a particular geographical region. However, if it is promoted on the basis that perhaps a small allocation of pots could be granted to marine dealers, boat sellers or to people who have a permanent presence within those regional areas for recreational use to encourage recreational tourism, then I am sure that the community could do a lot better out of the recreational allocation and use of the resource than perhaps the sale of the product long term. Again that is a welcome recommendation that the committee has been able to tease out.

We all know that people across the border, particularly from Victoria, have traditionally holidayed in the South-East of South Australia, particularly where the southern rock lobster management programs have been running. It always surprises me that people from Melbourne pass a whole raft of wonderful recreational holidaying places along the Great Ocean Road in south-western Victoria—Warrnambool and Portland—yet finish their holiday sojourn at Port Macdonnell, Southend, Beachport, Robe, Kingston, Carpenter Rocks and so on. I am not sure that a lot of survey work has been done, but most of them will tell you that the reason is that the resource is available and at least they have a competitive chance of getting a feed of what people in the area refer to as 'cray'; and that fishing licences do not present an obstruction to catching fin fish, which is a problem in Victoria and which, in the main, has been brought about by too much effort in a lot of regions of Victoria.

I believe that, at some future time, consideration will have to be given to licensing fin fish anglers and amateurs. It will be a brave government that introduces a licensing fee system but, if more resources are going to be demanded for recreational fishing, governments will have to find the money from somewhere. I am not making any recommendation at a personal level on licensing of fin fish or amateur fishermen. Certainly, the recommendation to broaden the allocation for the number of pots—perhaps one per person—and to monitor the effort that takes place if any changes are made by the department, the friends of and other organisations is a worthwhile exercise to see what impact it has on the catch over time.

The Hon. T. CROTHERS: I rise to support the work of the committee and I want to inject some cautionary notes into its work as well. The fishing industry in Australia has a fairly grim track record when it comes to the fishing out of stocks. We can look at the scallop beds off the Tasmanian coast and the orange roughies which take about 30 years to grow to full maturity. It is a very pricey fish. It was discovered about 20 years ago and it is almost fished out to extinction now between here and New Zealand waters. We can look at—

The Hon. A.J. Redford: All by professionals.

The Hon. T. CROTHERS: I have no doubt about that. It does not matter who is taking the fish, if they take enough. That is the point I am coming to.

The Hon. A.J. Redford interjecting:

The Hon. T. CROTHERS: That is the very point I am coming to. If we look at the Grand Banks in Canada we find that, with the northern and southern cod beds, which the early Portuguese told us were so thick you could just about walk on the cod across the water, they are fished out. The Canadian fishing fleets in Nova Scotia and NewFoundland are now all tied up and they cannot do much fishing. Likewise, with the salmon coming in from there—there is the sockeye, and the three main species of salmon off the west coast of Canada, the Fraser River and the Mackenzie River where they once used to abound in plenitude. They are just about fished out as well, because of over procurement by the fishing industry. I agree with the Hon. Angus Redford—it is mostly by the professionals.

One of the reasons why I rose to support this motion is that I had a letter, if I remember rightly, from the professional rock lobster people, putting in the usual complaint that, if this matter is not monitored, it will affect their livelihood and so on. Was I right about that letter?

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: I think I received that letter a couple of days ago. Mind you, I cannot speak much English but I can read a bit.

The Hon. P. Holloway interjecting:

The Hon. T. CROTHERS: I will leave it to you, you being the recipient of my English from time to time. I support the motion because it does a number of very good things. With aquaculture the way it is, strides are being made in prawn farming, for instance. Some experimental work is being done in respect of the breeding of rock lobster, and much taxpayers' money has been spent on that. So in this regard I think that the professional fishermen have a bit of a cheek if they think that they have the totality of ownership of our fishing stocks.

I support this motion, although the caution I make is that we continue the very good monitoring that has been taking place and done so well to preserve our lobster stocks. We well remember when that was first introduced some years ago, some decade or more ago, by a Labor government that we had all the protests in the world from the fishermen, the same people who are protesting now in respect of this recreational fishing. I commend the committee for its good work and believe that it should get the support from the Council that it deserves.

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

GOVERNMENT FUNDED NATIONAL BROADCASTING

Adjourned debate on motion of Hon. Nick Xenophon:

I. That a select committee be established to inquire into and make recommendations on the role and adequacy of government funded national broadcasting and to examine the impact of these broadcasters on the South Australian economy and community, and in particular to examine—
   (a) The current and long-term distribution of government funded national broadcasting resources and the effect of this distribution on South Australia;
   (b) The effects on industry, including broadcasting, film and video production and multimedia;
   (c) The effects on the arts and cultural life in South Australia, including whether government-funded national broadcasters adequately service South Australia;
   (d) Whether government-funded national broadcasters adequately service South Australia in respect of South Australian current affairs coverage;
   (e) The programming mix available from government-funded national broadcasters and how programming decisions are made and whether the programming which is delivered is geographically balanced.

II. That standing order 389 be suspended as to enable the Chairperson of the Committee to have a deliberative vote only.

III. That this Council permits the select committee to authorise the disclosure or publication, as it thinks fit, of any evidence or documents presented to the committee prior to such evidence being reported to the Council.

IV. That standing order 396 be suspended to enable strangers to be admitted when the select committee is examining witnesses unless the committee otherwise resolves, but they shall be excluded when the committee is deliberating.

(Continued from 11 April. Page 1344.)

The Hon. T.G. ROBERTS: I indicate that at this stage I will be speaking in support of the motion that is before us, but I understand that the Hon. Di Laidlaw has an amendment which caucus has not yet studied. I will be taking the amendment to caucus the next time caucus meets, but at this stage we are supporting the motion of Nick Xenophon. Whether we can establish the facts included in the motion by way of debate and highlight it to the people who are interested in the outcome or whether we can do it by way of a select committee is something, which, as I said, we would have to consider further given the fact that the amendment being put forward by the government has only just reached me.

ABC funding may not be a major issue for many people as the ABC does not have the wide support of the community that commercial radio and television enjoy. However, for those people who use the ABC in metropolitan and regional areas, it has become an institution. Although supporters and friends of the ABC do not see the ABC as being protected from any change at all, they, and particularly staff of the ABC, are very critical of any change that does not lead to improvement or cuts that lead to the winding back of programs that they perceive as essential.

We have just seen the axing of the TV Science Unit's program *Quantum*. For those of us who watch it, *quantum* is an indicator to a lot of people as to how the rest of the world and Australia are progressing in relation to the application of technology, particularly the high-tech, science and physics contributions that *Quantum* makes to a broader audience. It is one of those programs that you would think would be given priority for support. Both federal and state governments are supporters of Australia and South Australia being at the leading edge of technology. Lip service announcements by the government and the opposition about Australia being the clever country have been around for a decade and a half.

The general population picks up signals that are sent by government funded organisations, departments and now the ABC that issues relating to educative services are being provided to prevent people from experiencing future shock in relation to technology applications, but programs such as *Quantum* that make predictions and show the reality in relation to the application of technology and a whole range of fields are being cut, and people in isolated regional and remote areas who do not have access to alternatives will not be able to access this information which should be made available via our service provider.

The argument about whether governments should be involved at all in broadcasting (either electronically or through radio) is one that no-one is game to broach. Many people in Canberra believe that there is no place for governments in broadcasting, in particular.

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: Yes, that is the worst possible or most extreme position taken by people who regard themselves as leaders in education in a humane society. They believe that there is no role for the education and entertainment of the public through public broadcasters. At the other end of the scale, some people say that all broadcasting should come under the auspices and networking of governments and that commercial radio, in particular, and television should have far greater controls than exist at the moment. In between, you have a whole range of people who have opinions that vary between those two quantums—pardon the pun.

The position taken by the current government is not to make any pronouncements on cutting programs or the ABC's role and function and allowing private broadcasters to take their place. If that were the case, we probably would not be debating this issue now, but it is the same with any public service. If the private sector is going to take up a public service, it expects to make a profit from it. So, the debate and argument around public broadcasting is: will it be financially popular for the commercial sector to take up the role and function that the ABC has played? The general answer is: no, not in all cases.

Many initiatives made through ABC broadcasting and television are adopted by private sector broadcasters and telecasters after the ABC has included very popular programs in its budget and made marginal progress into populous programming. Those ideas are picked up by the private sector and run even more successfully in terms of reaching more people. So, I think the model that most reasonable people would prefer is that the ABC continue to be funded to a practical point in relation to appealing to remote and regional areas as they rely heavily on the ABC for a whole range of services including broadcasting entertainment, information and, in particular, the weather.

In some of the northern areas which are serviced by the Hon. Ron Roberts (the north-east and the north-west), some ABC radio programs would have ratings of 50, 60 or 70 per cent because, in the main, the services provided by commercial radio in those areas are almost nonexistent, particularly on days when radio signals, weakened by hot weather conditions, do not travel very far. Programs where the ABC does enjoy broad-based rather than minority support in the metropolitan area involve Phillip Satchell and David Bevan,

who would probably rate about 5 or 6 per cent or 7 to 9 per cent on any given morning, whereas a regional program that runs on, say, regional ABC in Mount Gambier, Port Pirie, Port Augusta or Whyalla would probably have a rating of about 40 or 50 per cent.

Those are not the only reasons why we support this motion. The ABC has not been funded in a way that most Australians believe a national broadcaster should be funded. The subtleties of trimming and cutting have put the ABC in crisis in relation to its programming. The ABC has disbanded specialist programming units. Paul Barry, a very good interviewer for a current affairs program, recently was sacked after an interview with Donald McDonald when he criticised the ABC's management. The federal police were called in—it was not a pretty sight—to investigate leaks into what could be regarded as the undermining of the current ABC management.

The Hon. Nick Xenophon: Nothing came of that, though.

The Hon. T.G. ROBERTS: No-one was found responsible for the leaks so it may not have been staff—and it was not proved to be staff. The leaks were coming from another direction—maybe from senior executives. Who knows? It was not the issue of the leaks in relation to the current funding dilemmas that the ABC was facing and the restructuring of the ABC through a very controversial new Managing Director but possibly it had more to do with other issues that were not explained to the public completely.

When the investigation was complete it was found that no ABC employees were involved in any of the leaks. If people want to apply the same system to the current dilemmas that face the federal government, I would advise them to bring in the police to find out who has dumped on the current Treasurer in his absence overseas. Perhaps that might bring about an easier result.

The minister has also pushed for major production programs to be outsourced to the private sector. Fair and reasonable people say that there is nothing wrong with that, except that the ABC has been an incubator for training of all sorts of people from journalists to actors. If one considers the *Seachange* program, I think that enjoyed ratings of around 40 per cent. It was looked at with envy by the commercial stations. It was an experimental program as far as the ABC was concerned in relation to the time slot and the format, and it proved to be a remarkable success.

There is also the position of no advertising on the ABC which a lot of people prefer to advertising interrupting the programming. All in all, a Saturday or Sunday night slot for *Seachange*—it did not matter when it was—was picking up huge audiences. If these programs are to be axed and the production unit undermined by staff cuts and a lack of funding, and if the programs that generate revenue by sales, either on commercial channels or overseas, are not produced, then there is no income back into the ABC to make more programs.

Under Mr Shier's direction, around one-quarter of the ABC senior executive has been sacked or replaced. It is clear that the public is concerned about the future direction, indeed the future, of the ABC. The new director is making big noises about wanting an extra $35 million—that was the last amount I saw on his wish list—which you would think would satisfy those people who are critical of the cuts and the redirection of the ABC's priorities.

The Hon. T. Crothers interjecting:

The Hon. T.G. ROBERTS: As the honourable member behind me says, it is an ambit claim. The Hon. Trevor Crothers, being a senior union negotiator, knows all about ambit claims. But the cuts are real, not ambit: the cuts have been real cuts. The cuts that have been indicated by the current government and accepted by the current executive management are the cause for concern. The ambit claim of $35 million is supposed to fill those supporters and the Friends of the ABC with confidence that there will be restructuring within the ABC that will bring about a new energy, a new dynamic management structure and a hard-working staff producing a whole range of new projects.

Until that money has been allocated in the May budget and directed in the right direction, which is to programming and production rather than to staff packages for retirement and to a broadened out, bloated executive structure, the Friends of the ABC and staff members will not let up on pressure on the government and will make it an election issue when it is called.

The concerns that staff and Friends of the ABC have are that programming resources and staff cuts have been at the expense of more executives at higher salaries. That does not lead to creative work being done on the ground in relation to production: it means that you have more executive participation, more executive control, but very little delivery. What it tends to lead to in production and programming is that those executives use their salaries to travel around the world looking at programs that they can import and then do not have to make decisions about producing programs themselves. In this day and age where information technology and entertainment technology is at a premium in terms of participation and the defence of a country's culture, and being able to export your own cultural pride in relation to your arts, that then becomes a minimalist position regarding those activities rather than maximising your opportunities through the national broadcaster.

If the private sector were going to do it, it would have done it a long time ago. Mind you, a lot of people have been trained in skills development for productions and have gone into the private sector to the other channels. They have made successes of programming and have exported a lot of good programs from and through the private sector. So there needs to be cooperation—and I am one of those advocates—between the public and the private sectors. There are public sector supporters of the ABC as either a broadcaster or television operator, with the new requirements for digital IT. It needs to be done professionally and with the best international standards and accountability.

The creative output of the staff has been nullified. The morale inside the ABC is at an all-time low. There has been an increase in the politicisation of the ABC. It has been one of the bees in the bonnet of the current Prime Minister: he thinks that the ABC has always been too far to the left, so he has decided on using the management structure and the financing programming to turn that around. We recently saw a former minister's staffer put on the ABC management; a staffer from John Moore's office—Chris Wordsworth—has been made the State Manager of Queensland ABC. He is an ideological conservative and he has received his just reward.

The future of the ABC, if the politicisation continues, will not only be to take any of the critical sting out of the ABC. I think that complaints were made about the ABC by Keating when he was in the prime ministership; and Bob Hawke was not a friend of the ABC but was openly critical of it from time to time—but there were no moves to gag it or to cut its funding to the point where it became ineffective. Certainly, Jeff Kennett boycotted the ABC because he felt that the

questions it was asking him were coming too far from left field—

The Hon. Nick Xenophon interjecting:

The Hon. T.G. ROBERTS: The Hon. Nick Xenophon has indicated that he started an independent inquiry into the ABC but I suspect it was for different reasons. He wanted to go on a witch-hunt whereas forces of good versus forces of evil were self evident in those days. The people spoke and the forces of evil lost and the ABC was vindicated. The ABC survived the scrutiny that the former Victorian Premier tried to subject it to in order to justify to his federal colleagues those cuts required to make the ABC a tame tiger.

The other issue is the threats to the ABC, particularly from the federal government, because the states have little or no influence on the ABC's independence. It is threats from the federal government that make the ABC nervous about its production formats. It certainly makes some journalists nervous about the direction they take in their criticisms of government members, and they certainly take a different position on how they interview and give access to opposition members, who could then claim bias.

There has to be some sympathy for the ABC. The 8 o'clock morning program *AM* and *PM* in the evenings are probably two of the hardest hitting political affairs programs in the nation (and that includes all the electronic media and all the commercial broadcasting sector). Those programs have been consistent, and the overseas component of broadcasting up-to-date news from the trouble spots and places around Australia and the Pacific set standards worldwide.

The opposition recognises that the funding base has been eroded over the last 15 years. The deepest cut was in 1996 with $66 million being cut from the annual appropriation, and there has been a call by the unions to restore levels back to the 1996 funding level regime. So the calls from the friends, the staff and the supporters is to re-establish confidence in the ABC as our national broadcaster, to maintain its independence, to protect it in its endeavours to investigate governments and the private sector, where required, to bring about the best possible information base for Australians, not only in the metropolitan area but in regional and remote areas in Australia, so they can keep abreast of the rapidly changing world we find ourselves in, and to try to get an executive management format that reflects the independence and professionalism that we all expect from our national broadcaster.

Name calling has gone on, particularly around some of our more senior broadcasters. For instance, Phillip Adams has come in for a lot of criticism. Phillip Adams opens up a lot of debate in the evening and his format is open to criticism. Listeners can call and put their penny's worth, and there are other programs that balance out the Phillip Adamses of the ABC. The ABC has many points of view and I do not think that by directing attacks on individuals to undermine their credibility does anyone any good.

We all need to be exposed to a range of differing views and opinions through our national broadcaster to at least stimulate debate and discussion around the major issues of the day. Let us hope that the motion before us in relation to the formation of a select committee is carried. The debate can then be opened up at a local and state level. Let us hope that, if there is agreement to support the motion, it will have a similar outcome in relation to what we are trying to achieve and that we can send a message to the federal government that the ABC needs to be protected so that it can carry on the good work it has been doing.

If changes need to be made to bring the ABC into the new millennium then let those changes be made with the broad participation from community input and not through one managing director trying to stamp his authority on our national broadcaster without consultation and in setting up a very high executive team that will be sycophantic to one individual's viewpoint at the expense of a broadened broadcaster. Hopefully, the ABC will survive this government and future governments in relation to what it has already achieved in its responsibilities in entertainment and information. Let us hope that that can be carried into the future for the next generations to enjoy.

The Hon. T. CROTHERS: To simplify matters, I rise to indicate that I will be supporting the Xenophon proposition on the select committee.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

Leave out all words after 'That' in line 1 and insert—

This Council registers its concern with the commonwealth government and national broadcasters regarding the role and adequacy of government-funded national broadcasting and the related allocation of resources on the South Australian economy and community and, in particular, the effect of the distribution of resources on—

(a) the broadcasting, film and video production and multimedia industries;

(b) the arts and cultural life in South Australia;

(c) our rural communities in terms of service delivery and jobs; and

(d) current affairs coverage generally.

II. That this Council seeks confirmation from the commonwealth government regarding the programming mix from government-funded national broadcasters, including how programming decisions are made and whether the programming which is delivered is geographically balanced.

III. That this motion be forwarded to the commonwealth Minister for Communications, Information Technology and the Arts for his attention, and the Prime Minister and all South Australian members of the commonwealth parliament, for information.

My amendment clearly expresses opposition to the select committee by removing all reference to it and calls on this Council to register its concern with the commonwealth government and national broadcasters regarding the role and adequacy of government-funded national broadcasting and related matters, including the allocation of resources on the South Australian economy and the community.

Most of the wording of the amendment is taken from the motion moved earlier by the Hon. Nick Xenophon. It is my view and that of the government that this Council registering its concern about several matters related to national broadcasting and conveying those concerns to the commonwealth Minister for Information Technology and the Arts for his attention, and to the Prime Minister, and to all South Australian members of the commonwealth parliament is a more effective and immediate way of addressing the issues that the honourable members who have spoken so far in this debate have raised. A select committee on a matter that is essentially a commonwealth matter—and certainly this and past governments have always insisted that it is a commonwealth prerogative—essentially would be a waste of time. It would also be longwinded when one looks at the extensive terms of reference that have been provided to the committee.

When one looks at the number of select committees and standing committees of this Council and the other place it is

becoming increasingly evident that more members of parliament are having less time to attend to their current committee duties. I therefore question the merit of setting up a further select committee, particularly one with such broad terms of reference and where overall one the prerogative is essentially the federal government's to fund, administer and be accountable daily through media channels and ultimately through the democratic process. Therefore, to express essentially the same concerns that are in the motion moved by the Hon. Nick Xenophon but in a different form and directing those concerns immediately to the Prime Minister, the minister and South Australian members of the commonwealth parliament I believe is a more immediate, effective and responsible action by this place than setting up a further select committee.

If my motion is passed and the terms of my amendment are directed to the commonwealth Minister for Communications, Information and Technology for his attention and that minister does not respond, I think we could very roundly indicate what we thought of that minister and his disregard for the concerns expressed by members in this place. Again, I think that is a more effective and immediate way of dealing with the matters raised by the Hon. Nick Xenophon. I have to say that at a personal level I have always taken a great interest in national broadcasting in this state and media policy generally. I notice that the Chair of the Australian Broadcasting Authority just this week called for a watering down of national ownership provisions for broadcasting in the commercial sector and indicated that the journalists essentially have the authority in setting policy, tone and direction for a paper. I think that is rather a naive view and, while I take heed of it, I cannot accept it.

In any federal system such as Australia, with concentrations of population—in the case of Australia on the eastern seaboard—and sparse populations elsewhere, we need not only a national broadcasting system as we have today but in my view we also need strict controls on commercial ownership and cross ownership. We know that, from experiences in systems such as in Canada, where they can so easily be swamped by the American broadcasting system, they lose their independence, culture and perspective. I think there are equal reasons to fear in a globalised world and with free trade agreements as recently proposed by President George W. Bush that we should be very conscious from a position of democracy, free speech and being informed that we have strict controls over cross ownership of commercial media and a very firm commitment to funding, policy and independence for our national broadcasting system.

As arts minister in this state and therefore as a member of the cultural minister's council comprising commonwealth, state and territory ministers for the arts, I indicate that a proposition has been put and accepted. It is as follows: that a discussion paper will be prepared to identify the cultural benefit and value of public broadcasting to Australia's cultural life. This initiative was undertaken last August. The report will address the question of new opportunities that will become available with the introduction of digital television. It will also cover community broadcasting and is not limited to government funded broadcasting. The organisations which provide public broadcasting services are ABC television and radio, SBS television and radio, Radio Australia, community radio stations and community television stations. The cultural ministers council paper will address the following issues:

1. The creation of Australian content;

2. The dissemination of Australian stories recounted by Australian voices;

3. The portrayal of Australian cultural identity within Australia and overseas;

4. The promotion of Australia's diverse cultural identity;

5. The relationship between the arts sector and the public broadcasting sector in developing content;

6. Expanding opportunities for and access to education;

7. Provision of training opportunities and skills development for the wider media industries;

8. Research and innovation by public broadcasters within the wider broadcasting industry;

9. Audiences for public broadcasting;

10. Access to and participation in public broadcasting;

11. Opportunities for access to arts products by a wider audience;

12. Opportunities for introduction of digital services. It is expected that this report will be presented to the cultural ministers council at its next scheduled meeting in October 2001.

In terms of the South Australian film, television and audiovisual industry, through Arts SA the South Australian government commissioned a strategy two years ago from Moir and Burgan. Using indicative estimates of average annual salaries, the report found that the industry in South Australia provides almost $80 million income in this state; and that 2 592 people are employed directly in the audiovisual industry—that is, film, television, radio and video production, distribution and exhibition and related services. Also, around South Australia, we have about 7 per cent of the national employment base of 32 427 people as at the 1996 census involved in the film, television and audiovisual industry. It is a big business and a big generator of income, investment and economic return to this state.

I want to mention that, with some mixed feelings, I have been watching what has been happening with the new management of the ABC. My view is that some of the changes are certainly questionable; some I feel quite hostile about. Generally, the changes have been Sydney focused, and I know from South Australia's experience that we have in fact gained a considerable amount at the local level from some of the decisions arising from the changes that are Sydney focused. I therefore feel some misgivings about speaking harshly about the ABC management when we were the recipients of some good investment decisions by the ABC, with more employment in South Australia and more production being generated locally among the South Australian Film Corporation, the ABC and the wider film and audiovisual industry in South Australia.

As arts minister I am very keen to promote further film activity and keep our skills base here, and I seek to promote more of this money coming out of Sydney and the ABC nationally being invested in South Australia. I do not know whether that money would have come to this state if the ABC was not going through the current shake-up. So, I express some concerns about this motion and some misgivings about being too critical, because I know that South Australia has had windfalls from some of the changes, notwithstanding some of my misgivings about what is happening on a national basis.

In the meantime, I can only applaud the ABC, Symphony Australia and the federal government for its fantastic support of the Adelaide Symphony Orchestra, now housed at the ABC headquarters in Collinswood but hopefully soon to change base. I thank the ABC and local management for their

stunning support of the initiative, some two years ago, *Strings on the Strzelecki*, which involved the Australian String Quartet. The ABC has also produced and screened the dance program *Shimmer* with Leigh Warren and Dancers, featuring music by the Australian String Quartet and designed by Mary Moore. The ABC produces a number of arts documentaries for national screening related to the Adelaide festival WOMAD, the Bay to Birdwood car rally and more. The ABC also supports several local ABC radio stations in regional areas of South Australia. It provides coverage of important local events such as Anzac Day and the Christmas Pageant. Recently, we have seen the return of *Stateline* on Friday nights replacing what we enjoyed previously, and that was the locally based *7.30 Report* program.

So, I acknowledge South Australian management in television and radio in the ABC; recognise ABC FM which has been based here for many years; recognise the regional coverage we gain in our rural areas; and recognise the continuous production emphasis on children's television programs in South Australia over some 30 years. We have been well served by the skills and commitment of the local ABC team.

We see, as I mentioned before, at the national level, more work coming this way in terms of production. I understand the pressures when one is told to reform practices and move into a different world in terms of technologies and how one has to account for that within budgets that always seem to be too limited. I trust that some of the anxiety, angst, anger and misgivings that recent management decisions have given rise to can be quickly healed so that the ABC can go from strength to strength as a very important Australian asset and one that should become increasingly important to our nation as we move to a more globalised world.

As I said at the outset, to have an independent broadcaster in a globalised world and to have a broadcaster that also strongly promotes Australian culture, performance, skills base and technologies will be very important, and we must all strive hard not to become Americanised in those fields and just accept CNN or NBC as the only word. We have special interests in this region: we have a multicultural society and a very different history, and we must ensure that this generation and further generations benefit from knowing, respecting and having a defined and independent view of the world, not just an American perspective.

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

AUDITOR-GENERAL'S REPORT

Adjourned debate on motion of the Treasurer:

That the report of the Auditor-General, 1999-2000, be noted.

(Continued from 25 October. Page 224.)

The Hon. M.J. ELLIOTT: I will speak briefly to this motion to raise an issue that I have raised on a previous occasion and that is that, while a motion such as this provides an opportunity to make observations in relation to the Auditor-General's Report, it has also been seen by some as a chance to ask questions. Of course, the questions cannot be asked of the Auditor-General: the questions are asked of the Treasurer. I make the point that the Auditor-General is an officer of this parliament and I believe that the parliament should have an opportunity to have direct discourse with the Auditor-General. I suggested, through a motion I moved here on a previous occasion, that this Council should be able to resolve itself into a committee of the whole and invite the Auditor-General to appear before the Council so that we might question him in the way that we might question a minister.

The reason I want to do that is that I have seen various members of this place take the Auditor-General's Report and put quite different interpretations on the same set of words. The only person who really knows what the Auditor-General means when he says some things is the Auditor-General himself. I do not know whether it is his writing style or whether it is just the way that politicians operate. As I said, it has been quite clear that, on a number of occasions when the Auditor-General makes a report, quite different interpretations are made on the same set of words. I believe that, if the Auditor-General is saying things which the Treasurer says, for example, justify the sale of ETSA or, after the sale, indicate that things are going badly or going well, depending on what interpretation you want to put on it, there should be an opportunity for all members of this place to ask questions directly of the Auditor-General so that his public reports are further analysed and on the public record and so that there is a clear understanding of what the Auditor-General means rather than an interpretation for what are sometimes political ends. So, again, I repeat—

The Hon. Diana Laidlaw: Whose political ends? The Auditor's?

The Hon. M.J. ELLIOTT: No, whoever puts on the interpretation. As I said, I have seen the same sets of words interpreted quite differently by people on occasions. I think it is important that, when the Auditor is making comment—and that comment is, in fact, comment to parliament—parliament has a very clear understanding of what it is he is saying.

The Hon. J.F. Stefani: You could ring him up and find out, though, couldn't you?

The Hon. M.J. ELLIOTT: Well—

The Hon. R.R. Roberts: Not from here.

The Hon. M.J. ELLIOTT: No.

The Hon. J.F. Stefani: When you get into your office.

The Hon. M.J. ELLIOTT: I argue that, when things are capable of being interpreted differently and are capable of dispute, a series of private telephone conversations with different members of this place probably does not resolve it because, at the end of the day, while he is an officer of the parliament, parliament is still ultimately responsible to the people. The Auditor-General's Report, particularly when he is making comments that are of great concern, must be comprehensible, first, to members of this place and, ultimately, understandable to the population at large. I ask members again to give serious consideration to the proposal that I put to this place that we should have an opportunity, sitting as a Committee of the Whole, to ask questions of the Auditor-General.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO) BILL

The House of Assembly agreed to the bill with the amendments indicated by the annexed schedule, to which amendments the House of Assembly desires the concurrence of the Legislative Council:

No. 1 New Clause, page 5, after line 11—Insert new clause as follows:

Amendment of s.81A—Provisional licences

10A. Section 81A of the principal act is amended by striking out from subsection (1)(c) (as substituted by section 50(b) of the Motor Vehicles (Miscellaneous) Amendment Act 1999) 'committing an offence' and substituting 'an offence committed or allegedly committed'.

No. 2 New clause, page 5, after line 11—Insert new clause as follows:

Amendment of s.81B—Consequences of holder of learner's permit, provisional licence or probationary licence contravening conditions, etc.

10B. Section 81B of the principal act is amended—

(a) by striking out paragraph (b) of subsection (2) and substituting the following paragraphs:

(ab) a person expiates an offence of contravening a prescribed condition allegedly committed while the holder of a learner's permit, probationary licence or provisional licence; or

(b) demerit points are incurred by a person and, in consequence, the total number of demerit points recorded against the person in respect of offences committed or allegedly committed while the holder of a learner's permit or a provisional licence equals or exceeds four,;

(b) by inserting in subsection (4) 'or allegedly committed' after 'committed';

(c) by inserting in subsection (9)(b) (as substituted by section 52(e) of the Motor Vehicles (Miscellaneous) Amendment Act 1999) 'or allegedly committed' after 'committed' wherever it occurs.

No. 3 New clause, page 5, after line 11—Insert new clause as follows:

Insertion of s.98AB

10C. The following section is inserted in Part 3B of the principal act before section 98B:

Interpretation

98AB. (1) In this part, a reference to an offence committed by a person includes a reference to an offence allegedly committed by a person that the person has expiated.

(2) In this part—

'expiate' includes pay the amount payable in connection with an infringement notice or penalty notice issued under a law of another state of territory of the commonwealth in respect of an alleged offence.

No. 4 New clause, page 5, after line 21—Insert new clause as follows:

Amendment of s.33—Road closing and exemptions for road events

12A. Section 33 of the principal act is amended by striking out from subsection (3) 'advertise a copy of the order in two newspapers, one being a newspaper circulating generally in the state' and substituting 'cause the order to be advertised in the prescribed manner'.

No. 5 New clause, page 7, after line 28—Insert new clause as follows:

Amendment of s.160—Defect notices

19A. Section 160 of the principal act (as amended by section 96 of the Motor Vehicles (Miscellaneous) Amendment Act 1999) is amended—

(a) by striking out from subsection (4a) 'motor';

(b) by striking out from subsection (4b) 'motor''

(c) by striking out from subsection (4c)(c) 'motor';

(d) by striking out from subsection (5) 'motor';

(e) by striking out from subsection (5a) 'motor';

(f) by striking out from subsection (5b) 'motor';

(g) by striking out from subsection (5c)(c) 'motor';

(h) by striking out subparagraph (ii) of subsection (5c)(g) and substituting the following subparagraph:

(ii) a certificate (a 'clearance certificate') has been issued by a member of the police force, an inspector or a vehicle registration authority certifying that the repairs required by the notice have been made; and

(i) by striking out from subsection (5d) 'motor';

(j) by striking out from subsection (5f) 'motor';

(k) by striking out from subsection (5g) 'motor';

(l) by striking out from subsection (7)(a)(ii) 'motor';

(m) by inserting after subsection (14) the following subsection:

(15) Where a copy of a defect notice or clearance certificate is required to be sent to the Registrar of Motor Vehicles, the notice or certificate may be sent in electronic form.

Consideration in committee.

The Hon. DIANA LAIDLAW: I move:

That the amendments be agreed to.

In speaking to the motion I highlight that, since this bill was debated in this place, three matters, minor in nature, were recently identified in the administration of the Motor Vehicles Act and the Road Traffic Act. It seemed to me that, as this bill was before the parliament, and knowing the time it takes to go through the cabinet, parliamentary counsel and parliamentary process, it was wise to have these three minor matters addressed promptly.

I thank Opposition and Democrat members for their cooperation in this place and for their last minute briefings on these matters, and I also thank members in the other place for their cooperation in dealing with these matters. I highlight that, when these amendments were moved in the other place, they did not generate debate, or even interest. But there are some statements that I would like to make in respect of Local Government Association issues when dealing with these matters. I also think that, because there was no explanation when the amendments were moved in the other place yesterday, or debate generally, I should provide some explanation, and I do so now.

In terms of the new clauses 10A, 10B and 10C, I advise that the Motor Vehicles Act 1959 requires the Registrar of Motor Vehicles to issue a notice of disqualification to the holder of a driver's licence who has accumulated more than the prescribed number of demerit points, and in the case of a learner's permit or provisional licence holder who has breached a condition of their licence. Section 93 of the act requires the Registrar to be notified of the assigning of demerit points or breaches of licence condition. This notification is given by a court, in the case of a conviction, or by the Commissioner of Police for offences which have been expiated. This arrangement has been in place since 1981.

It has recently been identified that, in the case of section 81B of the act, which deals with disqualification of learners' permits and provisional licence holders, it is not explicit that the Registrar is required to take action on the basis of either a conviction by a court or the payment of an expiation fee.

This situation has come about in the course of amendments made in 1992 to implement the national demerit points scheme. In amending section 81B in 1992, reference to section 93 was deleted, since, in the case of demerit points incurred interstate, the Registrar would be notified by an interstate licence authority rather than by a court or the Commissioner of Police in South Australia. However, this has left section 81B referring only to the 'conviction of an offence' which is inconsistent with section 93 and the established operation of the demerit point system scheme. Therefore, it is important that this matter be tidied up, and done so promptly.

In terms of new clause 13AA, I advise that this arises from matters that I suspect all members of parliament have had drawn to their attention by their respective local councils and the LGA generally. Section 33 of the Road Traffic Act deals with the closure of roads for certain sporting, cultural and recreational events and the exemption of participants in these events from relevant provisions of the act or road rules. Subsection (3) requires that orders closing a road and/or exempting participants must be advertised in two newspapers, one circulating generally throughout the state.

While there is a need to ensure that the driving public is made aware of road closures, this provision means that some closures, such as those for local street parties away from main thoroughfares, are subject to a quite cumbersome, costly and onerous advertising requirement. It is therefore proposed to amend section 33(3) to require road closures and exemptions to be publicised in accordance with requirements that will be set out in regulations. This will allow for the manner of advertising to be tailored to the nature of the event and the likely inconvenience to the driving public.

In relation to my discussions with local councils generally and the LGA on this matter, I have been advised by Brian Clancey, Director of Legislation Environment, LGA, on behalf of the President, that the LGA supports the state government's amendment to section 33 of the Road Traffic Act contained in the Statutes Amendment (Transport Portfolio) Bill on the clear understanding that:

(a) Minister Laidlaw continues to recognise the need for sufficient flexibility to exist in the 'prescribed manner' so that the concerns raised by the LGA are overcome.

The LGA notes that I previously indicated this both verbally and by letter to the President of the LGA, and hence no difficulties are envisaged with the amendment now before us.

Mr Clancey also writes that Minister Dean Brown, in moving the amendment in the other place, indicated to parliament that the LGA will be consulted and actively involved in the preparation of the 'prescribed manner'. I add for the record that Minister Brown did not get an opportunity yesterday to give such an undertaking, so I take the opportunity to do so now. I also highlight a further statement in Mr Clancey's email as follows:

(c) Timing will be an issue of section 359 if the Local Government Act 1934 is repealed.

This concern of the LGA arises from the fact that councils use either section 359 or section 33 for road closure matters generally. I am advised by Mr Clancey in terms of his email as follows:

I subsequently spoke to Ms Stephanie Key MP shadow minister for local government to advise her of our support—

that is, the LGA's support—

for the amendment. I also have sought the opportunity to discuss the matter with the Hon. Nick Xenophon MLC.

This was to occur this morning, but as yet has not happened, but I have made the Hon. Mr Xenophon aware of this email from Mr Clancey.

Finally, I refer to new clause 19A. The Motor Vehicles (Miscellaneous) Amendment Act 1999 introduced a number of national reforms which have been progressively implemented as computer systems and other administrative arrangements have been able to be changed. In preparing for the implementation of amendments relating to the clearance of vehicle defects, some minor problems have been identified. First, the amending act has introduced the term 'motor vehicle' in certain places. This has an unintended effect in relation to the identification and subsequent clearance of defects in trailers, since trailers are vehicles but not motor vehicles. It is important that the provisions of the act relating to the identification of defects continue to apply to trailers for road safety reasons. This can be achieved by changing references to 'motor vehicle' to 'vehicle' wherever they occur in the act.

Secondly, a new section 160(5c) was inserted in the Road Traffic Act by the Motor Vehicles (Miscellaneous) Amendment Bill 1999 concerning the issue and clearance of defect notices from vehicles. It has been identified that the current wording of section 160(5c) requires that, in clearing a defect, a police officer or inspector must certify the vehicle concerned is free of all defects. It is not possible to certify a vehicle as being free of all defects without an extremely detailed examination of the entire vehicle and all its mechanical and electrical systems to ensure full compliance with the Australian design standards. This is clearly not what is intended under this scheme. Accordingly, the government proposed an amendment in the other place (which has been accepted) that the wording of section 160(5c) be clarified so that a police officer or inspector is required to certify that the repairs required by the defect notice have been made, not that all defects have been cleared.

Lastly, I note that the other place moved an amendment so that copies of defect notices and clearance certificates, which must be sent to the Registrar of Motor Vehicles, can be sent in electronic form rather than being restricted to hard copy. This will achieve administrative efficiencies, particularly in the prompt clearance of defects, as well as ensuring that government, in terms of service delivery, keeps in touch with modern practice in terms of technology and customer demand.

I commend the minor amendments made to the bill by the other place since it was before us some weeks ago. I thank members for considering the amendments in this place and certainly thank members in the other place for doing so yesterday. I commend all the amendments to members.

The Hon. CAROLYN PICKLES: I thank the minister for detailing the amendments that were moved in another place. I understand that the Australian Democrats did not receive a copy of the amendments and it maybe that they wish to adjourn this matter for deliberation. This has been dealt with in another place by the shadow Attorney-General. We received a briefing from the minister's office on this. I have to say that it would be easier if these sorts of amendments were moved in this place so that the different parties can look at them. However, having said that, I support the minor amendments moved in another place.

The Hon. SANDRA KANCK: As the Hon. Carolyn Pickles has indicated, we had a quick conversation and I said that this has basically come out of right field for me. However, given that the minister has spent some time explaining

it and the Hon. Carolyn Pickles, who has had some advance notice of it, has looked at it and indicates that it is okay, I am prepared to accept the amendments as they are on the basis of the trust that I have in the minister and the shadow minister.

The Hon. R.R. ROBERTS: Obviously I have not been involved in this and I take the lead from the leader and our spokesperson on these matters. I am aware that the minister, when speaking about amendments Nos 1 and 2, referred to the holder of a learner's permit. I am not familiar with the act, but I am concerned that, for instance, new clause 10A provides:

> Section 81A of the principal act is amended by striking out from subsection (1)(c) (as substituted by section 50(b) of the Motor Vehicles (Miscellaneous) Amendment Act 1999) 'committing an offence' and substituting 'an offence committed or allegedly committed'.

I am worried about what 'allegedly committed' means because it also appears in amendment No. 2, which talks about demerit points.

I listened to the minister's contribution when she said that it falls into line with how the demerit points are allocated in New South Wales, but I assume that that is after an offence has been committed. The import of this amendment is that, after you have committed an offence and expiated it or gone to court and been found guilty, the demerit points are applied. What worries me is the words 'allegedly committed', which I think carry the connotation that there could be a defence to the matter. Why would we take demerit points off a probationary driver who allegedly committed an offence?

The law has always been that someone can allege anything but you have a responsibility to prove it. Will the minister explain what the import of this amendment is. The minister has probably explained it to the shadow minister for transport, but I find it disconcerting to receive this message today in this form which states that we will penalise a driver—in this case, a permit driver—who has allegedly committed an offence. If someone has committed an offence and been found guilty in a court and said, 'I'll cop that; I'll take the expiation', that is a recognition of the conduct of the offence. But I find it disconcerting, as one of a rare breed of civil libertarians, that the words 'allegedly committed' are included. Will the minister please explain that to me?

The Hon. DIANA LAIDLAW: I do not have all the papers here, but I received Crown advice that was provided to the Registrar of Motor Vehicles. This advice was based on the presentation of an argument to the registrar from solicitors for a young driver who had already in only 12 months of driving experience incurred more demerit points than is permitted in order to continue driving. For a younger driver, members would know that it is, I think, three points followed by automatic loss of the licence.

Because the advice about the offence had come to the registrar from the Commissioner of Police, the practice across Australia since the national demerit points scheme was introduced has been that, upon such advice being received—not only in the South Australian jurisdiction but across Australia—the registrar will remove the licence. So it is on that advice that the offence has been committed that the licence—

The Hon. R.R. Roberts interjecting:

The Hon. DIANA LAIDLAW: Yes, but the difficulty is in the fact that the advice came from the Commissioner of Police. In 1992, when we moved the changes to the nationaldemerit points scheme, we inadvertently as a parliament left section 81B referring only to the conviction of an offence. That was inconsistent with section 93 which was the established operation of the demerit points scheme, that is, when the advice is received from either interstate or the courts, or the Commissioner of Police, the demerit points take effect and the licence is lost.

Although the honourable member takes exception to the word 'alleged', we are seeking simply to get rid of an inconsistency in the act and an inconsistency in practice. The act provides for the registrar to proceed in the way that we have been proceeding, but there is an inconsistency in section 81B. Therefore, we are simply getting rid of that inconsistency; we are not starting a whole new regime. The honourable member mentioned being innocent before being found guilty. We are not starting a whole new regime; we are confirming a longstanding practice that is applied across Australia in terms of the national demerit points scheme. There was a flaw in our motor vehicles act. This has been drawn to our attention by the Crown Solicitor who said that we should tidy up that flaw. I repeat that it is not a major or even a minor change to practice; it is tidying up a flaw that confirms a practice which is provided for in other parts of the act but not in all parts of the act.

The Hon. R.R. ROBERTS: I thank the minister for her valiant attempt to explain that to me. I accept that we are going to pass this law, but I would appreciate a written explanation of exactly why we are putting this in. I thank the minister sincerely for her attempt to explain it, but I am not convinced.

Motion carried.

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

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

GAMING MACHINES (CAP ON GAMING MACHINES) AMENDMENT BILL

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

STATE RECONCILIATION COUNCIL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement issued earlier today by the Hon. Dorothy Kotz, Minister for Aboriginal Affairs, on the subject of the State Reconciliation Council.

Leave granted.

LISTENING DEVICES (MISCELLANEOUS) AMENDMENT BILL

The House of Assembly agreed to the bill without any amendment.

ADJOURNMENT

At 5.52 p.m. the Council adjourned until Tuesday 15 May at 2.15 p.m.