LEGISLATIVE COUNCIL

Wednesday 16 May 2001

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

PAPER TABLED

The following paper was laid on the table:

By the Minister for Administrative and Information Services (Hon. R.D. Lawson)—

The Institution of Surveyors Australia—South Australian Division Inc.—Report, 2000.

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the 19th report of the committee and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I lay upon the table the 20th report of the committee.

QUESTION TIME

The PRESIDENT: I refer members to standing order 109 and point out that opinions and comments in explanations of questions are starting to creep in quite a deal.

TOURISM MINISTER

The Hon. CAROLYN PICKLES (Leader of the Opposition): My question is directed to the Attorney-General. Why is the Minister for Tourism—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: Tell your backbench to be quiet. Why is the Minister for Tourism, the Hon. Joan Hall, being provided with an indemnity, including the provision of legal advice, for her involvement in the Auditor-General's inquiry into the Hindmarsh Stadium, given that at the relevant times under the inquiry she was not a minister of the Crown?

The Hon. K.T. GRIFFIN (Attorney-General): The cabinet made a decision that there should be an indemnity. It is a perfectly proper indemnity to be given, and it relates to the fact that the minister could be the subject of adverse criticism, which is the usual basis upon which to determine whether or not legal assistance will be made available.

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: On 1 May, the Premier issued a press statement entitled 'Olsen calls on the ACCC to investigate power prices'. The statement says:

The Olsen government has asked the Australian Competition and Consumer Commission to investigate rising power prices in South Australia and to look into the commencement date for consumers coming onto the national market. Premier John Olsen today held talks with ACCC Chief, Allan Fels, who has indicated he will consider looking into the issues raised by the government.

In the release, the Premier states:

I have advised the ACCC that, given concerns over operation of the market, interim measures now need to be taken, in particular issues surrounding the commencement date for contestability for consumers.

My questions to the Treasurer are:

1. Has the government made any written submissions to the ACCC in relation to the market power exerted by generators and the dominant retailer in the South Australian electricity market and the starting dates for contestable customers; and, if so, will he release those submissions?

2. Does the Treasurer believe that market power is being exerted by generators and/or retailers within the South Australian electricity market to gouge windfall profits; and, if so, what investigations has the government made of the options available to the state government to curb such power?

3. What specific requests did the Premier make of the ACCC in relation to the commencement date for contestability for consumers?

4. Has the government sought any Crown Law advice about the options available to the government in relation to the commencement date or the issue of windfall profits being extracted by electricity entities; and, if so, what is the nature of that advice?

The Hon. R.I. LUCAS (Treasurer): Obviously, I would need to take some advice from the Premier in relation to his discussions with the Chairman of the ACCC. Certainly, my understanding is that the Premier had one or a number of conversations with Professor Fels about the issue, and that the issue is still with the ACCC in relation to its consideration of the matters raised. I am not sure whether or not the Premier followed up his one or a small number of conversations with Professor Fels with a written letter. I would need to take up that issue with the Premier.

In relation to the issue of the operations of the generators, we discussed this at great length yesterday. I refer the honourable member to my responses yesterday and on previous occasions. The government is doing a range of things, including a consideration of what, if any, changes might be made to what is termed by the industry as rebidding practices—I think what the member referred to as gaming practices yesterday. I do not want to repeat my answer to his question yesterday. I know that he is running out of new ideas and new angles on this issue—

The Hon. R.R. Roberts: The same answer, too.

The Hon. R.I. LUCAS: I do not want to waste question time, because we are keen to get as many of these tough, penetrating questions from the opposition as we can within the hour. So, I will not repeat the answer that I gave yesterday with respect to rebidding. There is a range of things that the government is undertaking, and the task force established by the Premier will give him an interim report by the first week of June, I think it is, so that he is in a position to raise a number of those issues (should he agree with them) at the COAG meeting, which is about 7 June or 8 June. So, a range of activities is being undertaken by the government, and these issues will continue to be raised by the government.

In relation to the member's fourth question, the government has taken advice from a number of sources in relation to its options, including the options raised by the Premier publicly and, indeed, some other options as well. We are at the stage of continuing to consider all the advice that we receive with respect to these issues. The task force is

considering some of the options that have been raised publicly and, obviously, the government will need to conclude a view on the range of options that it has before it after it has received all the advice. Having established a task force, eminent persons in this area, together with a technical advisory group which the government has available to it and together with advice that the government obviously also receives from other sources, we will be in a position then to make final and concluded judgments about the range of options that the government has before it.

The Hon. P. HOLLOWAY: Sir, I have a supplementary question. Does the Treasurer still rule out any of those options, including price caps?

The Hon. R.I. LUCAS: My position on price caps is pretty clear. A range of options have been put regarding how we might ameliorate some of the problems that are confronting consumers in New South Wales, Victoria and South Australia. Given that these concerns are widespread and across the market, they will need to be issues, by and large, which can be accepted by all the jurisdictions involved in the national market. Ultimately, that will be one of the determinants in terms of what changes, if any, could be made to the operation of the national market—that is, getting agreement. There has been some reasonably strong opposition to the view of price caps, for example, from a number of the other jurisdictions. So, those issues will need to be borne in mind as the government considers its position.

HIH INSURANCE

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question on the collapse of HIH.

Leave granted.

The Hon. T.G. ROBERTS: In a recent edition of the *Border Watch*—which I know the Treasurer is familiar with and reads from cover to cover—there is an article that reflects the state of the building industry in the South-East through the eyes of one of the major builders down there. The article indicates that the building industry is grinding to a halt on the basis of the collapse of HIH and the lack of competitors in the field with which builders can take up alternative indemnity insurance. The Treasurer will answer many more questions from the opposition this session, so mine will be brief. Given that the local building industry is reported to be slowing down or grinding to a halt, what assessment has the government made in relation to the impact on regional areas; and what impact has the collapse had on other metropolitan and regional building contractors?

The Hon. R.I. LUCAS (Treasurer): I think it would be fair to say that the government has not yet been in a position to be able to do a detailed assessment of the impact of the HIH collapse in South Australia generally and, further, in terms of its impact on various regions within South Australia. As I have indicated in answer to questions yesterday and last week, both in the media and in the Council, we are advised that the extent of exposure for South Australian consumers and companies in South Australia is significantly less than in a number of other states, particularly New South Wales. That is not to deny that, even if it is a smaller number, those people who are impacted will be potentially impacted in a significant way.

The simple answer to the honourable member's question is that there has been no region by region impact assessment yet. Should we reach the position of being able to get any information on that I will be happy to share it with the honourable member. The government's conclusion remains the same: we remain not attracted to the notion of the South Australian taxpayers bailing out the business failure of HIH. However, as I said yesterday, we do leave our toe in the water by saying that, if in the end every other government in the nation signs up to some national package, the South Australian cabinet would have to reconsider its position.

INSURANCE, NATIONAL SCHEME

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Treasurer, representing the Premier, a question about federalism.

Leave granted.

The Hon. A.J. REDFORD: Last week, as you so aptly reported yesterday, sir, we celebrated the centenary of federalism in this country. Indeed, what we celebrated was the bringing together of states and the transferring of limited power to the commonwealth to enable us to function as a nation. I listened, albeit from here in Adelaide, to the speeches about many of the lofty ideals in relation to the concept of federalism that were made during the course of the week. Unfortunately, occasionally in a federal system we see some unseemly disputes. The HIH collapse and the finger pointing that has gone on over the past month has been extremely disappointing, particularly when one has regard to the little people who have been hurt.

In light of that and of all the lofty ideals that were expressed last week, I was extraordinarily surprised to read a media release issued two days ago by the Minister for Financial Services and Regulation, Joe Hockey, entitled 'Government action to help HIH policyholders'. It is quite clear that for a considerable period of time insurance has been the responsibility of the federal government. Notwithstanding the failure of the HIH insurance conglomerate, Joe Hockey announced the following in his press release:

> The Prime Minister will write to premiers and chief ministers seeking their cooperation to undertake a thorough review of state and territory regulation, with a view to introducing single national insurance schemes in compulsory third party, workers compensation and builders warranty insurance, as well as putting in place a national approach to flood insurance.

In other words, there would be a wholesale transfer of what has traditionally been a state responsibility to the national government under the auspices of the Minister for Financial Services who, I must say, must be up to his ears in trying to manage the HIH dispute without taking on these added responsibilities. Notwithstanding that, my questions to the Premier—and maybe the Treasurer can answer them—are:

1. Is there any indication that there is a need for compulsory third party or workers' compensation insurance to be transferred to the federal government, and is there any suggestion that they are suffering from the same lack of supervision that HIH was subjected to?

2. What is the Premier's position on the establishment of a single national insurance scheme which will necessitate a significant transfer of state powers to the commonwealth?

3. Will the Premier consult with this state parliament before formulating a major shift in responsibility from the states to the commonwealth government?

The Hon. R.I. LUCAS (Treasurer): I quickly turn to the front page of the *Australian* which I happened to be looking at. Premier Beattie, who uses much more flamboyant language than a mere provincial Treasurer from South

Australia would ever use, summarised his view about this in the following words:

> Why would I allow a pack of duds in Canberra who couldn't even run the national regulation of the insurance scheme to have any influence over our workers' compensation?

An honourable member: Who said that?

The Hon. R.I. LUCAS: That was Premier Beattie. As I said, that is a much more flamboyant use of language than a Treasurer from South Australia would ever contemplate. But, I must admit, I had a sneaking sympathy for Premier Beattie as I read that over the lunch break.

When asked by the *Advertiser* on Monday evening for the South Australian government's response to this proposed takeover, I think I used less flamboyant language and said that I was not attracted to the notion of a single national insurer and that we would take some convincing by our federal colleagues before we would contemplate going down such a path.

The Hon. T.G. Roberts: Was there a smile on Peter Beattie's face as he said it?

The Hon. R.I. LUCAS: I did not know what Peter Beattie had said at that stage. This was at about 5 o'clock or 6 o'clock on Monday evening, straight after the federal government had made its announcement. I have not discussed the issue with the Premier. I would be happy to do so, but I would be pretty surprised if his views were not very similar to my own. Clearly, there have been significant problems in terms of the national regulation of the insurance industry, and we certainly believe that it is not a convincing base from which the federal government could argue that the federal government should take over South Australia's workers' compensation and compulsory third party insurance schemes.

We have an appropriate system of regulation of both those schemes. They are, in essence, government monopolies: they are government controlled. Having done scoping studies as to whether or not the government should privatise, sell or lease those businesses, the government, consistent with its notion that it would do so only when it was in the public interest in relation to publicly controlled assets, made the decision, with both of those entities, that they should remain within government ownership and control. That is the South Australian government's position.

As to whether or not parliament would be consulted, my strong suspicion is that, should there be a decision by this government or any future government to make changes, not only would parliament have to be consulted but it would have to approve, by way of legislative change, any such movement of power from South Australia to the federal government.

I think I have substantially answered the honourable member's questions. I would only add further by way of correspondence to the honourable member's questions if I was to establish that the Premier had a strongly different or even a slightly different view from my own about this issue. In the event that he does not hear from me, he can take it as read that the Premier endorses and supports the general position that I put publicly and also in response to the honourable member's questions.

GAMMON RANGES NATIONAL PARK

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

Leave granted.

The Hon. M.J. ELLIOTT: The Gammon Ranges National Park was proclaimed in 1970 and is one of South Australia's more important and spectacular national parks. Subsequently, the Weetootla Gorge, in other words, the southern part of the park, was added because of the significance of its ecosystems and the fact that it contained a number of rare and endangered species. I note that the Weetootla Gorge is home to the endangered yellow-footed rock wallaby.

There has been some concern for quite some while that a mining lease held by BHP would see open-cut magnesite mining in Weetootla Gorge. This threat has occurred because most national parks in South Australia do not have single proclamation as environmental protection zones but are subject to joint proclamation, which means that the environment minister can approve of mining at any time should he or she wish to do so. Thankfully, however, in August last year, BHP expressed its desire not to have its mining lease for Weetootla Gorge renewed on its expiry, which happened early this year. Although Manna Hill Resources applied for transfer of the BHP lease to its company, the environment minister decided to prevent the transfer of the mining lease for the Weetootla Gorge due to the threat that it would present to the yellow-footed rock wallaby and also to the purple spotted gudgeon.

However, the minister has not enshrined protection from mining for the Gammon Ranges National Park by removing joint proclamation, which means that that deposit of magnesite (or potentially other mineral deposits) could, at some time in the future, have mineral exploration leases granted and potentially mining leases as well. My questions are:

1. Why have the mining leases for the Gammon Ranges National Park not been allowed to lapse? I understand that, while the time has expired, they still have some legal life, which I do not fully understand, but people who have been monitoring the park very closely understand that the lease has not been fully terminated at this stage.
2. Who has the final responsibility in approving mining leases in national parks under joint proclamation? Is it the environment minister or the Minister for Mines and Energy?
3. If it is the Minister for Environment, why has the minister not at the same time also removed the joint proclamation from the Gammon Ranges National Park? If the minister considers it so important ecologically as to stop the magnesite mine, why has he not removed the joint proclamation at the same time, which means it cannot be opened up without the expressed approval of parliament itself?
4. What action is the minister taking in relation to joint proclamation in other national parks?
5. Has the minister, for instance, considered a review of all our national parks to ensure that any of our newer parks that have joint proclamation offer proper protection to areas which are as important as Weetootla Gorge?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's questions to the minister and bring back a reply.

STATE DEBT

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Treasurer a question about state debt.

Leave granted.

The Hon. L.H. DAVIS: I was interested to read in the press this morning about the Victorian budget, which, of

course, has benefited from the financial management of the Kennett government. The Treasurer, John Brumby, in bringing down the budget made a point of featuring the fact that the Victorian Labor government had cut debt and that it was looking to cut debt substantially.

Mr Brumby said the 2000-01 surplus had been revised upwards—and that of course was from the enormous benefit of the $1 billion windfall from the previous Kennett government—and that it would help cut debt down to $4.4 billion. Victoria still has a very large overhang in superannuation, with unfunded liabilities totalling $12.3 billion, but the feature of the budget, the core of the budget, which received a lot of publicity, was that Victoria's debt has fallen to its lowest level in almost three decades, to just $4.4 billion. The Treasurer, John Brumby, was quoted as saying:

> . . . the government was on track to halve its own net debt, excluding government business enterprises and statutory authorities, from $4.9 billion in June 1999—

to $4.4 million recently—

> to $2.5 billion by June 2003. . .

and he made a virtue of that. It did seem to me an interesting contrast to the position in South Australia where this government has been criticised for reducing debt, where the Labor Party and the Australian Democrats have opposed debt reduction, and if we had listened to them—

The PRESIDENT: Order, Mr Davis. You were not in the Council when I asked members not to debate or make comment in their explanation.

The Hon. L.H. DAVIS: I am sorry; that is why I strayed, Mr President. I would have obeyed you if I had been here. I will come forthwith to my question, which is to the Treasurer: will he advise the Council whether he has studied the Victorian government's position as announced yesterday, and will he compare and contrast the policy of the Victorian Labor government in its attitude towards debt with that of the Labor Party in South Australia?

The Hon. R.I. LUCAS (Treasurer): In the interests of getting as many opposition questions in as possible—these tough, penetrating questions that we have been subjected to for weeks on end—I will not take an inordinate amount of time in responding. There are one or two issues that will need to be checked in relation to the Victorian budget. As the honourable member has highlighted, we have a very direct contrast between Victorian Labor and South Australian Labor, as demonstrated by the budget yesterday.

The Victorian Labor government's budget has been relatively warmly endorsed by most commentators. As the honourable member has highlighted, it does have the Kennett dowry which it has been able to expend in a number of areas. But it has been warmly embraced by a number of commentators, with emphasis on its financial responsibility and, in particular, its willingness to protect not only part of the surplus that the Kennett government had left them but also the debt reduction strategy and the further targets for debt reduction. It is a clear indication that Victorian Labor has recognised the debilitating impact of high levels of debt on state budgets and on ordinary workers and their families. As in any period when interest rates happen to rise, significant additional taxpayers' money has to be directed towards repaying debt. So we have a situation in Victoria where it has a target of some $2 billion, in what would be the equivalent, I suspect, of our non-commercial sector. I think it excludes its government business enterprises and trading enterprises from that calculation—

The Hon. L.H. Davis: By 2003.

The Hon. R.I. LUCAS: By 2003 I think is the target. Whereas in South Australian, the South Australian Labor Party's policy was to keep our state debt at $8 billion to $9 billion and to keep on paying the interest costs on that debt. That is the stark contrast of the two Labor parties, under the leadership of Steve Bracks in Victoria and Mike Rann here in South Australia.

We have a situation where, if we had kept the debt at the levels that Mike Rann wanted, we would continue to be looking for almost $2 million each and every day of the year just to pay the interest costs on the state debt. Clearly, in an environment where interest rates were to increase at some stage in the future, that sort of level of interest cost would have a massive impact on ordinary workers and their families in relation to the taxpaying burden they would have here in South Australia.

The remaining issue that I will need to check in relation to the Victorian targets is that South Australia's reported net debt levels are approximately $3.1 billion, but that includes our government business enterprises (including SA Water's net debt level). I would be happy to extract from our figures for the honourable member the comparative figure for the non-commercial sector, which would obviously be significantly below the $3.1 billion reported net debt level for South Australia as it stands at the moment.

PAYDAY LENDING

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General a question in relation to consumer protection and payday lending.

Leave granted.

The Hon. CARMEL ZOLLO: Payday lending is the practice of providing credit to consumers; that is, borrowing cash—usually small amounts—and then repaying it at grossly inflated rates of interest when they are next paid. This may only be comment but I think it would be true to say that the problem with these sorts of loans is that they are very appealing to those in our community who can least afford them. It is currently an unregulated practice in South Australia and, unfortunately, it is on the increase. I have heard examples of interest rates ranging from between 600 per cent and 1 300 per cent. Again, without too much doubt, it is the most vulnerable in our community who find themselves using these services.

Payday lenders commonly use the term 'fee' rather than 'interest'. The practice is unregulated because the loans are over a period of fewer than 62 days and therefore the operators are not subject to the requirements of the Uniform Consumer Credit Code. The massive growth in the practice is seen as a symptom of a wider problem of financial services social exclusion. I understand that Australia-wide there are some 80 outlets involved in this practice.

At the federal level, the Labor Party has developed a range of policy initiatives to address this issue, including the establishment of no interest loan schemes and micro credit schemes. Such schemes currently operate using short-term, no interest credit to enable, for example, a pensioner to replace a washing machine that has broken down.

In the absence of federal government leadership, I understand that several states, namely, New South Wales,

Victoria and Queensland, are currently looking at, or have already introduced, legislation to regulate the activities of payday lenders to bring payday lending and other short-term lending activities into the Uniform Consumer Credit Code. The New South Wales bill seeks to force lenders to include all charges, fees and other costs to borrowers in the total interest rate figure, which cannot exceed 48 per cent. I understand that an amendment to the template Queensland legislation, and the subsequent operation of the code in relation to payday lending, was to come into effect in April this year. My questions are:

1. Will the Attorney-General indicate the level of payday lending in South Australia?
2. What advice is provided to consumers?
3. What is the number of complaints received by the Department of Consumer Affairs?
4. In the absence of an amendment to the agreed template legislation, will the Attorney-General advise whether there are any plans to introduce legislation in South Australia to protect consumers from this practice and, if so, when such legislation is likely to be introduced?

The Hon. K.T. GRIFFIN (Attorney-General): There is no lack of leadership by the federal government because the federal government does not have a role in the Uniform Consumer Credit Code. It is one of those rare schemes where it has been a matter for the states and territories. The lead legislator under the consumer credit code is Queensland. So, if the honourable member could ask her Labor colleagues in Queensland to speed up the drafting of the legislation, which has been agreed by the Ministerial Council on Consumer Affairs, to amend the Uniform Consumer Credit Code, I would be delighted, because that is where it is at the moment. I voted in favour of the amendments dealing with payday lending. My recollection is that all other jurisdictions have agreed, and we prefer to do it through the uniform credit code because it is uniform.

New South Wales has introduced its own legislation which, I understand, is different from the proposal to amend the uniform credit code. That, of course, will create its own problems for credit providers around Australia. So, there is no lack of commitment on the part of the state government. We have agreed to the amendment and we are waiting on Queensland to prepare amending legislation to achieve the goal on which we have all agreed.

In respect of the level of payday lending in South Australia, until recently there was not a lot of it and there had not been very many complaints. I do not know the level of complaints up to the present time, but I will take that part of the question on notice and bring back a reply. Since the last few months, it has become more obvious that attractive advertising packages are being promoted to encourage people to get into payday lending. The honourable member is correct: there are some where the effective interest rate is exorbitant, although one must recognise that, for short-term loans, interest rates will certainly be higher on a per annum basis than they will be for longer term credit. However, that is no excuse for huge effective interest rates.

The object of any amendment is to provide information. That is what we do in relation to pawnbrokers. The general thrust of the uniform credit code is to provide information to consumers so that they can make a choice. In relation to advice to consumers, my advice, which I have commented on publicly in the light of some rather glossy promotional material, is that they should read the fine print and look carefully at what is being offered and, if they do not understand it, seek independent advice.

There are financial planners and advisers who will give this advice relatively cheaply. More particularly, a number of organisations such as the Adelaide Central Mission have a financial advisory service and there are also community legal centres and similar organisations. I think that answers all the questions apart from the issue of the number of complaints made in South Australia. I will take that question on notice, as I have indicated, and bring back a reply.

FIREWORKS

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about fireworks.

Leave granted.

The Hon. CAROLINE SCHAEFER: Late last week a press release was issued signalling that the government intends to make changes to rules and laws relating to fireworks in South Australia. I am sure that most of us were concerned to read of the number of pets which were lost after panicking during fireworks displays, particularly around New Year's Eve. From my point of view as someone who lives in the country, I am always concerned about the propensity for fireworks that are not properly attended to starting grass fires. However, I also recognise that most people enjoy fireworks as part of a celebratory process. I therefore ask the minister:

1. Will he indicate whether the rules in South Australia will be substantially different from those in other states?
2. Will he outline what changes will take place to the regulations with regard to fireworks and when will these new rules come into existence?

The Hon. R.D. LAWSON (Minister for Disability Services): The media paid substantial attention last week to the government's announced intention of altering the regulations relating to fireworks in light of a considerable number of complaints that have been received by government, especially since the last Christmas-new year period. The honourable member mentioned the fact that fireworks have adversely affected animals, and certainly representations made to the government by both the RSPCA and the Animal Welfare League, as well as a very large number of pet owners, indicated that the issue of the effect of fireworks on animals is a matter of very grave concern to a considerable section of the community.

In addition, the CFS reported that a number of fires were started from fireworks over the Christmas-new year period, which indicated that it really was inappropriate to have fireworks being exploded during the fire ban season, except under the most stringent controls. Other complaints were received from local government and residents about nuisance caused by fireworks, some of which involved fireworks for which permits had been issued and others fireworks for which the operators apparently had no permit and had probably obtained them illegally.

Moreover, in January this year, Workplace Services inspectors seized a consignment of 3.2 tonnes of illegally imported fireworks into this state. These were not simply fireworks in respect of which a proper notice had not been given; these were fireworks for which no permit would ever be given in South Australia. They were what I term bangers and skyrockets of a type that have not been permitted to be used here for many years. As a result of a review conducted by Workplace Services, recommendations were made to the

government, and those recommendations have been substantially accepted. I have arranged to have circulated to all members of parliament the Workplace Services review, and I do commend it to members.

I think it is worth saying, in response to the honourable member's question, that what we are seeking to adopt in South Australia, by limiting fireworks only to displays supervised by licensed pyrotechnicians, is a regime that is now similar to those operating in all mainland Australian states. No state, apart from South Australia, now allows private citizens to have backyard fireworks displays. All have insisted upon licensed pyrotechnicians being involved. Last year, tragically, there was a fatality in Queensland, and the government is anxious to ensure that we do not have incidents of that kind here.

I am glad to say that fireworks displays will continue to be available in South Australia, but the application will have to be made, and the display will have to be conducted under the supervision of a licensed pyrotechnician. I envisage that not only things such as the Royal Show, Sky Show and other major events will occur, but also smaller community groups will still have the opportunity, whether it be a school group or a kindergarten group, to have a local community fireworks display, appropriately organised. There will be some more regulations in relation to how the fireworks are set up. They will be restricted until 10 p.m. each evening, apart from New Year's Eve, when special exemptions will apply, and other sensible measures will be adopted in the regulations.

There will be substantially increased fines for the illegal and unauthorised use of fireworks. In order to enable these new regulations to be more effectively policed, the police will be given additional powers, including the power to issue expiation notices for infringements of the regulations.

One of the difficulties at the moment in detecting breaches is that, because so many permits are issued, it is very difficult for police to detect whether or not fireworks are being displayed under a permit. Under the new regime, when there will be fewer permits and they will all be issued to authorised pyrotechnicians, it will be easier for police to control the black market and illegal use.

The Hon. T. CROTHERS: As a supplementary question: is the minister aware that in the United Kingdom, which is the original home of fireworks, fireworks day in England is Guy Fawkes day, when Guy Fawkes and a number of other plotters moved a number of gun barrels into parliament house to try to blow it up; and that the other day for fireworks to be on display is Halloween in Scotland and Ireland—

The PRESIDENT: Go straight to the question.

The Hon. T. CROTHERS: I am asking the minister whether he is aware of this matter. Is he aware that Halloween, the other time when fireworks are used in the United Kingdom—

The PRESIDENT: Order! The Hon. Mr Crothers is out of order.

The Hon. T. CROTHERS:—is a night of hobgoblins and evil spirits, such as—

The PRESIDENT: Order! The Hon. Mr Crothers will resume his seat.

The Hon. R.D. LAWSON: I am aware of the information that the honourable member has kindly provided to the Council. However, many people in China would contest the claim that the United Kingdom is the home of fireworks.

BREAK EVEN GAMBLERS REHABILITATION NETWORK

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about the Break Even Gamblers Rehabilitation Network.

Leave granted.

The Hon. NICK XENOPHON: The Break Even Gamblers Rehabilitation Network provides rehabilitation and counselling services for problem gamblers, with 13 agencies in South Australia. It has been funded since the introduction of poker machines into hotels and clubs with a contribution of $1.5 million a year from that industry—an amount that has remained static, notwithstanding an almost fourfold increase in revenue since that time. The fund is administered by the Gamblers Rehabilitation Fund, and its board reports to the Minister for Human Services. I note that in last year's budget an allocation of $500 000 was made to the fund and a further $300 000 pledged recently. Information I have received from problem gamblers, gambling counsellors and the chairperson of the Break Even network indicates that there are significant delays for problem gamblers to obtain face to face counselling.

Inquiries conducted by a major welfare organisation and Break Even officers last week revealed that the wait for problem gamblers to get face to face assistance was in one western suburbs agency two weeks and growing; for a northern suburbs agency, three to four weeks; for another western suburbs agency, two weeks plus; for city agencies, between three to four weeks as a general rule; for a north-eastern agency, five weeks; for a southern suburbs agency, five weeks, with a minimal wait in country areas but growing pressure in a northern regional centre. It seems the Break Even network is understaffed and under-resourced, with some agencies not having the funds to provide replacement staff for staff members who go on leave.

Reverend Neil Forgie, the Chairperson of the Break Even network, has said:

> This is a problem created by state governments—so it is incumbent upon the state government to adequately resource rehabilitation programs and community education. Even though 'at risk' people can have telephone counselling, this is a stop-gap measure—it is not adequate counselling for many people. The delays in getting face to face counselling can potentially put some of these people at 'high risk'.

My questions to the minister are:

1. Does he consider that the delay referred to of up to five weeks for problem gamblers to get face to face counselling is grossly unacceptable; and what does he consider to be a reasonable waiting period for a problem gambler to get that counselling, both for an initial appointment and a follow-up appointment?

2. How much of the $500 000 allocated in last year's budget to the GRF has been spent on face to face counselling services?

3. What surplus has existed in the GRF in the past two years and to date?

4. What information has the GRF board sought in the past 12 months from Break Even counselling agencies on the delays in problem gamblers getting face to face counselling?

5. Does the minister have the power to direct the board to fund additional face to face counselling services?

6. Finally, given Rev. Neil Forgie's concern that the delays referred to can potentially put some problem gamblers at high risk, which presumably includes a risk of self harm, will the minister undertake to investigate and respond to these issues as a matter of utmost urgency?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply. From a personal perspective, I would never accept the proposition of Reverend Forgie or the honourable member that the government is responsible for this problem. I have always maintained the view that individuals are responsible for their own actions.

ELECTRICITY, PRIVATISATION

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Treasurer a question concerning estimated revenue forgone as a result of the privatisation of South Australia's electricity utilities.

Leave granted.

The Hon. SANDRA KANCK: The report of the Auditor-General for the year ending 30 June 2000 states that revenue forgone from South Australia's privatised electricity utilities for the year 2000-01 is estimated to be just $150 million. It should surprise no-one in this Council that the Department of Treasury and Finance is responsible for this astonishingly pessimistic prediction. A comparison with the figures from the ETSA annual report for 1995-96 is instructive. In 1996, before Optima was disaggregated from ETSA, before the $450 million capital restructure distorted ETSA's books and before the state government's privatisation plans made ETSA's financial reporting unreliable, ETSA paid the state government $174 013 million in dividends, $55 328 million in income tax equivalents and $43 475 million in statutory sales levy. The total revenue from ETSA to the state government was some $272 million.

Five years later, the Department of Treasury and Finance, overseen by the Treasurer—whose job it was to make the ETSA privatisation look more palatable—estimates that businesses leased for $5.4 billion would have returned just $150 million if kept in public ownership. That figure comes at the end of a five year period when peak summer demand has grown from 2 078 megawatts in 1995-96 to 2 833 megawatts in 2000-01. During the privatisation debate, the Treasurer persistently claimed that cutthroat competition would drive down prices and reduce returns from the electricity utilities should they remain in public ownership. Now, 3 000 South Australian contestable electricity consumers are facing increases in their electricity bills of between 30 per cent and 100 per cent. My questions are:

1. Does the Treasurer stand by the Department of Treasury and Finance estimate that the electricity businesses would have returned just $150 million in 2000-01?

2. If so, can the Treasurer tell this Council precisely why it is alleged loss of revenue would have taken place?

The Hon. R.I. LUCAS (Treasurer): I was not aware that in 1996 our electricity businesses earned $174 000 million. I will have to check my records. It certainly seems marginally more than I ever recall seeing. But, the honourable member has done a thousand hours of research: it may well be that I have made a mistake in relation to all this and I had better go and check the books to see whether, hidden somewhere, was $174 000 million that we were secretly earning. Clearly, Treasury has been hiding it from me.

An honourable member interjecting:

The Hon. R.I. LUCAS: The Leader of the Democrats is a very sensitive soul.

An honourable member interjecting:

The Hon. R.I. LUCAS: Exactly, a very sensitive soul. I will need to check the honourable member's claims, but it seems extraordinary that she should be claiming those sorts of figures. Certainly, I have no recollection of seeing information of that type anywhere.

In relation to the general issues of what electricity businesses might or might not be earning, the one difference between 1996 and 2001—should the honourable member not be aware of it—is that we have gone from a monopoly position in South Australia where the government was the sole arbiter of what the businesses could earn to a situation where we have the involvement of the ACCC in relation to transmission pricing, we have the involvement of the Independent Regulator in relation to distribution pricing and we have the involvement, as we have discussed at some length over recent weeks, of generators and retailers in relation to the national electricity market. In all those areas, the state government, unlike in 1996, no longer has direct control over the pricing of any of those four components, other than, I should hasten to say, that the government established an electricity pricing order, which, for a period, governs the prices that the distribution company and the transmission company can operate.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Crothers highlights the fact that there are a number of differences between 1996 and 2000-2001. As I said, the major difference is that we have a national electricity market, and we as politicians and public servants no longer have the power to set prices in this market, which, as we have highlighted much to the chagrin of the Deputy Leader of the Opposition, was established by Prime Minister Keating and Premiers Bannon and Arnold in the early 1990s, and then, as I have always acknowledged, supported by Prime Minister Howard and Premiers Brown and Olsen in the establishment of the national market.

There is a shared responsibility in relation to the national electricity market in South Australia. I will take the honourable member's questions on notice and bring back a reply. As I understood, part of her original explanation referred to the audited accounts undertaken by the Auditor-General for 1999-2000, and ultimately the Auditor-General's Report is a responsibility for the Auditor-General in relation to how he reports on information that is provided to him, whether it be by Treasury and Finance, or indeed any other government department or agency.

The Hon. T. CROTHERS: I have a supplementary question. In 1996, the previous questioner—

The PRESIDENT: Order! The honourable member will go straight to the question, please.

The Hon. T. CROTHERS: When the Treasurer is researching these facts, will he also research what interest rates were payable in 1996 on the State Bank debt—

The PRESIDENT: Order! The honourable member cannot explain his supplementary question.

The Hon. T. CROTHERS: In the audited report he refers to for the year 2000, will he then inform this Council as to what the interest rates are today after we have paid off some of the debts through the lease of ETSA?

The Hon. R.I. LUCAS: I am happy to take the honourable member's question on notice and bring back a reply as soon as I can.

PENSIONERS, CONCESSIONS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer questions about state government concessions for pensioners.

Leave granted.

The Hon. T.G. CAMERON: My office was recently contacted by a constituent from Christies Downs who has concerns over the way state government concessions are provided to partners of people who are on a disability support pension. Following an industrial—

The Hon. A.J. Redford: Whose seat is that?

The Hon. T.G. CAMERON: Gay Thompson. Following an industrial accident a number of years ago, her husband was placed on a disability support pension, and in March 2001, following retrenchment, his wife was placed on a partner's allowance. Her husband was issued with a blue pension card, while she was issued with a health care card with 'PA' printed in the corner. Here lies the problem. The husband is entitled to a range of state and local council concessions, including public transport, electricity, gas, motor vehicle registration, as well as council rates concession. However, the wife is not entitled to any of these except public transport. They have been married for 27 years and believe in joint ownership, but for them to get concessions it means that everything would have to go into the husband's name. She feels this would turn her into a non-identity.

I am informed that each Australian state treats couples who are on a disability support pension differently in regard to state concessions. In Victoria, for example, partners are entitled to the same concessions as the person receiving the pension. My questions to the minister are:

1. Why are the partners of people who are on a disability support pension and who are not employed unable to receive state government concessions?

2. In the interests of equality, will the government have another look at the matter to see whether partners could be entitled to state government concessions?

The Hon. R.I. LUCAS (Treasurer): I am happy to take the questions on notice, refer them to the minister and bring back a reply.

HOME INVASION

The Hon. CARMEL ZOLLO: My question is to the Attorney-General. Can the Attorney advise whether the introduction of dedicated home invasion offences has increased the workload of the Office of the Director of Public Prosecutions and, if so, how is the office coping on its current staffing level?

The Hon. K.T. GRIFFIN (Attorney-General): There has been an increase in workload because of the change in the legislation. I would have thought the honourable member would be pleased with that, because it shows that the legislation does have a positive impact. So far as I am aware, the increased workload has not been detrimental to the operations of the Director of Public Prosecutions. However, I will have some inquiries made and bring back a more detailed response.

MURRAY RIVER, FERRY OPERATORS

The Hon. R.K. SNEATH: My questions are to the Minister for Transport, as follows:

1. Have all the ferry contracts been renewed?
2. Were the current operators successful?
3. How many road maintenance contracts were awarded in the past 12 months?
4. How many were awarded to interstate contractors?
5. Finally, which states were they from?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): Yes, no, and I will have to get the answers to the remainder of the questions.

MATTERS OF INTEREST

PARTNERS IN RAIL

The Hon. CAROLINE SCHAEFER: It was my pleasure today to attend a function organised by Partners in Rail at which the Hon. Tim Fischer was announced as special envoy for the Adelaide to Darwin railway. I suppose his position will be that of a roving business ambassador promoting the railway both within Australia and overseas. He will promote the efficiency of the rail and the potential impact of the Adelaide-Darwin railway for exporters, importers and freight forwarders in southern and eastern Australia; and alerting businesses and governments across Australia to the potential of the railway as a catalyst for investment and the development of regions, particularly for the supporting infrastructure that will be established and built.

He will be a champion for the railway both here and in Asia. In particular he will be heading up a trade delegation promoting the Adelaide-Darwin railway as a competitive international trade route. Next month he will be visiting Singapore and then other destinations within Asia.

The Hon. Diana Laidlaw: And he was our most respected trade minister.

The Hon. CAROLINE SCHAEFER: I will come to that, eventually. He will be acting as an advocate in Canberra for the rail link, and he will be trying to bring forward the fact that it is a valuable alternative method for industrial transport. One of the things that the Hon. Tim Fischer raised today that I was not aware of was the environmental benefit of a rail link for long distance haulage. Since I was unable to take notes at the time I have had to remember some of the statistics he used, but one of those statistics is that it is estimated that the reduction in the use of fossil fuel to run a rail network rather than a series of trucks over the same distance amounts to a saving of 100 000 tonnes of greenhouse gas per annum. He also raised the point that a steel wheel on a steel track produces one-seventh the amount of friction of a rubber tyre on a bitumen track, again, I imagine, with significant savings in the upkeep of our road system around Australia.

Tim Fischer's main task is to endeavour to eliminate the cynicism that is so prevalent in some business sectors, in the eastern states in particular. As the minister has just stated, I can think of no-one better for this task than the Hon. Tim Fischer; he is a past Deputy Prime Minister and a past federal

Minister for Trade, and he is widely respected around the world for both his sincerity and his skills.

The Hon. T.G. Roberts: He retired to be close to home.

The Hon. CAROLINE SCHAEFER: Yes, he did mention that he retired to be close to home. He will be working on two or three projects that he believes are of significance to the whole of Australia. He considers, as I think most of us do, that the rail link is one of those projects: it is very dear to his heart.

I think it is worth repeating some of the benefits of the construction phase of the rail link to South Australia and the Northern Territory. The contract states that 75 per cent of contracts will be issued within South Australia and the Northern Territory: the first of those contracts has gone to Whyalla's OneSteel to supply 144 000 tonnes of 50 kilograms per metre steel rail, which will amount to an extra 40 jobs in Whyalla over a 20 month period. It has led also to OneSteel investing $1.3 million to increase its efficiency. One would assume that this will certainly retain OneSteel as a major contractor within Whyalla. Clearly, there are huge advantages for Whyalla, Port Augusta and Port Pirie in the advance of this very important construction, which has probably fired the imagination of us all.

FEDERATION, CENTENARY

The Hon. CAROLYN PICKLES (Leader of the Opposition): Today, I address my remarks to the Centenary of Federation celebrations held in Melbourne last week. I felt very privileged to attend the re-creation of federation of 100 years ago. Of course, 100 years ago there were no women parliamentarians at all. I am not sure how many women parliamentarians from other political parties were present, but the Labor Party now has 123 women in federal and state parliaments across our nation.

As part of the celebrations, there was a celebratory dinner in relation to 100 years of the Labor Party caucus, at which we saw four Labor Prime Ministers of this country and a film of the history of the Labor Party. It was really quite moving to watch, with footage that I had not seen before.

On Monday, I attended the Women Shaping the Nation celebration. It was attended by some Labor women but no Liberal women from this state, although I believe they were invited. It started very early in the morning with some 1 000 students from Richmond Girls College in Victoria releasing green, white and purple balloons. It was a very moving event and involved the presentation of petitions to the Premier of the state to re-create the 1891 petition to the Victorian government.

The 2001 petition contained the following statements as to what women in Victoria wanted in 2001: equal representation of women in decision making; safety for women and children in the home, the workplace and the community; economic independence and security, genuine equal pay for equal work, fair and family friendly working conditions and access to quality child care; high quality, life-long and affordable education; an accessible, well funded community-based public health network; environmental sustainability; positive and non-exploitative presentations of women in the media; and a society where caring and unpaid work are valued and shared. The petition was developed in consultation with 2 000 women across 72 municipalities, so it was a very representative petition indeed.

The Women Shaping the Nation celebrations were held in the upper and lower houses and in Queens Hall. It was a very moving celebration of significant women in Australian history, probably predominantly Victorian women. Of course, we South Australians felt particularly proud that it was our state that first gave women the vote and the right to stand for parliament; so we were well ahead of Victorians, as always.

An honourable member interjecting:

The Hon. CAROLYN PICKLES: Well, perhaps not in latter days. It was wonderful to see those women, some quite elderly, from all political parties being celebrated and honoured in this way. It would be interesting to look at doing something similar in this state when we hold our centenary celebrations in October. Some of my colleagues have asked exactly what we are having here. That is a very interesting question and I have been trying to find out exactly what we will be doing. I know some of the things that are going on but not all of them. It is good to start getting excited about it. The celebrations in Victoria certainly captured the imagination of the nation because of the significance of its being held in Victoria. I hope that we in South Australia can do something significant to honour and remember those people who went before us.

FEDERATION OF AUSTRALIA

The Hon. L.H. DAVIS: In 1901, Australia had a population of just 3.5 million people. Telegraph services linked capital cities, there were no phones, cars were a novelty, planes were still on the drawing board, there were rail links between capital cities, save for Perth, Canberra was just a small village, and Alice Springs boasted a telegraph station but not much more. But in 1899 and 1900 referenda had been held in all states and had won approval to unite the six colonies in a federation. In fact, it has been said that Australia was the first nation to be created by ballot box. Interestingly, Western Australia was the last state to vote for federation in 1900. If it had not been for the strong 'yes' vote in North Queensland, which more than countered the 'no' vote in Brisbane, Queensland would not have voted in favour of federation. Initially, in 1898 New South Wales had not reached the required 80 000 votes to ensure a 'yes' vote in favour of federation for that colony.

The new federal government took over the defence forces of the colonies: Tasmania's army disappeared and the Queensland navy was no more. The federal government also took over the various postal and telegraph services. Section 92 of the federal Constitution required that trade between the states should be free. New South Wales had always had overwhelmingly free trade, led by George Reid. In fact, as a free trader, he secured the second largest group in the first parliament. Victoria had been strenuously opposed to free trade and was very much more protectionist. However, the new Constitution required that the customs houses along state borders on the Murray River shut up shop.

There was widespread agreement amongst all the parties that the new nation was for whites. In 1901, 96 per cent of the official population was of British descent and anyone coming into the country faced the strenuous dictation test to ensure that Australia was kept white.

Aborigines at that time were regarded as a dying race and many early movies were devoted to capturing on film the traditions and dances of those Aborigines for posterity. In particular, the Labor movement feared immigration from Asia. There was a fear of racial contamination. Alfred Deakin, the second Prime Minister, said:

> Unity of race is an absolute essential to the unity of Australia.

There was initial understanding that the women of South Australia and Western Australia should be allowed to vote at the first federal election because they were allowed to vote at the colonial or state level, but by 1903 federal elections had given women the right to vote and also to stand for parliament—arguably the first state or country in the world to do so. *Waltzing Matilda* had become popular mainly because it was used as a promotion by the makers of billy tea. Those are just some snippets from 100 years ago.

I am proud to be an Australian and to remember the interesting history which shaped this nation but which so many people have forgotten. It seems to me that the overwhelming driving force that helped to create the nation was the need for a defence force at a federal level. That was one of the very big drivers. As Rudyard Kipling said during a visit to Sydney in the early 1890s: to really ensure that Australia becomes a nation you just need a few Russian ships pointing guns in that direction.

That was one of the drivers, but I reject very much the revisionists of history, such as Paul Keating who spoke only recently in a very sulky way about the forelock tuggers. To try to revise and reshape history as you would want it is false and unreal. If you talked to the reporters, politicians and people of the day, those were the attitudes that they held. We might see them as wrong, inimical to progress as we see it today in this multicultural society that we live in, but those were the views held at the time. We should respect that that was the way it was and not try to rewrite history.

Time expired.

CHEMICAL TRESPASS

The Hon. IAN GILFILLAN: I wish to use my time today to highlight what I think is a gross example of injustice and suffering. I refer to a couple who have been market gardening in Edillilie on the West Coast. This case has received some publicity, but it needs a lot more publicity and a lot more analysis. Arnold and Joyce Meyer have made a living selling vegetables grown on their property in a glasshouse using on-site dam water. In the latter part of last year, they realised that their plants were not only not thriving but dying, and, in fact, they did so through the application of what proved to be contaminated water from dams on the property, which have now almost irrefutably been shown to have been contaminated by chemical trespass: the flow of very powerful chemicals, sulfonylurea being the principal one, from a neighbouring property or properties.

Apart from the human suffering that they have endured, there is the extraordinary and inexcusable suffering that they have experienced in obtaining a proper reaction from, in the first instance, PIRSA, and, following on from that, getting their water tested and getting people to come to the property to take this matter seriously. The first indication of this was in October last year when Arnold Meyer triggered off what he hoped would be some sense of procedure to get some answers and some justice. I checked today, and he still has not had confirmation from the EPA or the body that is doing the final testing to enable his family to take action to get the compensation they are looking for. Not only should they be entitled to compensation but this highlights the desperate need for proper legislation of chemical trespass in South Australia.

I have been agitating for this for some time. It is had a lot of interest and support in various ways from the Farmers Federation. The issues of health and the right to farm with the use of chemicals are involved, but this is a classic case where, because of procrastination and either disinterest or inaction by this government, this couple have had to be martyrs to show how deficient the current situation is. We do not have in South Australia legislation to deal with chemical trespass.

This is in stark contrast to the US and other states of Australia including Victoria, New South Wales, Tasmania and Western Australia. Queensland has better legislation than we have. But the plot thickens almost to the point of incomprehension when it is known that the Minister for Primary Industries has had in his hand since October 1998 a green paper recommending the following action:

> That new legislation will make it an offence to cause damage by agricultural chemical application to plants, animals or land outside the target area on another person's property or public lands.

There are many very worthwhile observations in this green paper. As my research officer said, it is a fast fading green paper. It has obviously not been treated with anything like the attention that it should have received. Surely, now in the light of the example of the tragedy that has befallen the Meyer family, this is the time to take action immediately and not leave it so that more people will suffer the penalty of our not having proper controls to deal with this very dangerous form of chemical trespass by water flow or spray or whatever way it comes onto a property.

The only way that this couple can reuse their land is to clean out 300 to 400 cubic metres of soil. They will have to flush out a dam which will quite likely expose other landowners to problems further downstream. It is an absolute calamity, and the fact that the minister has shown such indifference and the department has been so dilatory is an absolute disgrace in terms of the situation in South Australia, and it has been shown up in this case. I can only ask and hope that they will be the last martyrs to suffer from this injustice.

Time expired.

NATIONAL WAGE CASE

The Hon. R.K. SNEATH: It is no secret that the divide between the 'haves' and the 'have nots' is becoming increasingly evident in Australia. We are now seeing in addition to the working class an underclass of Australians who struggle to feed and clothe their children as a result of living costs far beyond their means. Australians have of course been saddled with the additional burden of the GST since July last year. Since then, the working poor and the unemployed have had to increase their reliance on already stretched charities such as St Vincent de Paul, the Salvation Army and the Central Mission, etc.

On 2 May, the Australian Industrial Relations Commission handed down its decision in the 2001 national wage case. In time-honoured tradition, employer groups insisted that a pay rise could not be accommodated and that any pay rise would cost jobs. I am aware that some small businesses are struggling but, generally speaking, this claim by employers is unconvincing and unfair.

The decision handed down by the commission will see workers, who are paid up to and including $490 a week, receive a pay rise of $13 a week. Workers paid up to and including $590 a week will receive an extra $15 a week, and those paid above $590 a week will receive an extra $17 a week pay rise. This is the first time that I can remember in a national wage case decision where those who are already earning the lowest award rates will receive the lowest increases. I find the logic and reasoning behind this decision

very hard to comprehend. A builder's labourer who earns $433.70 per week and a meat industry employee who earns $350.90 per week will receive a paltry increase of just $13. It is no wonder that, with the increased cost of clothing and other goods and rising power bills, average Australians simply cannot make ends meet.

Tax cuts to compensate for the GST also were at a lower level for the low income earner; the higher level tax cuts were for the middle income earner. I hope that one day someone conducts a survey on the effect of the GST on lower wage earners and pensioners. The sum of $13 a week would not compensate low wage earners for price rises in essential items such as petrol, groceries, water, home maintenance or rent.

We see and hear every day the banks and large companies announcing huge profits. In today's *Advertiser*, we read how Coles Myer has increased its profits by 6 per cent to 7 per cent, with a nine month sales figure of $17.9 billion. On the front page of today's *Advertiser*, we read about the collapse of HIH, and how its former chief is renovating his $3 million mansion—but that is just one of his mansions. The collapse of HIH has especially affected low and middle income workers with compensation claims that they can ill afford to forgo. I am glad to hear that the federal government intends to help some of those people.

The enterprise bargaining system that operates in the workplace today has run its race. It is now time for the federal government to put in place some other means by which workers can achieve wage increases. With respect to trade-offs that are warranted under enterprise bargaining to achieve pay increases, after three or four enterprise agreements workers cannot give any more away. Soon we will have them running with their shovels. People have forgone overtime to obtain wage increases, and the miserable $13 that the commission granted them in the first week in May will not be passed on to some workers who currently have enterprise agreements until those agreements lapse; therefore, the trade-off provisions in those agreements will absorb the $13, and they will receive next to nothing for their trade-offs. I think that low income workers in Australia must certainly be concerned about how they have been treated in a number of past wage increase determinations.

Time expired.

HOUSING TRUST

The Hon. T.G. CAMERON: The doors of the South Australian Housing Trust are closing on low income families, who have depended for more than 50 years on public housing for the most basic of needs—their shelter. The trust was built on the vision of leaders such as former Premier Sir Thomas Playford and the trust's founders, Alex Ramsay and Hugh Stretton, who built an outstanding record of housing workers and families able to rent their homes for a lifetime. In its heyday, the trust built entire Adelaide suburbs, such as Kilburn, Blair Athol, Greenacres, Mitchell Park, Salisbury and Elizabeth. In times past, the trust would often build up to 1 000 new homes each year and, in many new suburbs, included a quarter of the housing for low income people.

Today, that initial ethos of providing government-owned housing to low income workers with wages has changed to social or welfare housing only for those in the direst of needs. The trust is still South Australia's largest landlord, housing 90 968 people. As of 30 June 2000, the trust managed 53 310 tenancies and properties, 7 000 fewer than in 1996. South Australia once held twice the level of public housing as a percentage of the national average. Sadly, that is no longer the case. The trust successfully housed the bottom end of the rental market, the end not serviced by the private investor sector.

In 1999-2000, the trust sold 1 271 properties—27 per cent to tenants and 73 per cent as vacant properties. According to many voluntary organisations, the state is now in the grip of a housing crisis, both public and private. Community housing groups which accommodate marginalised members of the community—middle aged unemployed men, young people with mental illness, older women with social problems—confirm the growing crisis. One only has to drive down to West Terrace to see the impact of a public housing system policy that is failing. People are living in tents, reminiscent of the worst days of the great depression. It is a disgrace.

The current situation has come about due to a radical change in direction, which began in March last year, for the Housing Trust. The Housing Trust waiting list, which once simply allocated low rental houses for those who had waited the longest, has been segmented into four categories: category one is for applicants in urgent need of housing; category two is for applicants with high housing need who are unable to find or maintain other housing in the long term; category three is for low income applicants who do not have high housing needs; and category four is for trust tenants wanting to transfer to another trust property.

Whilst 1 245 people have been housed from category three in the past year, it is this group which has traditionally benefited from the trust's policies and which has been the hardest hit. The new reforms also have introduced tenure arrangements for tenants who applied for housing after 25 February 1998, annual income reviews, means testing, housing needs assessments and backdating of applications and allocation policies.

Dean Brown, the minister responsible for the Housing Trust, has been reported as saying:

> The state government has had no choice, as federal funds are no longer available. This has meant that fewer Housing Trust homes are being built. There is less money for public housing maintenance, and rental rebates may also be affected.

The community has seen a rapid change in its values in the past 10 years. The rich and poor are moving farther apart. Employment is becoming increasingly casual, and women fleeing domestic violence and the mentally ill are often left to fend for themselves. How these people cope in a private real estate market with few vacancies and, therefore, increasing rents, is a real concern. Where state governments once stepped in to shelter them from the storms of poverty and homelessness, South Australian battlers are now on their own. Under this government, the trust has dramatically changed its course. Affordable public housing for low income working families is fast vanishing, and we are left with a skeleton of a system.

If members are not aware of it, we have seen a fairly significant increase in housing prices here in Adelaide over the past 12 months. Rents have been increasing, and affordable accommodation is rapidly disappearing. If one examines the housing vacancy index these days, one will see that it is becoming increasingly difficult to find any rental property, let alone a low rental property. I guess the question has to be asked: in the future, just where do we expect low income families to live?

Time expired.

FOOD INDUSTRY

The Hon. J.S.L. DAWKINS: I was pleased to deliver the opening address at the Cold Chain Logistics Conference, held at the South Australian Centre for Manufacturing on 9 May. The Cold Chain Logistics Conference was initiated by Transport SA, consistent with its strategy to improve freight logistic services and performance that were identified as being clearly deficient by industry in a series of workshops held in 1998 and 1999. These workshops led to the formation of the South Australian Freight Councils.

This conference recognised the importance of consumer demands and how these demands are impacting on the management of the cold chain by the food and beverage industry in South Australia. The conference included a buyer's perspective on the importance of cold chain management from Gerry Lee, General Manager, Purchasing and Trading at NTUC Fairprice Supermarkets in Singapore; a freight forwarder's perspective from Max Jones, Director of Logistics, Kerry Logistics in Hong Kong; and an exporter's perspective by Heather Churchill of Australian Farmlink.

According to the Food for the Future Scorecard, the value of the food industry in South Australia was $7.2 billion in 1999-2000. Food exports from South Australia were $2.4 billion in 1999-2000. During that year, South Australian producers exported approximately $804 million worth of perishable food products, consisting of $274 million worth of processed meat; $47 million worth of dairy products; $94 million worth of horticultural products; and $389 million worth of seafood.

The food industry is a big employer in South Australia. According to the Food for the Future score card, employment in the food industry during 1999-2000 was over 138 000 people, with many of these jobs occurring in regional South Australia. This figure represents one in five employed South Australians. While the emphasis has been on food exports, approximately 600 000 tonnes of perishable food products with an estimated value of $2 billion was transported within South Australia to regional centres during 1999-2000.

South Australia is a vast state, with fresh fruit being transported to remote areas. Ensuring that these products reach their markets in pristine condition requires careful management of the cold chain. With the increasing level of consumer awareness and customer requirements for the freshest, highest quality and safest food products, proper management of the cold chain is critical. There is no doubt that consumers care about the condition in which the food arrives in the store. Improvements in managing the cold chain allow exporters to tap into more distant markets and producers and retailers to increase the shelf life of their food products.

As Chairman of the Regional Development Issues Group and a member of the Regional Development Council, I believe further improvements in cold chain management will result in further growth in food production in regional South Australia and, with it, increased prosperity for all South Australians.

I commend the work of the Food Council and the Food for the Future issues group, and particularly my colleague the Hon. Caroline Schaefer and Dr Susan Nelle, the Director, for their leadership in this important area. I also acknowledge the efforts of Transport SA, the South Australian Centre for Manufacturing and the Business Centre, Primary Industries and Resources South Australia, and the South Australian Land, Sea and Air Freight Councils in developing the conference program.

The Hon. Diana Laidlaw interjecting:

The Hon. J.S.L. DAWKINS: I also understand that the conference included the launch of a video which summarises the developments in this area. It is also my understanding that the Minister for Transport and Urban Planning, for the Arts and for the Status of Women launched that video during the conference and that some of the funding for that video was provided by the South Australian Film Corporation.

The PRESIDENT: The time set aside for matters of interest has now concluded. I call on the business of the day.

LOCAL GOVERNMENT LAND

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

> That the Corporation of the City of Onkaparinga By-Law No.1 concerning local government land, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

In order for the Legislative Review Committee to properly scrutinise council by-laws, they must be tabled in the parliament soon after they are made. Section 10(3) of the Subordinate Legislation Act 1978 provides:

> Except as is expressly provided in any other act, every regulation must be laid before each house of parliament within six sitting days of that house after it has been made.

In this case, the City of Onkaparinga failed to comply with that rule. Given the limited resources of the Legislative Review Committee and the often large number of regulations and by-laws to be considered, it is necessary for the committee to have a reasonable time to consider them. It is also inappropriate for the *Notice Papers* of both the houses to be clogged up with notices of disallowance of by-laws, particularly because they have not been tabled in time. Because by-laws come into affect four months after gazettal, it is possible that a by-law not tabled in time may come into operation before the committee can consider it. This is particularly the case if they are not tabled in time.

The City of West Torrens and the City of Onkaparinga failed to table their by-laws on time. The City of West Torrens advised the committee that the failure to table was due to an administrative oversight. The City of Onkaparinga advised that its by-laws were not tabled on time for a number of reasons that I do not propose to go into here, except to say that it was not a deliberate failure on its part.

Given that many councils are redrafting their by-laws due to the enactment of the Local Government Act 1999, there is a need to reiterate the tabling requirements to ensure that there are no further failures. Councils were advised by the Local Government Association of South Australia about all aspects relating to by-laws, including tabling. In December 2000, the Local Government Association put out an advice to all councils about the new act and how it would operate in the making of by-laws. However, despite the changes in by-law making procedure and powers, the situation for the tabling of by-laws has remained unchanged.

There has been correspondence with the LGA and the committee and the office of local government for some time about the tabling of by-laws in time. Most councils now appear to be aware of the need to do so. However, as I understand it a copy of this speech will be sent to the LGA, which in turn will use this as a reminder to councils about the need to table these by-laws on time. In that respect, I am grateful, as always, to the LGA.

Motion carried.

ROADS

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

That the Corporation of the City of Onkaparinga By-Law No.2 concerning roads, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer to the comments I made in relation to by-law No.1.

Motion carried.

DOMESTIC WASTE

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

That the Corporation of the City of Onkaparinga By-Law No.3 concerning domestic waste, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to comments I made in relation to by-law No.1.

Motion carried.

BRIDGES AND JETTIES

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

That the Corporation of the City of Onkaparinga By-Law No.4 concerning bridges and jetties, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to the comments I made in relation to by-law No.1.

Motion carried.

MOVEABLE SIGNS

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

That the Corporation of the City of Onkaparinga By-Law No.5 concerning moveable signs, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to comments I made in relation to by-law No.1.

Motion carried.

BOAT RAMP

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

That the Corporation of the City of Onkaparinga By-Law No.6 concerning boat ramp, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to comments I made in relation to by-law No.1.

Motion carried.

PERMITS AND PENALTIES

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

That the Corporation of the City of Onkaparinga By-Law No.7 concerning permits and penalties, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to comments I made in relation to by-law No.1.

Motion carried.

STED SCHEMES

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

That the Corporation of the City of Onkaparinga By-Law No.10 concerning STED schemes, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to comments I made in relation to by-law No.1.

Motion carried.

BEACH AND FORESHORE

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

That the Corporation of the City of Onkaparinga By-Law No.11 concerning beach and foreshore, made on 19 September 2000 and laid on the table of this Council on 13 March 2001, be disallowed.

I refer members to comments I made in relation to by-law No.1.

Motion carried.

PERMITS AND PENALTIES

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

That the Corporation of the City of West Torrens By-Law No. 1 concerning permits and penalties, made on 3 October 2000 and laid on the table of this Council on 28 November 2000, be disallowed.

I refer honourable members to the comments I made in relation to the Corporation of the City of Onkaparinga by-law No. 1.

Motion carried.

MOVEABLE SIGNS

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

That the Corporation of the City of West Torrens By-Law No. 2 concerning moveable signs, made on 3 October 2000 and laid on the table of this Council on 28 November 2000, be disallowed.

I draw honourable members' attention to the comments I made in relation to the Corporation of the City of Onkaparinga by-law No. 1.

Motion carried.

LOCAL GOVERNMENT LAND

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

That the Corporation of the City of West Torrens By-Law No. 2 concerning local government land, made on 3 October 2000 and laid on the table of this Council on 28 November 2000, be disallowed.

I draw honourable members' attention to the comments that I made in relation to by-law No. 1 of the Corporation of the City of Onkaparinga.

Motion carried.

ROADS

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

That the Corporation of the City of West Torrens By-Law No. 2 concerning roads, made on 3 October 2000 and laid on the table of this Council on 28 November 2000, be disallowed.

I draw honourable members' attention to the comments I made in relation to by-law No. 1 of the Corporation of the City of Onkaparinga.

Motion carried.

DOGS

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

That the Corporation of the City of West Torrens By-Law No. 2 concerning dogs, made on 3 October 2000 and laid on the table of this Council on 28 November 2000, be disallowed.

I draw honourable members' attention to the comments I made in relation to by-law No. 1 of the Corporation of the City of Onkaparinga.

Motion carried.

DEVELOPMENT (ADULT BOOK/SEX SHOPS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 May. Page 1405.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will be short in concluding my remarks on this private member's bill introduced by the Hon. Terry Cameron. Some two weeks ago, when addressing this measure, I referred to the fact that there are three options, among many, that Planning SA and I had discussed that I believed could be considered as responses to this private member's bill. It was the third option, however, that I favoured, and that related to amending the bill to delete the retrospectivity provisions.

When last speaking to this measure, I indicated that I had been alerted earlier that same day that I could not make a unilateral decision on how to respond to this bill and I would have to take it to my joint party room. I did that yesterday with a recommendation that, subject to the Hon. Terry Cameron being prepared to consider a small amendment to delete the retrospectivity provisions, the government would be prepared to support the measure. The party room approved that course of action and, therefore, I indicate today that, if such an amendment is moved to remove the retrospectivities, the government will support the bill. Otherwise, we would oppose the measure.

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

ROAD TRAFFIC (TICKET-VENDING MACHINES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 2 May. Page 1406.)

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I spoke to this private member's bill moved by the Hon. Terry Cameron some two weeks ago. Again, I indicated that I had learnt only earlier that same day that I must take the matter to the party room for a decision. It appears that ministers have some liberty when it is a general motion but not when it is a private member's bill, and I respect that process: I had forgotten it when preparing my remarks to speak a fortnight ago. I, and my party room, have some considerable concerns about the retrospectivity provisions in the bill moved by the honourable member. In raising this issue, the Hon. Terry Cameron focused principally on the practices of the Adelaide City Council, and I understand that, of all councils in South Australia, it has the vast majority of the ticket vending machines on footpaths. However, the measure applies to councils generally, both in the future and retrospectively.

In that respect, I am aware that the City of Holdfast Bay and the City of Victor Harbor would also be immediately impacted if this measure passed this parliament. The Victor Harbor council, for instance, only introduced its machines in April 2001 and, therefore, despite some substantial investment just last month, this measure, if passed, would require it to replace those machines, although I respect that there would not necessarily be a time limit, nor is there a penalty provided for in the bill in terms of the replacement of the machines.

I am advised—and this advice has come to me from the Local Government Association—that all the machines currently installed by the three councils I have mentioned are not able to be modified to give change. I am further advised by the LGA that to replace the machines presently in use with the type proposed would cost in the vicinity of $35 000 to $45 000 per machine. In the case of the Holdfast Bay Council, this would equate to between $385 000 and $495 000. The Adelaide City Council has more machines, but I have not done the calculation of the replacement cost if the bill is passed.

The Local Government Association has advised that the proposed machines would require increased maintenance resources arising from vandalism due to storage of extra money in unsecured locations and the more complex electronic systems. Finally, the LGA has advised me that, although there is a manufacturer in Australia which produces a change machine, those machines are over twice the size of the existing on-the-street machines and, if installed at accessible and convenient intervals along the footpath, there would be considerable concern regarding urban design issues in terms of visual amenity and ease of access for pedestrians and other users of the footpath.

I raise those issues that have been presented to me by the Local Government Association on behalf of the three councils. They have all had some influence on my recommendation to the party room which has been endorsed, and that is not to support the measure in its current form. However, I must say that some of the concerns expressed by the LGA have more validity than others.

In my view, negotiating the footpaths today with so many of the A-frame notice boards that are on display raises not only a visual litter issue for the Adelaide City Council and others but also causes considerable difficulties for pedestrians and people with disabilities, particularly the visually impaired. It is becoming increasingly impossible to freely negotiate footpaths in the city because of all these A-frame boards. In terms of the visual amenity concerns about these machines, I would normally be very sympathetic to the concerns if I did not see the visual litter of these A-frame boards all over the footpaths of our city.

I have considerable sympathy for the sentiment contained in the bill. I wish to acknowledge the recognition that the honourable member gave to the practices undertaken by the government through the Passenger Transport Board in terms of the ticket vending machines across our rail system that do provide change. I highlight to the honourable member that, not wishing to reduce in any way his support for government practice across the rail system, because of experience interstate, in particular where change machines are the subject of repeated and severe vandalism, all our machines are in secure locations either on the railcar or in well lit locations with a surveillance camera nearby.

The honourable member may be aware that a recent survey undertaken by the Melbourne *Herald* on the metropolitan Victorian rail system found that 75 per cent of the ticket machines that gave change had been vandalised and were not working. This meant that people could not even purchase tickets, which in turn led to fare evasion on a rampant scale. There is enormous concern in Victoria and by the Minister of Public Transport, Mr Peter Batchelor, about

the integrity and safety of the change machines even though they have security measures and reportedly safe locations for those machines. It would be very difficult across the general footpath system to have that same level of surveillance in terms of protection of the bank of money that would be in those machines.

I make those comments knowing that most machines have some money in them at all times anyway, because they collect the money for the payment to park during the day. While I express misgivings about elements of the bill and the implementation of it, I acknowledge that already today there is change in these machines that is being used by the Adelaide City Council and other councils even though they are not change-giving machines. I note that there is no other city council around Australia and no council within the wider Sydney or Melbourne areas—and I am not sure of other councils in other capital cities—that have installed parking ticket machines that give change. My advice through the Office of Local Government is that it does not appear that any such council interstate proposes to pursue the path outlined by the honourable member.

While I understand the force of sentiment expressed by the honourable member in introducing the private member's bill, I advise that the government's preference is that the bill not pass, and that is for the reasons outlined in addition to my earlier mentioned retrospectivity concerns. The government's preference is that the council move a motion noting its concern regarding the practices that have been identified by the honourable member and that these concerns be conveyed to the Local Government Association for consideration by councils generally if and when in the future any council assesses the matter of the installation of ticket vending machines for the regulation of vehicular parking on the road.

The honourable member may not be prepared to consider such an option, in which event I indicate that I oppose the bill. I have some sympathy for the sentiment although I am uncomfortable with it in some senses because of my experience when I used a parking station in the city this past week. I parked my car for, I think, 40 minutes and had to pay for the full hour, and you are not given adjustments in terms of those periods. It seems to be a general parking practice that you pay for the quarter, half or full hour irrespective of the time one uses, whether it be in a parking station or on the street.

It is with no force of feeling that I say I oppose the bill. We would like to see the sentiments expressed by the honourable member and the principle conveyed to councils as an expression of this Council's concern. I also believe that the way the honourable member has raised this issue has wakened the consciousness of members of this Council and councils generally regarding new technologies, whether it be bankcard, smart card or the technologies now in use at the Sydney railway stations where a Telstra card can easily be used to get a train ticket or a coke, or to make a phone call.

The Hon. J.F. Stefani: Or a token.

The Hon. DIANA LAIDLAW: Or a token. I think it will be in little time in the future that the matters that the honourable member has raised in this place will not be dealt with by raised awareness within the general community and councils at large, and with the ability of councils to access new technologies.

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

ELECTORAL (VOTING AGE) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 14 March. Page 1042.)

The Hon. T.G. CAMERON: I move:

That this Order of the Day be discharged.

Motion carried.

The Hon. T.G. CAMERON: I move:

That this bill be withdrawn.

Motion carried.

PASSENGER TRANSPORT ACT

Order of the Day, Private Business, No. 24: Hon. A.J. Redford to move:

That the regulations under the Passenger Transport Act 1994, concerning Safety, Security and Fare Compliance, made on 1 June 2000 and laid on the table of this Council on 27 June 2000, be disallowed.

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

That this Order of the Day be discharged.

Motion carried.

RACING (TAB) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 11 October. Page 139.)

The Hon. CAROLINE SCHAEFER: This bill, which was introduced by the Hon. Nick Xenophon, seeks to ban the positioning of automatic teller machines on the outside of TAB facilities. We are all aware of the cost of addictive gambling, both socially and economically, to this state. However, ATMs are now widely distributed throughout the metropolitan area and, indeed, through larger regional towns. They are increasingly used by the population as a method of minimising bank charges, are widely located on non-banking commercial premises and are common in retail precincts.

There is quite a high cost in establishing an ATM, and commercial success is largely dependent on the location. Again, the volume of transactions is also influenced by the siting of the ATM. In the past, SATAB has been approached by financial institutions seeking to lease shopfront space at South Australian TAB outlets for the installation of automatic teller machines. This interest has been sparked by the high retail exposure of particular TAB sites: a number of TABs are located in highly desirable commercial premises and on street fronts.

Initially, this request was refused but the TAB was notified in October 1999 that it had permission to enter into leasing arrangements for the installation of ATMs in its shopfronts on the proviso that it was not proactive in seeking opportunities, that is, that the TAB should not actively pursue the opportunities with financial institutions. This means that the TAB could install ATMs only when approached by a financial institution. To date, that has not occurred—and I emphasise that.

In the absence of this type of leasing by SATAB, the financial institutions are at liberty to locate either ATM or EFTPOS facilities in close proximity to TAB premises subject to site availability. Many ATMs are already located near TAB outlets due to the expansion of ATM networks in the last three years.

SA TAB is attempting to operate in a commercial manner by identifying and exploiting new sources of revenue to the businesses which fall within the approved scope of the TAB. The licensing of shop window space for ATM placements presents a real revenue opportunity with little or no risk to the TAB business. In a commercial sense, this activity could also facilitate customer transactions at SA TAB agencies. All costs associated with the installation of an ATM would be borne by the financial institution leasing the space. SA TAB estimates a net minimum annual revenue of $100 000 from this activity.

The Racing Act 1976 is silent on the subject of ATMs being located on or near TAB premises. In contrast, under the Gaming Machines Act 1992, ATMs are not permitted to be located within a gaming area containing poker machines. However, the building within which a gaming area is located may have an ATM installed, as is the case with many Adelaide locations including the casino foyer.

In August 1998, the Social Development Committee tabled its gambling inquiry report. This report did not explicitly comment on the issue of ATMs being located on racing or gambling premises. The advancing technologies and demands from society and consumers for these types of products is increasing. SA TAB does not have any ATM or EFTPOS facilities within its outlets. There are currently 77 SA TAB agency outlets throughout South Australia.

The Hon. Nick Xenophon appears to be indicating that ATM facilities will be installed at each and every outlet. I would strongly suggest that this would not be the case because, as previously stated, the financial institutions would have no commercial benefit in doing so; they would be interested in only the most prime locations. This would significantly reduce the opportunities available and therefore the number of outlets which may be established with this facility. On 20 October 1999, the honourable member stated:

> This bill has been prepared as a result of community concern and information that I have received with respect to possible plans by the TAB to go down the path of putting in ATMs.

I can confirm that neither I nor SA TAB are aware of any direct concerns being raised by the community over this matter, including since the matter has received considerable media coverage. In fact, I think the concern and indeed the meaning of 'coverage' was probably generated by the Hon. Nick Xenophon. I would be surprised if the majority of the community were concerned or even aware of the issue. The honourable member also stated in his second reading explanation on 20 October:

> There is I think a distinction for those members who support the access to ATMs at hotels where there are poker machines. There is an argument put by those advocates that you will restrict the choice of people to have access to funds for the purpose of buying drinks, food and other non-gambling services at the hotel. That is something that no doubt can be discussed in the context of another bill that I have introduced in this place. But that argument by the proponents or the defenders of ATMs at poker machine venues in this state simply cannot apply in the context of a TAB where the only service provided is effectively the ability to have a punt or a flutter. There is no other argument for the provision of ATMs other than to allow people to have easy access to cash to be able to bet.

This assertion is incorrect. As has been publicly stated on a number of occasions, the installation of ATM facilities is to facilitate rental income to SA TAB which translates to benefits flowing to both the racing industry and taxpayers.

There is no doubt that the installation of an ATM in a shopfront of a SA TAB agency may provide an added convenience for TAB customers. However, that convenience is already available throughout the majority of the TAB's PubTAB network in which TAB services are available within the premises of licensed premises and which premises, in the majority of instances, have cash withdrawal facilities via EFTPOS. These facilities have been available to customers for many years.

It is interesting to note that the honourable member makes a number of references in his second reading explanation to the Productivity Commission's Draft Report into Australia's Gambling Industries, including statistics drawn from table 15.6 (page 15.50 of the report). This table shows the extent to which ATMs are used by problem gamblers relative to others. Although the table shows general use of ATMs as a source of money withdrawal, the Productivity Commission states that it is unaware of how much money is withdrawn or the number of repeat transactions by a given customer.

The Productivity Commission stated that, from that table, it was able to assess the degree to which problem gamblers tend to use ATMs relative to recreational gamblers and that the large bulk of recreational gamblers never used an ATM at a venue when playing poker machines. In other words, there are very few people who play poker machines who actually use the facilities of an ATM at that time, according to the Productivity Commission's table. The following statistics indicate the existing facilities associated with SA TAB's PubTAB network: of the 307 PubTABs, there are only four venues which do not provide EFTPOS facilities and 25 of the venues have ATM facilities within the premises. ATM facilities are already in close proximity to SA TAB's 77 agencies, as follows: 20 ATM facilities within approximately 20 metres of the outlets; 11 within approximately 50 metres; and 10 within approximately 100 metres.

The existing numbers and locations of such facilities are widespread. The provision of, and access to, ATMs, EFTPOS and other forms of electronic access to a person's funds is being driven by consumer demands and it is inevitable that that will progress. The retail industry is highly dependent on the use of electronic funds access and, indeed, credit facilities; however, there is no call for the banning of such facilities within that sector even though, again, there would be a percentage of people who are unable to control their spending.

The Hon. Mr Xenophon wrote to the TAB on this matter and has expressed his concerns publicly regarding the TAB Phonebet credit card transfer facility. In its response to the Hon. Mr Xenophon's letter, the TAB clearly outlines the differences between the provision of credit as detailed in the Gaming Machines Act and the facility to provide TAB facilities. I would like to outline some of those differences.

The Hon. Mr Xenophon's letter in the *Advertiser* refers to the provisions of the Gaming Machines Act 1992. The TAB is not regulated by the Gaming Machines Act; the TAB's functions and powers are regulated by the Racing Act. Section 52 of the Gaming Machines Act prohibits gaming machine licensees from providing credit to gaming machine players. However, section 51A of that act expressly contemplates that gaming machine players may access credit accounts through ATM and EFTPOS facilities. We are aware that there will be considerable tightening of those facilities after the passage of the next gambling bill, which hopefully will come to us some time this week.

Section 52 of the current act prohibits a gaming machine licensee, a gaming machine manager or a gaming machine employee from lending or offering to lend money to a person who is about to enter the gaming area or extending or offering

to extend credit to any such person, whereas TAB facilities do not operate within either of these circumstances: that is, money is not lent or offered to be lent nor is credit extended or offered by the TAB. A bet is accepted by the TAB only if the customer's account has sufficient funds in it to cover the bet. I reiterate that I am referring now to the Phonebet facility that is available through TAB.

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Yes, you can. The TAB transfer facility allows a customer to transfer funds only within certain nominated card accounts into an established telephone betting account held with the TAB. I know a number of people who live in isolated areas who thoroughly enjoy having that facility so that they can have the odd punt on a Saturday afternoon.

The arrangements into which a customer enters with their bank or financial institution in relation to access to funds is a matter between the customer and that financial institution. In spite of this clear distinction, the Hon. Nick Xenophon is creating the impression that the TAB is allowing bets to be placed on credit. The facility offered by the TAB does not allow bets to be placed on credit. A random sample was—

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Yes, I can transfer funds into any account—I can transfer funds into my Myer account in a similar fashion. A random sample was analysed by SA TAB to determine whether the level of transfers via the facility has varied to any significant degree from deposits previously being made by phone bet customers via SA TAB outlets. The finding was that there was very little variation. The Hon. Mr Xenophon is painting a scenario that, because the facility is available, all existing and future customers will use it, to their personal detriment.

This whole matter needs to be placed into perspective. The facility was introduced in April 1998 and, in the three years since its introduction, only 595 customers are using phone bet facilities. SA TAB's total phone bet client base is approximately 45 000 account holders: this represents 1.32 per cent of that base. It should be noted that, of the 595 customers, only 30 per cent use the facility on a regular basis. The facility offered by the TAB is in line with general customer demands for a modern service of this nature. The government opposes the bill proposed by the Hon. Nick Xenophon.

The Hon. P. HOLLOWAY 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 3 May. Page 1430.)

The Hon. P. HOLLOWAY: I support the motion. Members will recall that I initiated this report when I was the shadow minister for primary industries. I moved in this Council that the subject of the allocation of recreational rock lobster pots be referred to the Legislative Review Committee. There was some debate at that time as to whether the Legislative Review Committee was the appropriate committee. However, I believe that the quality of the report endorses the choice of the Legislative Review Committee to consider this matter. I note that the government is yet to respond to the report. I had been waiting for its response until I made some comments on this matter. However, given that it is now some five months or so since the report was tabled, I believe that I should put at least some comments on the record.

I note that, in the *South-Eastern Times* of Monday 14 May, there is a report that the Minister for Primary Industries (the Deputy Premier, Mr Kerin) told ABC radio that he was confident of brokering an agreement between the professional and recreational sectors on the allocation of pots. He is quoted as saying:

I am sure we can come up with something and, while it might not absolutely please either sector, it is more something which is a bit of a win-win. That will take people to sit down and negotiate. I am quite happy to play any role in that I need to.

I hope that the Deputy Premier can come up with an arrangement fairly quickly that is satisfactory to both parties.

The background to this issue is that the government used a phone-in method to allocate rock lobster licences, and that first in, first served allocation was absolutely disastrous. The phone system of the state was jammed: thousands—indeed, I think millions—of phone calls were made on that day, but very few people could get through. Subsequently, the government scrapped that method and came back with a ballot system, which was significantly more successful, but there was still some residual dissatisfaction from those people who missed out. I think I pointed out during the debate at the time that I did not believe it was politically sustainable to have a situation where you allocate rock lobster licences by ballot for two years, only to have to do it all over again—some people who had won licences in the first ballot for a couple of years might be balloted out in the second. I did not believe that it was a particularly satisfactory long-term situation.

However, the Legislative Review Committee has tabled its report, and I welcome that, in the sense that it has initiated debate on this subject. The debate on the question of rock lobster pot allocations is now livening up—as, indeed, it should. All members have received a copy of a letter from SARLAC (South Australian Rock Lobster Advisory Committee). In its response to the report, even though it presently controls well over 90 per cent of the rock lobster catch each year, naturally, it is not too keen on seeing any inroads, however small they might be, being made by an extension to recreational rock lobster fishers. Nevertheless, I think it is pleasing that at least the debate is now livening up, and I think that is something for which the Legislative Review Committee report is responsible.

I note that, in the conclusion to the letter that we received from SARLAC, under the heading 'A way forward?' the following comments are made:

The commercial sector recognises and supports the rights of all South Australians to have an opportunity to access the lobster fishery, but this must not come at the expense of the marine environment, the lobster stock, exports and regional jobs. We are committed to working with the recreational sector and the Department of Primary Industries and Resources to find a way to equitably share the 14 000 pots already available and the 80 per cent of the amateur catch which is currently taken by 20 per cent of recreationals. Options include:

- one pot instead of two per person would double the number of participants, and/or
- short-term 'tourist' hire options could solve the pot matter forever while delivering even more jobs and income to regional businesses and
- if necessary we support converting catch and pots to recreationals at commercial rates.

We are working on these options and will endeavour to keep you informed of progress on this emerging opportunity. . .

As I said, SARLAC, naturally, will protect its position, but at least it is heartening to hear that some attempts are under way to try to resolve this matter in a satisfactory manner to each of the two parties—the professional sector and the recreational sector. If the Legislative Review Committee report is responsible for initiating discussions which result in such a solution, it will have been a most worthwhile exercise by the committee.

I support the motion to note the report. I think it has made a significant contribution to debate on this subject. It is an extremely complex issue, as I acknowledged when we were referring this matter to the Legislative Review Committee, and I hope that we can come up with a solution in the near future somewhere along the lines that the Legislative Review Committee was heading. I certainly would not necessarily accept every single recommendation made by the committee. In any case, that is a matter for my colleague the deputy leader in another place, who is the shadow minister for primary industries. But I think at least at this stage we can welcome the contribution to the debate that has been made by the Legislative Review Committee.

The Hon. T. CROTHERS: I rise briefly to support the recommendations of the committee, and I will outline a couple of reasons I have for so doing. One is that, with the export of lobsters overseas, there is very little left on the local market for anyone to buy. When one does buy it, instead of paying a reasonable local price for it, one is paying the price that the Americans and Japanese are prepared to pay for lobster tails. There is much to be said for the recommendations of the committee in so much as it is the greed of some of our crustacean fishermen themselves that has brought about this recommendation. I do not accept the proposal in respect of one pot instead of two at all, because someone who has retired and has one pot will be out using it every day, whereas someone with two pots will certainly go out from time to time and use the pots.

The third matter that gets up my nose a bit is that there is so much taxpayers' money now being spent on the development of aquaculture, and I wonder how much of the development money is coming out of the public purse and how much is coming out of the purses of the people who will reap the benefits of the advances being made in aquaculture. I am talking about being able to farm barramundi, trout, molluscs such as abalone—both green and black lipped—and many other fish. Atlantic salmon in the South-East is a prime example. It is not just Tasmania where Atlantic salmon are farmed: they are also farmed in the South-East.

I believe the committee has considered many of these aspects and perhaps more and, whilst it is true that I am a hobgoblin from way back and an evil spirit from time to time, I have enough sense to understand where this committee is coming from. The professional fishermen simply cannot have it all their own way. More particularly, it is no good people saying that they earn big export dollars for the state; that is not really true. The fact is that most of our export dollars are now coming from aquaculture products that we export into Japanese markets—products that are popular but maybe not so popular here, such as abalone, and the mussels from the farms we are setting up in the deeper waters around Kangaroo Island. I support the motion. It is obvious to me that a lot of good thinking and good work has gone into it. I support the motion without any equivocation.

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

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY: I move:

That this bill be now read a second time.

This bill was first introduced by my colleague the member for Mitchell in another place on 11 November 1999—a rather propitious date. My second reading speech is essentially the same as the contribution made by the member for Mitchell on that date, except where I refer to amendments made in another place to the original bill. This bill is based on the very simple concept that this state parliament should introduce fixed four year terms. Members would be aware that at present we have a very elastic situation whereby the term of parliament can be anywhere from about three to nearly 4½ years. This bill proposes that the date for elections be fixed at the third Saturday in March every four years, commencing in 2006 and running every election thereafter, provided that no exceptional circumstances arise.

Members would be aware that in the constitution at present there is provision for early elections to be called if the government loses a no confidence motion in the House or if a bill of special importance is denied by this chamber after passing the House of Assembly. This process remains the same under the bill. The public expects members of parliament to serve out four year terms in their entirety. The current situation means that a so-called four year term could last anything from three years to 4½ years, depending on the whim of the Premier and executive of the day. The fixed term proposal actually takes any option of political expediency away from the Premier and the executive.

This bill proposes that the public should know where it stands and that members of parliament and their supporters should know where they stand in terms of the timing of elections. In any case, the supposed benefit of being able to call a snap election at any time after three years in South Australia is perhaps illusory. When one considers the most recent Victorian and South Australian elections, it becomes apparent that there is perhaps no longer any real advantage in calling an early election or trying to pick the right timing politically for an election.

In Victoria, Premier Kennett tried to pick the right time to go to the polls and he was defeated. At the last state election, despite an overwhelming advantage in terms of numbers and resources, Premier Olsen went to the polls trying to seek exactly the right timing and was very nearly defeated. New South Wales has adopted the measure of fixed four year terms. Elections are held there on the first Saturday of March every four years. It is interesting to note that at the last election the Carr government was returned with what could be called a landslide majority. It therefore appears there is little political advantage to be gained any more in calling a snap election.

When in the mid 1980s the parliament extended the parliamentary term from three to four years, the average time between elections in that era was about 2¼ years. It is true that the average has increased since four year terms have been introduced, but the situation continues to be satisfactory. I seek leave to have inserted in *Hansard* a table listing the dates of all state elections held in South Australia since 1901.

Leave granted.

SA elections since 1901

3 May 1902	27 May 1905	3 November 1906
2 April 1910	10 February 1912	27 March 1915
6 April 1918	9 April 1921	5 April 1924
26 March 1927	5 April 1930	8 April 1933[i]
19 March 1938	29 March 1941	29 April 1944
8 March 1947	4 March 1950	7 March 1953
3 March 1956	7 March 1959	3 March 1962
6 March 1965	2 March 1968	30 March 1970
10 March 1973	12 July 1975	17 September 1977
15 September 1979	6 November 1982	27 December 1985[ii]
25 November 1989	11 December 1993	11 October 1997

[i]The Constitution (Quinquennial Parliament) Act 1933 (No. 2141) extended the life of the existing parliament to five years.

The five year term was made permanent by the Constitution Act Amendment Act 1937. (No. 2381) but the Constitution Act Amendment Act (No. 2) 1939 (No. 49 of 1939) restored the three year term.

[ii]In 1985 South Australia changed from three to four years parliamentary terms with a three year minimum term component. (Constitution Act Amendnent Act, 1985. No. 84.)

The Hon. P. HOLLOWAY: One very sensible reason to endorse this measure is that, during the final year of a government's term, when the Premier has the power to call an election at any time, the state really is in campaign mode. One thing is guaranteed during this period: there will be no drastic changes in policy and no bold initiatives by government, because an election can be called at any time. Parliament will sit less, because members want to spend more time in the electorate, electioneering and campaigning. There is no doubt that the public would rather members were in parliament governing the state, rather than carrying out some kind of Clayton's election campaign. Therefore, the current system means we virtually waste one year in every four in terms of good government.

This bill is not just about more certainty: it is about better government. It is also about saving money, because over time we will actually have fewer elections than we have now. While that figure may be marginal, it is still an important factor to consider.

During debate in the other place, there was some discussion as to when a fixed term election should take place. The original bill called for fixed term elections to be held in October, beginning in 2001; that is, exactly four years after the last election, which was held on 11 October 1997. An amendment, moved by my colleague the member for Mitchell and passed in another place, proposed that the fixed term election be held on the third Saturday in March 2006.

I intend now to briefly explain the clauses of this bill. Clause 1 simply refers to the title of the bill as the Constitution (Parliamentary Terms) Amendment Act 1999. Clause 2 of the bill makes clear that the elections for the Legislative Council are to continue in their current form, that is, there will be fixed eight-year terms for Legislative Councillors. Clause 3 of the bill is the main clause and sets the election date as the third Saturday in March. This clause also provides for the postponement of a state election should the Governor become aware of a commonwealth election being called just prior to the time at which the Governor should call the state election. This clause provides for the Governor to postpone, for four weeks, the calling of a state election if a commonwealth election is called.

Clause 4, which is consequential, ensures that the exceptional circumstances which may trigger an early election remain intact—basically, situations where the government of the day loses a no confidence motion in the House, or if a bill of special importance is denied by this chamber after passing through the House of Assembly it can still trigger an early election. Under clause 3, the subsequent election would be held in March in the fourth calendar year after the calendar year in which that election was held.

Clause 5 provides for the commencement of the act, stating that it will come into operation on the first day of the Fiftieth Parliament. This clause also provides that the first fixed term election will take place on the third Saturday in March 2006. I commend the bill to the Council.

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

VICTIMS OF CRIME BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to lay down principles to govern the treatment of victims of crime in the criminal justice system; to provide limited rights to statutory compensation for injury suffered as a result of the commission of criminal offences; to repeal the Criminal Injuries Compensation Act 1978; to make related amendments to other acts; and for other purposes. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This bill reflects the government's commitment to victims of crime, and results from the victims' review, a 3 part analysis of the law and practice relating to victims of crime in this state.

Report One was released in June 1999, and dealt with issues, such as the Declaration of Rights for Victims of Crime, the use of victim impact statements in the courts, and the services available to victims. The recommendations of that Report have resulted in initiatives, such as a review of the information provided by police to victims and expansion of the services available to victims in country areas.

On the completion of the review in December 2000, the Attorney-General made a ministerial statement and released Reports Two and Three for public comment. Report Two comprised the results of a survey of victims about their views and experiences. Report Three was an analysis of the present law relating to criminal injuries compensation, including a number of recommendations for amendment. Several organisations took the opportunity to comment on the recommendations of Report Three. The government has carefully considered the reports and the comment received. This bill is the result.

The bill has two aspects. First, the bill enshrines in legislation the rights of victims of crime in their dealings with the criminal justice system. The provisions are based on the Declaration of Rights for Victims of Crime adopted by Cabinet some time ago. However, there have been some modifications to reflect changed practices within the criminal justice system, and some additions. In particular, 2 new rights are added. These are the right to be informed about health and welfare services which may be available to a victim, and the right to be informed of any available grievance procedures.

The bill sets out how victims are to be treated in the criminal justice system. First of all, it provides that they are to be treated with courtesy, respect and sympathy. Any special needs are to be taken into consideration.

Secondly, it gives extensive rights to information. For example, it provides that victims who wish to have this information are to be given details of such matters as the progress of police investigations, whether anyone has been charged, and the outcome of court proceedings. If the prosecution does not proceed with the case, the victim is entitled to know why. If the offender escapes from custody, or is recaptured, the victim is entitled to know about this.

Thirdly, victims are declared to have certain rights to have their concerns heard and taken into account in criminal justice dealings with the alleged offender. For example, where a victim is concerned that a suspect who has been arrested may be bailed, the victim is entitled to have any perceived need for physical protection brought

to the attention of the bail authority. If the offender is bailed, the victim who wishes to have this information can find out what the bail conditions are and, in particular, what conditions have been set for the victim's protection. Where an offender applies for parole, a victim who wishes to make submissions to the Parole Board on the application is entitled to do so. At present, only victims of personal violence and sexual offences can do so. The bill would amend the Correctional Services Act 1982 in this respect.

Where an offender is charged and the victim will be a witness in court, the bill provides that the victim is entitled to be informed by the prosecution about the trial process and the victim's rights and responsibilities as a witness. This could include, for instance, being told about the opportunity to apply to use vulnerable witness equipment, and the right to an interpreter. The prosecutor should also tell the victim about the option of applying for restitution or compensation in the criminal proceedings, where this is available and should, if asked, make an application on the victim's behalf.

However, the bill also provides that a victim is not to be required to attend the court unnecessarily, as, for example, where there will be merely an adjournment or a procedural hearing at which the victim is not required.

The victim is also entitled to be protected from unnecessary contact with the offender and his or her witnesses in the course of a trial, and to have the victim's residential address kept private, unless it is a relevant fact in the case.

These rights are intended to be accorded to victims by all personnel in the criminal justice system—by police, prosecutors and other officials who deal with them. However, the principles are not to affect the way in which criminal cases are conducted, nor do they give rise to legal claims for damages if a right is not accorded to a victim. Failure to accord a right might well be dealt with, however, by a grievance procedure, such as a complaint to the Police Complaints Authority or the Ombudsman. Also, the rights do not cut down the rights of others in the criminal justice system—they must be balanced against any other applicable obligations.

While Report One did not recommend that these rights be enshrined in legislation, the government has considered this desirable as a way of according proper recognition to victims in the criminal justice system and of formally identifying what they are entitled to expect of the persons and agencies dealing with them.

The bill also amends the law relating to criminal injuries compensation. It repeals the present Criminal Injuries Compensation Act 1978, and sets out afresh and with some significant changes, the law relating to claims for compensation where a person is injured as a result of a crime. The object of these amendments is to bring the operation of the legislation closer to what was originally intended; that is, monetary payments to those persons who suffer physical or mental injuries as a result of violent or sexual offences.

As outlined in Report Three, the present law has proved to be very wide in its operation, to the point that it may compensate persons who, the government believes, Parliament would not have intended to compensate had it considered them at the time. Examples might include persons on whose property a body is buried (even though they do not discover or ever come into contact with the body), persons who suffer depression as a result of a fraud by a business associate, or persons accidentally knocked down by a cyclist riding on a footpath who fails to sound the bell.

A significant change proposed to the present law by the bill, therefore, is to limit entitlement to persons who are injured in certain circumstances. Report Three recommended limiting compensation to 'acts of violence'. The bill takes a slightly broader approach, and would compensate certain victims of offences of violence, offences which involve a threat of violence or imminent risk of harm, sexual offences, and offences which result in death or injury to any person. It also restricts who can claim compensation, following the Report's proposal that there should be identified categories of victims. Those who can claim under the bill are persons physically injured by the offence, or psychologically injured by being involved in the circumstances of the offence, rescuers dealing with the immediate aftermath of the offence, parents of child victims, and the immediate family of a homicide victim. This will mean that, for example, a person who is traumatised by seeing television footage of the crime or its aftermath, or by attending the scene at a later date, cannot claim compensation.

In relation to homicide, as under the present law, parents and spouses of the deceased are entitled to solatium for grief, and dependants may claim for the loss of financial support from the deceased. Members of the immediate family who suffer psychological injury as a result of the homicide are also able to claim. However, persons who are not within the category of immediate family members (as defined) are not able to claim for mental injury. Funeral expenses are reimbursed and the maximum amount payable will increase to $5 000 to reflect current costs, as per Recommendation 9 of Report Three.

While Report Three recommended that the law should identify categories of victims, with differential maximum entitlements (Recommendation 1), the bill does not do this. The same maximum award, and the same principles of assessment, apply to all victims. On consideration of the submissions received, the government was not persuaded that there was any benefit in prescribing lower maxima for certain categories of victim.

Speaking generally, the bill does not alter the statutory provisions as to the assessment of claims on the Fund. The statutory maximum, the points scale, and the formula for economic loss claims, are unchanged. The bill would however set a threshold for the recovery of compensation for non-economic loss. The Review recommended that the threshold be set at 5 points, but that this be monitored as to the effect on victims of minor assaults (Recommendations 13 and 14). However, on consideration, this threshold was considered to be too high, and the bill instead fixes a threshold of 3 points. This is intended to stop claims being made for trivial injuries, such as cut fingers, bruising or muscle strains with no serious resulting harm. Claims of any substance, which leave a person with problems or restrictions, either mental or physical, which are more than just short-term, will generally exceed this threshold.

Conversely, the bill would abolish the present $1 000 combined threshold for loss. The result will be that a person can claim for any level of economic loss. For example, a person who is taken to hospital, but on examination is found to have no significant injuries and is discharged, will now be able to claim the ambulance transport cost. At present, this can only be claimed if the person can prove that he or she has an injury warranting a sufficient fraction of 1 point to make up the total to over $1 000.

The bill goes further than the present Act in another respect. It adds a new power to make discretionary payments to victims who do not assert that they have suffered any injury at all, but who seek financial assistance to overcome the effects of a crime. For example, the person who is frightened by a serious criminal trespass (so-called 'home invasion'), but is not physically hurt and does not suffer a mental illness or disability, might apply for financial assistance towards expenses of home security measures, such as installation of sensor lights, security screens or window locks.

These applications can be made by letter and it will not be necessary to issue court proceedings. These will not be lump sum payments in recognition of harm, as other *ex gratia* payments may be, but payments towards particular identified expenses which, in the Attorney-General's opinion, have been reasonably necessitated by the offence and will help the victim recover. In many cases, little or no medical evidence may be necessary, depending on what is claimed. Each application will be considered on its merits by the Attorney-General or his or her delegate. The Attorney-General will normally require to be satisfied that the offence actually occurred and that the victim appropriately assisted police inquiries.

It is hoped that this measure will assist those victims who are not injured, or not seriously so, and do not seek to claim compensation for injury, but who need practical assistance to recover from the offence against them.

Where a claim for injury compensation is made, the matters to be considered by the court in awarding compensation will remain largely unchanged. For example, the court must consider any conduct of the victim which contributed to the offence or the injury. The present special provisions dealing with victims who were engaged in indictable offences at the time of injury will remain, as will the victim's obligation to report the offence and co-operate with police inquiries. However, the bill adds a new requirement that the court take into account any failure by the claimant to mitigate his or her loss and, in particular, any failure to avail himself or herself of proper medical treatment or rehabilitative therapy. This requirement applies to common law claims for damages; that is, a person who sues for damages is under a duty to keep his or her harm to a minimum by taking appropriate steps. There is no reason why this should not also apply in the arena of criminal injuries compensation. So, for example, where an injury could have been treated or a disability minimised by physiotherapy, or by taking up a referral to a psychologist, but the victim failed to take these steps, the court can consider this in fixing the amount of compensation.

The bill has an emphasis on the early settlement of claims, in that applications cannot be made in the first instance to the court, but

must be made to the Crown. If they cannot be settled within 3 months, or such longer period as the parties may agree, the victim may then apply to the court. This is a slight change to the current procedure, whereby the Crown is merely notified of the claim. Note also that the bill includes an express provision about costs where a victim is offered compensation but rejects it. The victim will not recover further costs after 14 days from the making of this offer, unless the award exceeds the offer. This provision reflects the current practice whereby the Crown makes a formal offer, either by filing an offer in court or by an open letter. The purpose of putting it in the statute is to draw it prominently to the attention of victims and have it apply automatically, without the need for a filed offer in each case. The provision is designed to encourage victims to accept fair and reasonable offers of compensation at an early stage. Of course, there is no costs penalty if it proves that the Crown's offer was inadequate and in that case the Fund will bear the victim's costs in the ordinary way.

The bill also specifically restricts the rights of sentenced prisoners to claim for psychological trauma resulting from witnessing offences whilst in custody. Report Three proposed that prisoners should not be able to claim compensation at all for injuries as a result of criminal offences in gaols (Recommendation Four). However, several submissions argued that offenders who are assaulted should retain their entitlement to claim. A composite approach has therefore been taken in the bill. While a prisoner who is assaulted or sustains a physical injury can still claim, a prisoner who sustains a psychological injury merely because he or she is present when an offence occurs cannot claim. This will mean that, for example, a prisoner who suffers mental trauma because he or she is present when one prisoner threatens or attacks another will no longer be able to make a claim.

Another change proposed by the bill is an expansion of the purposes of the Fund in accordance with Recommendation 8. Its name is to be changed from the Criminal Injuries Compensation Fund to the Victims of Crime Fund and the bill provides that the Attorney-General may make payments from the Fund to any agency, not only to advance the interests of victims, but also to assist in the prevention of crime. For example, grants could be made for education campaigns to inform the community about risk awareness and safety measures. It is considered that measures which prevent crime will help to reduce the number of persons injured by criminal offending.

Also, as recommended by the Report (Recommendation 15), the bill amends the law about the levy to be paid by offenders. The third report recommended, and the government agrees, that the levy should be CPI-indexed and that those persons who commit offences liable to give rise to criminal injuries compensation claims should contribute more than other offenders to the Fund. This is provided for in the bill among the factors relevant to fixing the levy. Because there are to be differential rates of levy and because the levy is to be CPI-indexed, the bill provides for the levy to be set by regulation rather than in the Act, as at present.

One of the difficulties experienced in the operation of the present law concerns the inclusion of the second defendant. It can happen that the Crown and the victim are able to agree on an award of compensation and wish to settle the case. However, the second defendant, that is, the offender, may not agree and may insist on his or her 'day in court'. At present, the second defendant can, therefore, force the case to trial despite the accord between the victim and the Crown, whether or not the second defendant has a meritorious defence to the case and notwithstanding that he or she may have been convicted of the offence. The bill provides, therefore, that the Crown may reach agreement on a settlement with the victim, even without the second defendant's consent, bringing the action to an end. The Crown may then apply for judgment against the second defendant for the sum paid to the victim. However, the second defendant may contest the judgment on the basis that it was unreasonable. For example, he or she can seek to prove that the amount agreed was too high for the injuries sustained, or that there was relevant conduct on the part of the victim which contributed to the injuries. Of course, this is the second defendant's application and he or she runs the risk of a costs order if it does not succeed.

The bill also makes a minor change to the right of the second defendant to require the medical examination of the claimant. While it was considered important to preserve this right, the bill requires that the second defendant apply to the court for an order for such an examination. This is to enable the court to ensure that the proposed examination is appropriate and to allow the victim to be heard on the matter. It is designed to combat any vexatious or harassing use of this entitlement.

There are other changes. The bill contemplates that the Attorney-General may establish an advisory committee to give advice on practical initiatives that the government might take to advance the interests of victims of crime, and to offer advice on specific issues at the government's request. In May 1999, the Attorney-General established a Ministerial Advisory Committee on Victims of Crime, comprising senior executives or managers from the Department of Premier and Cabinet, the Justice Portfolio, the Department for Human Services, Department of Education Training and Employment, Division of State Aboriginal Affairs, the Law Society and the Victim Support Service. Doctor Bruce Eastick chairs the Committee. The Committee is working well. It has played, and will continue to play, a significant role in advising the Attorney-General on victim issues and assisting with the implementation of the government's victim initiatives. This clause will raise the profile of the Ministerial Advisory Committee and reinforce its role. It will recognise the Committee as is similarly done with other like Committees and advisory panels that perform important functions.

The bill also specifically provides for the role of the Victims of Crime Co-ordinator, who is to be a member *ex officio* of the Committee. This person is charged with advising the government on effective use of its resources to assist victims of crime.

Finally, as under the present law, criminal injuries compensation is intended to be a last resort. It will not be available where the injuries would be covered by workers compensation or compulsory third party insurance, nor will it cover treatment costs which could be claimed from a health fund or scheme. However, the bill does not adopt the recommendation of the review that those who are eligible for workers compensation should have no entitlement to criminal injuries compensation (Recommendation 5). Most commentators advocated the retention of the present law in this respect. Instead, the bill preserves the present position whereby, if the person has sustained a harm (such as a disability due to mental illness or injury) which is not compensated by workers compensation, this may be claimed on the Fund.

However, because the Fund is intended to be a last resort, the law seeks to discourage claims being made where, because other compensation has been paid or is available, the claim will result in no benefit to the victim because there will be no net payment of compensation from the Fund. Under the bill, as under the present law, the Attorney-General has a discretion to reduce any award to take account of compensation paid or payable from other sources. It can happen that, even though a person has been fully compensated from another source, such as an insurance policy or workers compensation, a claim is made on the Fund. The claimant is well aware of the likelihood that any award will be reduced to nil in the exercise of the Attorney-General's discretion. The claimant, therefore, gains no benefit. He or she does, however, recover the legal costs associated with the claim on the Fund. This is not what the Fund is for. Under the bill, it is proposed to discourage this practice by giving the Attorney-General a discretion also to refuse to pay costs in these cases. It should be noted that, because of the provisions of Schedule 1 clause 2, this discretion becomes available immediately on commencement of the new Act, even for pending cases.

The bill therefore achieves two distinct aims. It adds new benefits for victims, as follows:

- victims rights are clearly and prominently identified in the law of our state
- victims can now apply to recover out-of-pocket expenses without the need to prove injury and without establishing a minimum loss of $1 000
- victims can settle claims with the Crown even where the second defendant does not consent
- the second defendant must seek a court order for a medical examination of the victim
- the groundwork is laid for revenue to the Fund to be increased
- the Fund can be applied to crime prevention to prevent future victimisation.

The bill also removes from the ambit of the compensation scheme persons who were never really intended to be covered as victims, and refocuses the law on those persons most directly and seriously affected by criminal offending.

I commend the bill to the house.

Explanation of clauses

This is a bill for an Act to lay down principles to govern the treatment of victims of crime in the criminal justice system; to

provide limited rights to statutory compensation for injury suffered as a result of the commission of criminal offences; to repeal the Criminal Injuries Compensation Act 1978; to make related amendments to other Acts; and for other purposes.

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

It is the intention of this proposed Act to give statutory recognition to victims of crime and the harm they have suffered, to establish principles governing how victims of crime are to be treated in the criminal justice system, to help victims of crime recover and to provide limited monetary compensation to victims most directly affected by criminal offending.

Clause 4: Interpretation

This clause contains definitions of words and phrases necessary for the interpretation of this measure.

In particular, a claimant is a person by whom, or on whose behalf, an application for statutory compensation (that is, compensation under this measure) is made.

A victim (in relation to an offence) is a person who suffers harm as a result of the commission of the offence (but does not include a person who was a party to the commission of the offence).

An immediate victim, in relation to an offence, means a victim of any of the following classes:

- a person who suffers physical injury as a result of the commission of the offence; or
- a person who suffers psychological injury as a result of being directly involved in the circumstances of the offence or in operations in the immediate aftermath of the offence to deal with its consequences;
- if the offence was committed against a child—a parent or guardian of the child;
- if the offence was committed against a person who dies as a result of the offence—a member of the immediate family of the deceased.

PART 2: VICTIMS OF CRIME IN THE CRIMINAL JUSTICE SYSTEM

DIVISION 1—EXPLANATORY PROVISIONS

Clause 5: Reasons for declaration and its effect

In this Part, Parliament seeks, out of concern (both national and international) for the position of victims of crime within the criminal justice system, to declare the principles that should govern the way victims are dealt with in the system. The principles declared, however, are not enforceable in law, do not give rise to a right to sue for damages if breached and have no effect on the conduct of criminal proceedings.

DIVISION 2—DECLARATION OF PRINCIPLES GOVERNING TREATMENT OF VICTIMS IN THE CRIMINAL JUSTICE SYSTEM

Clause 6: Fair and dignified treatment

A victim should be treated with courtesy, respect and sympathy and with due regard to any special need that arises because of the victim's circumstances.

Clause 7: Right to have perceived need for protection taken into account in bail proceedings

If a victim feels a need for protection from the alleged offender, a person representing the Crown in bail proceedings should ensure that the perceived need for protection is brought to the attention of the bail authority (*see also s. 10(4) of the Bail Act 1985*).

Clause 8: Right to information about criminal investigation and prosecution

A victim should be informed, on request, about—

- the progress of investigations into the offence;
- the charge laid and details of the place and date of proceedings on the charge;
- if a person has been charged with the offence—the name of the alleged offender;
- if an application for bail is made by the alleged offender—the outcome of the application and any condition imposed to protect the victim from the alleged offender;
- if the prosecutor decides not to proceed with the charge, etc—the reasons for the prosecutor's decision;
- the outcome of the criminal proceedings and of any appeal proceedings;
- details of any sentence imposed on the offender;
- if the offender is sentenced to imprisonment and later makes an application for release on parole—the outcome of the proceedings.

A victim should also be informed, on request, about any absconding, escape, return to custody, and details of the imminent release from custody of the offender.

A victim should be informed, on request, about procedures that may be available to deal with a grievance the victim may have for non-recognition or inadequate recognition of the victim's rights.

A victim is not entitled, however, to any information that might jeopardise the investigation of an offence.

Clause 9: Victim to be advised on role as witness

A victim who is to be a witness for the prosecution at the trial of the offence should be informed by the prosecution about the trial process and the victim's rights and responsibilities as a witness for the prosecution.

Clause 10: Victim entitled to have impact of offence considered by sentencing court and to make submissions on parole

A victim is entitled to have any injury, loss or damage suffered as a result of the offence considered by the sentencing court before it passes sentence (*see also ss. 7 and 7A of the Criminal Law (Sentencing) Act 1988*).

A victim of an offence is entitled to make written submissions to the Parole Board on questions affecting the parole of a person imprisoned for the offence (*see also s. 77(2)(ba) of the Correctional Services Act 1982*).

Clause 11: Victim to be informed about access to health and welfare services

A victim should be informed about health and welfare services that may be available to alleviate the consequences of injury suffered as a result of the offence.

Clause 12: Rights in relation to compensation and restitution

A victim should have access to information about how to obtain compensation or restitution for harm suffered as a result of the offence.

Clause 13: Return of property

If a victim's property is taken for investigation or for use as evidence, the property should, if practicable, be returned to the victim as soon as it appears that it is no longer required for the purposes for which it was taken.

Clause 14: Protection of privacy

There should be no unnecessary intrusion on a victim's privacy. In particular, a victim's residential address should not be disclosed unless it is material to the prosecution or defence, and a victim should be protected from unnecessary contact with the alleged offender and defence witnesses (*see also s. 13 of the Evidence Act 1929*).

PART 3: VICTIMS OF CRIME ADVISORY COMMITTEE AND CO-ORDINATOR

Clause 15: Power to establish advisory committee

The Minister may establish an advisory committee to advise the Minister on practical initiatives that the government might take in relation to victims of crime.

Clause 16: Victims of Crime Co-ordinator

The Governor may appoint a suitable person to be the Victims of Crime Co-ordinator who will be an *ex officio* member of the advisory committee. The Victims of Crime Co-ordinator has the following responsibilities:

- to advise the Minister on marshalling available government resources so they can be applied for the benefit of victims of crime in the most efficient and effective way;
- to carry out other functions related to the objects of this measure assigned by the Minister.

PART 4: COMPENSATION

Clause 17: Eligibility to make claim

A person is eligible to claim statutory compensation for injury caused by an offence if the person is an immediate victim of the offence and at least one of the following conditions is satisfied:

- the offence involved the use of violence or a threat of violence against the person or a member of the person's immediate family;
- the offence created a reasonable apprehension of imminent harm to the person or a member of the person's immediate family;
- the offence is a sexual offence;
- the offence caused death or physical injury.

A person is eligible to claim statutory compensation for grief suffered in consequence of the commission of a homicide if the person is—

- a spouse of the deceased victim; or
- where the deceased victim was a child—a parent of the deceased victim.

A person is eligible to claim statutory compensation for financial loss suffered by the dependants of a deceased victim if—

- the victim died as a result of the injury caused by the offence; and
- no previous order for statutory compensation has been made in respect of the injury; and
- the person is, in the court's opinion, a suitable person to represent the interests of the dependants.

A person is eligible to claim statutory compensation for funeral expenses if—
- a victim dies in consequence of the offence; and
- the person has paid, or is responsible for payment of, the victim's funeral expenses.

A person is not entitled to statutory compensation—
- if the injury arises from a breach of statutory duty by the person's employer that occurs in the course of the person's employment; and
- if the person has received, or is entitled to receive, workers compensation for the same harm;
- if the injury is caused by, or arises out of the use of, a motor vehicle;
- for hospital or medical expenses that would (if no award for compensation were made) be recoverable from a health fund or scheme;
- if the person is a prisoner—for psychological injury resulting from an offence committed in prison unless the person/prisoner also suffered physical injury.

Clause 18: Application for compensation

A person who is eligible to claim statutory compensation may, within the initial application period, apply for statutory compensation.

The initial application period is—
- for an application by a victim—3 years after the commission of the offence;
- for an application arising from the death of a victim—12 months after the date of death.

An application is to be made in the first instance to the Crown Solicitor.

If a claim for statutory compensation has not been settled by agreement between the Crown Solicitor and the claimant within the period for negotiation (as defined), the claimant may apply to the court for an order for statutory compensation.

Clause 19: Joinder of offender as party to court proceedings

If an application for statutory compensation is made to the court, the offender is (subject to this clause) to be a party to the proceedings before the court and a claimant who makes an application to the court must (subject to this clause) serve a copy of the application on the offender.

Clause 20: Orders for compensation

Subject to this measure, on an application for statutory compensation, the court may make an order for compensation.

If the Crown consents to the making of an order for compensation, the court may make an order on terms agreed by the claimant and the Crown.

The court must observe certain rules and have regard to any conduct on the part of the victim that contributed to the commission of the offence, or to the victim's injury, and such other circumstances as the court considers relevant, when awarding statutory compensation to a claimant.

The court must not make an order for compensation in favour of a claimant if the court—
- is satisfied beyond reasonable doubt that the injury to the claimant occurred while the claimant was engaged in conduct constituting an indictable offence; and
- is satisfied on the balance of probabilities that the claimant's conduct contributed materially to the risk of injury to the claimant,

(unless the court is satisfied that, in the circumstances of the particular claim, failure to compensate would be unjust).

The court must not make an order for compensation in favour of a claimant if it appears to the court that the claimant, without good reason, failed to fully co-operate and, in consequence, investigation or prosecution of the offence was not commenced or was terminated or hindered to a significant extent.

In deciding the amount of compensation to be awarded, the court must also take into account any failure by the claimant to avail himself or herself of proper medical treatment or rehabilitative therapy or any other failure to take proper steps to mitigate his or her loss.

No interest may be awarded by the court in respect of the whole or any part of the amount of statutory compensation ordered but the court may make certain orders as to costs.

Clause 21: Medical examination of claimant

This clause provides for medical examinations of a claimant for the purposes of this measure.

Clause 22: Evidence and proof

Subject to this measure, any fact to be proved by a claimant in proceedings under this measure is sufficiently proved if it is proved on the balance of probabilities.

No order for statutory compensation may be made (except by consent of the Crown) on an application unless—
- the commission of the offence to which the application relates has been admitted, or proved beyond reasonable doubt, in court proceedings, or has been admitted in statutory proceedings related to the offence, or can be reasonably inferred from admissions made in any such proceedings; and
- the other facts on which the application is based have been proved on the balance of probabilities.

If an order for compensation is sought in respect of an offence, and no person has been brought to trial charged with the offence, the evidence of the claimant as to the commission of the offence, unless supported in a material particular by corroborative evidence, is not sufficient to establish the commission of the offence.

Clause 23: Joint offences

If an application for statutory compensation in respect of injury, loss or grief is made in consequence of an offence committed by more than one offender, the court may make only one order for statutory compensation in respect of the injury, loss or grief.

If an application for statutory compensation in respect of injury, loss or grief is made in consequence of a series of offences committed consecutively by one offender, or a series of offences committed simultaneously or consecutively by offenders acting in concert, or in circumstances in which those offences constitute a single incident, the court may make only one order for statutory compensation in respect of the injury, loss or grief.

Clause 24: Appeals

A party to statutory compensation proceedings may, subject to the rules of the Supreme Court, appeal to the Full Court of the Supreme Court against any final order made by the court in those proceedings. However, if an order for compensation is made by consent of the Crown, the offender cannot appeal against that order.

Clause 25: Legal costs

Despite any Act or law to the contrary—
- costs awarded in proceedings under this measure must not exceed the amount allowable under the prescribed scale (plus GST); and
- a legal practitioner must neither charge nor seek to recover in respect of proceedings under this measure an amount by way of costs in excess of the amount allowable under the prescribed scale (plus GST).

The Governor may, by regulation, prescribe a scale of costs for these purposes.

Clause 26: Representation of Crown in proceedings

The Crown may be represented by any person nominated by the Attorney-General in preliminary or interlocutory proceedings, or at a hearing for a consent order, under this measure.

PART 5: PAYMENT OF COMPENSATION

Clause 27: Payment of compensation, etc., by Attorney-General

Subject to subclause (2), the Attorney-General must satisfy any order for statutory compensation (or for statutory compensation and costs) within 28 days of—
- the day on which a copy of the order is lodged by the claimant with the Attorney-General; or
- if an appeal has been instituted against the order, the day on which the appeal is withdrawn or determined,

(whichever is the later).

Subclause (2) provides that if—
- the claimant has received or is entitled to payments apart from this measure in respect of the injury or loss (other payments); and
- the Attorney-General is satisfied that, in view of the other payments, it is just to exercise the powers conferred by this subclause,

the Attorney-General may decline to satisfy an order for statutory compensation (or for statutory compensation and costs), or may reduce the payment to be made to the extent it appears just to do so. The Attorney-General is given an absolute discretion to make certain *ex gratia* payments.

Clause 28: Right of Attorney-General to recover money paid out from offender, etc.

If the Attorney-General makes a payment to a claimant, the Attorney-General is subrogated, to the extent of the payment, to the rights of—

- the claimant, as against the offender or any other person liable at law to compensate the claimant for the injury, financial loss or grief in respect of which the payment was made; and
- the offender, as against any insurer or other person from whom the offender is entitled to indemnity or contribution in respect of liability arising from the injury or death in respect of which the payment was made.

Clause 29: Recovery from claimant

The Attorney-General may recover from a claimant any interim payment that was made if no order for statutory compensation is subsequently made or if the amount of statutory compensation paid is less than the amount of the interim payment. If the Attorney-General makes a payment under this measure to a claimant and compensation or damages received by the claimant subsequently from some other source was not taken into account by the Attorney-General in making the payment, or exceeds the amount taken into account by the Attorney-General, the Attorney-General may recover from the claimant, as a debt, the amount of the payment or the amount of the excess (as the case requires) but may not recover more than the amount received from the other source.

PART 6: VICTIMS OF CRIME FUND

Clause 30: Victims of Crime Fund

The Fund previously known as the *Criminal Injuries Compensation Fund* continues in existence as the *Victims of Crime Fund*. A payment made by the Attorney-General under this measure will be debited to the Fund and a deficiency in the Fund will be met from the General Revenue of the state.

Clause 31: Power to make discretionary payments from Fund

The Attorney-General has an absolute discretion to make payments from the Fund to a government or non-government organisation or agency for a purpose that will, in the Attorney-General's opinion, assist in the prevention of crime or advance the interests of victims of crime.

The Attorney-General also has an absolute discretion to make other payments from the Fund to or for the benefit of victims of crime that will, in the Attorney-General's opinion, help them to recover from the effects of crime or advance their interests in other ways.

Clause 32: Imposition of levy

A levy is imposed for the purpose of providing a source of revenue for the Fund. The amount of the levy may vary according to any one or more of the following factors:

- the nature of the offence;
- whether the offence is a summary or an indictable offence;
- whether or not the offence is expiated;
- whether the offender is an adult or a child;
- variations in the consumer price index.

PART 7: MISCELLANEOUS

Clause 33: Interaction between this Act and other laws

This measure does not exclude or derogate from rights to damages or compensation that exist apart from this measure.

Clause 34: Date as at which compensation is to be assessed

If a person is entitled to statutory compensation, the amount of the compensation must be assessed in accordance with the provisions of this measure as in force at the time of the commission of the offence from which the injury arose.

Clause 35: Delegation

The Attorney-General may delegate any of the Attorney-General's powers or functions under this measure.

Clause 36: Annual report

The administrative unit of the Public Service responsible, under the Attorney-General, for the administration of this measure must, on or before 30 September in each year, present a report to the Attorney-General on the operation and administration of this Act during the previous financial year and the Attorney-General must, within 12 sittings days after receipt of the report, cause copies of it to be laid before the Parliament.

Clause 37: Regulations

The Governor may make regulations for the purposes of this measure.

SCHEDULE 1: Repeal and Transitional Provisions

This Schedule proposes to repeal the *Criminal Injuries Compensation Act 1978* and to provide for necessary transitional matters.

SCHEDULE 2: Related Amendments to Other Acts

This Schedule contains amendments to the *Correctional Services Act 1982*, the *Criminal Assets Confiscation Act 1996*, the *Criminal Law (Sentencing) Act 1982*, the *District Court Act 1991*, the *Expiation of Offences Act 1996* and the *Stamp Duties Act 1923* related to this measure.

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

JOINT COMMITTEE ON TRANSPORT SAFETY

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

I. That it be an instruction to the Joint Committee on Transport Safety to extend its terms of reference to require it to consider and report upon the National Road Safety Strategy 2001-2010.

II. That a message be sent to the House of Assembly transmitting the foregoing resolution and requesting its concurrence thereto.

The National Road Safety Strategy 2001-10 was prepared and endorsed by the Australian Transport Council late last year, which comprises ministers of transport for the commonwealth, states and territories. It was also endorsed by the South Australian government. It is an ambitious national plan to reduce the road toll per 100 000 population by 40 per cent over the next 10 years. In South Australia's case, this would require a reduction of 65 fatalities a year, based on the 1999 death toll. The strategy is ambitious, as I indicated, and the goal we seek is a dramatic decline in road deaths and, we envisage, road injuries and health costs as a consequence of these measures.

The national road fatality rate has dropped over the years from 30.4 deaths per 100 000 population in 1970 to 9.6 deaths per 100 000 population in 1999. The financial cost of all road crashes in Australia, however, remains at $15 billion per annum. This is a huge issue for us to address at a time when parliaments and communities across Australia are addressing issues of access to hospitals and health budgets overall. There is no question that a successful road safety strategy can have a hugely positive impact on relieving loads and pressures within our hospital system, as well as the horror of personal tragedy within families, or death to people whom we do not know, on the roads where our actions can be responsible for their death and related family tragedy. A cost that we never take into account in personal terms is that of injury through road incidents and it can be that, although a person survives, and they may not even be a quadriplegic or a paraplegic, the impact on their health and wellbeing throughout their lives and on their family members can be absolutely profound.

So we, as transport ministers, and this state government, have endorsed this strategy. It is going to be even more challenging for South Australia than other states because we have a higher proportion of deaths in South Australia per 100 000 people than the national average. In South Australia we had 10.1 deaths per 100 000 people in 1999, compared with the 9.3 national average in that year. Therefore, to achieve the national target of 5.6 deaths per 100 000 population, we must reduce South Australia's toll from 151 in 1999 to 86 deaths in 2010. That is a reduction, as I mentioned earlier, of 65 fatalities a year by the year 2010.

Nobody would say that 86 deaths is an acceptable record in terms of road carnage each year in South Australia, but the reality is that since the 1970s the number of deaths in South Australia—and the same circumstances arise across Australia—essentially has plateaued to between 150 and 180. So, to come down to 86 deaths is an ambitious target even though 86 is still a horrible figure to endorse as an acceptable target—and I note that that is for the year 2010, not this year.

In setting this ambitious agenda the Australian Transport Council released the National Road Safety Strategy. It

proposes that, for each two years of the strategy, a national road safety action plan be prepared to outline issues for governments, oppositions, parliaments and independent members to consider as we play a critical role in heightening community awareness, improving road conditions and ensuring that enforcement is more effective—all measures required to reduce the road toll in this state.

I think that the transport safety committee of the parliament is a most appropriate forum to look at the strategy and the action plans for 2001-02 and to discuss with the community at large what we, as a community, can do to reduce road deaths, carnage, injury and health costs. This parliament set up the transport safety committee on the understanding that governments and police actions alone—no one measure or single influence—will not be sufficient to bring down road deaths and increase the responsibility for and consequences of one's own behaviour towards other people on the road. It will have to be a joint effort and a commitment that is accepted by the community at large—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: That's right, and we may have to provide a great deal more information to people who come from overseas about the very different driving conditions in Australia, especially those who come from Europe and the United States. The difference is not only that we drive on a different side of the road but also that we do not have the extensive freeway systems. We have a small population in Australia, and we have roads crossing this wide and enormous country. We do not have dual carriageways and our roads are shared by cyclists and heavy vehicles, and that is not an experience that many people in Europe or the United States encounter when travelling distances. So the honourable member is right: there is a whole range of actions that we must take not only with our own population—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Yes.

The Hon. T. Crothers interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: Yes, but we can also give much more information to people who come here from overseas. While people are on a flight we could get the airlines—and we could look at doing this Australia-wide—to put more information on the in-flight video screens about the conditions in Australia. A whole range of things can be considered by the joint committee. I think it is most appropriate that it does consider this reference, particularly the overall strategy and the action plans which contain possible measures for implementation in the year 2001-02.

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

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

Adjourned debate on second reading.

(Continued from 3 May. Page 1429.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The opposition supports the bill. We believe that the implementation of the bill is particularly important as it deals with the disposal of harmful substances carried by sea. As Australia is a signatory to the International Convention for the Prevention of Pollution from Ships (MARPOL) we are required to implement the MARPOL resolutions once they are ratified.

The bill contains a definition of 'prescribed incident' and requires reporting to include such incidents as grounding or fire which may lead to the pollution of state waters. This is consistent with an amendment to protocol 1 of MARPOL. It also addresses problems in prosecuting the master and owner of a vessel that spills oil or a noxious liquid substance as a result of damage caused through negligence. This is a very important issue because I believe that we have a very fragile coastal environment, and we have seen what coastal oil spills have done in the past in other parts of Australia and quite recently in South Australia.

It is unacceptable that some of the vessels that come into our waters are not careful enough and cause damage to our marine life and coastal shores that may never be repaired. It also establishes a maximum corporate penalty of $1 million for the discharge of oil or oily mixture into state waters from a pipeline, a structure or land, or a receptacle used for the storage of oil in the exploration for or the recovery of oil. Once again, we have seen this kind of occurrence in South Australian waters with somewhat disastrous effects. The hazardous spill that occurred recently is being dealt with legally, so I suppose we will have to wait and see what the outcome of that will be.

Although it will not alter our view, I have a couple of questions for the minister. The bill provides indemnity from liability for Crown employees and agents directed to take action under the South Australian Marine Spill Contingency Action Plan. Will the minister elaborate a little further on what the implications of that might be? I acknowledge that the spill at Port Stanvac is still being dealt with legally, but it is of interest to the opposition what that might mean in terms of liability of the Crown.

There has been a spillage at Port Stanvac but can the minister advise whether there have been any other recent spillages and, if so, what has been the financial implication for the person who caused the spillage? Have there been prosecutions in recent times? Perhaps the minister could outline what those prosecutions have been and the financial implication for the person who caused the spillage. With those brief words, we support the bill most strongly.

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

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 April. Page 1355.)

The Hon. T.G. CAMERON: The bill before the Council extends the right of the Electoral Commissioner to require public service officers to provide information to the Commissioner to help keep the electoral roll accurate. The Commissioner would be able to require information from all public sector employees and agencies and their employees. Penalties for misuse of information provided by the Electoral Commissioner will be increased from $1 250 to $10 000. SA First supports that amendment.

Penalties for misleading statements in electoral advertising will be increased from $1 250 to $5 000 for a natural person and from $10 000 to $25 000 for a body corporate. Having been prosecuted for authorising a misleading statement

during an election campaign (I understand I was the first person in this state to be prosecuted under that section), I believe that the penalties—which were set at $1 250 for a natural person—were wholly inadequate. I think I received a fine of $300 although, to this day, I maintain that it was not a misleading statement: it is just that the judge disagreed with me.

It is interesting to note that, if the electoral advertisement has been authorised by a natural person (and I understand it is the practice of most political parties that it is), it creates a little bit of an anomaly in the sense that political parties, as has been their practice, get a natural person, and not the body corporate, to authorise election material. In view of that, whilst I will support the amendments, I still think that a penalty of $5 000—with the knowledge that there is no way a $5 000 fine would be apportioned to an offence—is a little bit inadequate.

The bill also seeks to bring the state act into line with the commonwealth in regard to elector's registration by providing that a person cannot be enrolled without supplying proof of their identity and citizenship. It also provides that an application may be lodged by hand with a prescribed person. I support that proposition.

A further provision would increase the required numbers to form a non-parliamentary political party from 150 to 300. I note that it is 750 in New South Wales and 500 in Western Australia. If you look, for example, at the respective populations, you see that increasing it to 300 from 150 does make the bar, if you like, much higher here in South Australia than in New South Wales. It should also be noted that, in order to get 300 members who are on the electoral roll, a party membership of some 50 per cent or 60 per cent higher than that figure will probably be needed. I can verify this from my old days as Secretary of the Labor Party and with my new political party, SA First. Why? A lot of people who are not 18 years of age and are not entitled to vote join political parties. People join political parties who are not entitled or registered to vote. So, whilst I think the bar is a little high, 150 is probably a little too low.

Scrutineers could be appointed by the candidate by filling in and signing a form of appointment, which the scrutineer will be able to present to the electoral officer in charge of proceedings rather than having to give notice of the appointment. The bill will also stop injunctions being brought against the printing of ballot papers if Independents use the name of registered political parties as part of their description. SA First's amendment, which bans Independents using the name of political parties as part of the description, would make that clause unnecessary.

The bill allows the Electoral Office to automatically send out ballot papers to registered declaration postal voters—those who use declaration postal votes as the main instead of having them apply every election. They would still be required to declare their reasons for a declaration vote when they returned their postal ballot paper. The bill will provide that a person acting as an intermediary between the Electoral Commissioner and a person applying for a postal vote will be required to forward the application as soon as possible. I support both those amendments.

It will also provide that, if a party fails to lodge a voting ticket for the Legislative Council, any above-the-line votes received will be declared informal. I also support that provision. It will include a requirement for voting tickets to show the name of the party, or candidate, on behalf of whom they are authorised. This is intended to stop bogus voting tickets. I think that, if anyone thinks that clause will prevent bogus voting tickets, they are deluding themselves, but it is a step in the right direction. We have all seen plenty of examples over the last four or five elections in this state of bogus voting tickets at polling booths.

It also provides for immunity from prosecution for the Electoral Commissioner (as is the case with other head officers in major government departments) and all persons involved in the operation of the Electoral Act will be provided for; instead, such liability will lie against the Crown. Technical amendments will be made about the application of heading requirements, the format of the Legislative Council's ballot paper, the form of notice sent to electors for failure to vote, and the means used to send declaration voting papers and store electoral material. SA First supports those amendments.

SA First will move an amendment to lower the enrolment age to 17 and provisional enrolment to 16 and related technical amendments. There is no need for me to address SA First's amendment on that because I have already addressed the Council in terms of a separate private member's bill, which I withdrew earlier today. I will also introduce an amendment to require financial disclosure and publication.

The amendments mirror the commonwealth act and include provisions taken directly from that act. I would be interested to hear comment from the Attorney-General later in debate on this measure that I put forward. The best information that I can obtain from the Electoral Commission, Parliamentary Counsel and lawyers to whom I speak is that, if a political party, such as SA First, which is only registered in South Australia or you are an Independent only standing for election in South Australia, you are not caught by the federal act.

The Liberal Party, the National Party, the Australian Labor Party and the Australian Democrats are all caught by the provisions of the federal act, because they run federal candidates and they are registered federally. I think it is appropriate that if parties such as SA First only seek state registration they should be required to comply with the same provisions with which all other political parties comply. This clause would also pick up the Independents and require them to furnish returns.

I also have an amendment which provides that there should be no by-elections in the lower house. My amendment would mean that by-elections would not be required in the event of a casual vacancy. The party that won the seat at the last election would merely nominate a replacement, which is not dissimilar to what we do in the Legislative Council, and that person would occupy the seat. Independents would be replaced by a joint sitting of both houses. However, if a court declared that an appointment was illegal, there would then have to be a by-election.

SA First also has amendments regarding membership and registration. The intent of my amendments is to stop related parties being formed by existing political parties, to disband parties that are part of another party and to prevent Independents from using the name of a registered political party on the ballot paper. If anyone has taken the time and trouble to look at the number of political parties registered in South Australia, they will find that there is a whole range of them. Whether they are real parties and exist with members and a structure similar to the parties in this Council, I strongly doubt.

Whilst I appreciate that amendments in the government's bill will require parties to have 300 members and that members will have to justify that membership to the Electoral Commission by submitting a yearly return and whilst that does pick up some of my concerns, I am concerned about the practice of currently registered political parties such as the Australian Labor Party registering other political parties such as the New Labor Party, which was registered on 15 January 1998.

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: I thank the Hon. Trevor Crothers for his interjection. He reminded me of the Country Labor Party, which was registered on 25 November 1999.

Members interjecting:

The Hon. T.G. CAMERON: We could talk about the how-to-vote papers in Alexander Downer's seat, if you like. Perhaps I should put the whole story on the record right here and now.

The Hon. T. Crothers interjecting:

The Hon. T.G. CAMERON: I won't do that because that would—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: The ironic and humorous thing about it is that you don't even know what happened, but we do.

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: It wasn't a conspiracy. I didn't suggest that it was a conspiracy on the part of the Australian Democrats. I think you are the innocent victims in the whole matter.

The Hon. M.J. Elliott interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I am being distracted. Let me get back to the Australian Labor Party. I do have a concern that political parties are allowed to use the existing membership, go and register up to a dozen political parties, and then claim that you are using a common membership.

The Hon. L.H. Davis: You could register SA First and SA Second.

The Hon. T.G. CAMERON: Yes, and claim that they have joint membership, run two candidates and give the preferences to each other. I have a suspicion as to why New Labor and Country Labor have been registered. It seems to me that, if the amendments put forward by the Attorney-General in his bill are successful, there would be no need for the Labor Party to have other political parties registered. It does provide the opportunity for Country Labor to run additional candidates in the country alongside an Australian Labor Party candidate without telling the electorate. Many people would come along and vote and would not have a clue for whom they were voting, not realising that, in voting for Country Labor and/or New Labor, they would be recording a vote for Old Labor or the Australian Labor Party.

The Hon. L.H. Davis interjecting:

The Hon. T.G. CAMERON: Well, they have a unique way of signing up members in Coober Pedy, but once again I shall not be diverted by telling the full story.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I shall not be diverted by telling the full story about what happened at Coober Pedy, but if they want to find those responsible they should start looking in New South Wales. I think you will find that they are working in members of parliament's offices, but for reasons best known to the people themselves they decided to leave the state. Knowing what I know about how the people were signed up, it is no wonder, but I will not go into the details of that.

My amendment seeks to stop political parties from registering the names of other political parties. For example, I note that, in April 1998, the National Party of Australia registered another political party called the Young National Party of Australia. If you look at the list of political parties you will find that there are political parties currently registered with the Electoral Commission that have long since gone out of existence—they no longer operate in any way whatsoever—but it would appear that once you get registration you keep it for ever.

The Hon. K.T. Griffin interjecting:

The Hon. T.G. CAMERON: Have they? I was unaware of that. I notice here that a party that was registered in 1993 contested the election in 1993—

The Hon. T. Crothers: Who was that?

The Hon. T.G. CAMERON: It does not matter. The party contested the election in 1993, but it has not contested any elections since then. We have the Natural Law Party, which was registered in 1994 and which contested in 1993 and 1997. We have the Monarchy Party of Australia, which was registered in 1994 but which has not contested a ballot at this stage. So, it is quite clear that there is a need for some of the amendments contained in the bill to tidy up the register of political parties.

There is an amendment standing in the name of the Hon. Carolyn Pickles, which will allow the Electoral Commissioner to provide information to a prescribed person as to the specific age of an elector, rather than the age band they are in. I have major concerns about this amendment. As I understand it, the amendment would enable the registered officer of a political party with at least 1 000 members to request this information about the elector. It is interesting to note that the only two parties which will qualify and which will have access to this provision will be the Liberal Party and the Labor Party.

The Hon. Carolyn Pickles: And the Democrats?

The Hon. T.G. CAMERON: I think the honourable member will find that the Democrats do not have the 1 000 members in this state that would allow them to qualify. But it does beg the question as to why this amendment has been proposed. It would give the parties access to this information. So, I guess it bells the cat. This clause is all about giving the major parties an electoral advantage by their officers being able to access the electoral roll. My understanding is that every member of parliament can access his electoral role. So, it is quite clear. There are other amendments, but they are similar to our amendments. I will have a look at the matter, but I could well be withdrawing our clause, as it is the same as the first and second clauses in the section that has been put in.

Some of the amendments contained in the bill are long overdue. This is a step in the right direction. It will help tidy up the political register, and I believe that it will insert a little more integrity and honesty into the political process in this state.

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

ADELAIDE CEMETERIES AUTHORITY BILL

In committee.

Clause 1.

The Hon. DIANA LAIDLAW: I rise to speak to the report, which I will refer to at greater length when explaining the amendments that arise from it. This bill was introduced last October, and it was referred to a select committee. The members of the select committee, in my opinion, have worked well together and, as is the tradition of select committees (in my experience, anyway), they have worked to prepare a better bill than the one that was presented here initially, because of the benefit of some wider experience and different views. I want to thank all honourable members from all political persuasions for their contribution and diligence in terms of the operations of the select committee. I would like to thank Chris Schwarz, the Secretary, Bob Teague and John Barker from Planning SA, and parliamentary counsel for their assistance. There is a variety of amendments. The main focus, however, is accountability and also some extra precautions in terms of caring for the West Terrace Cemetery. I commend the report to the parliament and again thank honourable members for their contribution to the select committee and their deliberations with respect to the bill overall.

The Hon. M.J. ELLIOTT: I do not intend to speak to all the clauses, although the committee has recommended a significant number of amendments. As a member of the committee, there were two issues of particular concern to me. First, we did not want there to be the possibility that, some time in the future, South Australia—and Adelaide, in particular—could have a monopoly situation in the funeral business with a vertically integrated process from owning cemeteries through to owning the funeral parlours, etc. That has happened in some parts of the United States and in some parts of England (in fact, I think the same company was involved), and it has happened more recently, as I understand it, in Sydney.

I wish to ensure that that situation does not occur in the funeral business. It is an area where I think people are in a particularly vulnerable position, in terms of having had a death in their family, and having one company dominating the whole business has the potential to lead to significant rip-offs. So, that was one issue that I wanted the committee to address. While the amendments that have come forward do not give an absolute guarantee, certainly, this bill, if passed with the amendments recommended by the committee, will be better than the current situation.

The other matter about which I was concerned related to heritage. I think it has been noted in this Council on previous occasions that the West Terrace Cemetery is probably the most significant of the older cemeteries anywhere in Australia, and we need to be mindful of the heritage ingredients within that cemetery. I am told that, while some people have recognised that aspect, unfortunately, they have not recognised that, to varying extents, that is also true with respect to Cheltenham and Enfield. In fact, I have been told that some parts of the Cheltenham Cemetery, unfortunately, in the relatively recent past, were effectively bulldozed. That is most unfortunate.

Nevertheless, this committee report puts forward some amendments, which I think means that heritage matters will be more adequately addressed with the proposal to set up a committee with responsibility for oversight of heritage matters only. That committee will make an annual report to this parliament as part of the annual overall report that will come from the Adelaide Cemeteries Authority.

One thing which I believe only came to light during the proceedings of our committee and which I think was a most remarkable development is that the West Terrace Cemetery is subject to the State Heritage Act and, as such, it is illegal to put any headstone into the Adelaide Cemetery without planning approval. That had not been recognised until it came up during the considerations of this committee. I think that will probably provide potentially greater protection for the cemetery than almost anything else and now, as I understand it, it will be the responsibility of the Adelaide City Council to amend its development plan to take that into account. So, those members of the public who are concerned about heritage matters have the ability during that PAR process to make submissions to make sure that the heritage issues in the West Terrace Cemetery are adequately addressed.

The Hon. Diana Laidlaw: That applies immediately; we are requiring the development approval now we are aware of it. We do not have to defer the PAR.

The Hon. M.J. ELLIOTT: To make that quite clear, the requirement for approval applies now, but the point I am making is that, besides that, the development plan does not address it in any orderly fashion and it needs to do so. That matter is addressed in Appendix C of the report. I hope that with those words I have covered the important issues. The Democrats concerns have been largely addressed. I am still a little concerned about the potential for sale or, even more so, the lease out to private operators, which could lead to potential monopoly in the business, but certainly the amendments which are to be made to the bill will make it better than it was previously.

The Hon. T.G. ROBERTS: The opposition's position in relation to the bill is to support the main thrust of the recommendations and to make contributions in the committee based on a number of principles. Dignity in dying encompasses not only the way in which a person is treated before death but also it takes into account the mourning process and the way in which the bodies of loved ones are treated in relation to burial. In this Council we all take seriously the matter of ownership and control of funeral parlours and the way they act. We also take seriously the way in which cemeteries are administered and controlled in relation to the burial of loved ones so that the mourning process can be completed.

I have to make one apology to a colleague of mine who joined me on the select committee, Bob Sneath. Bob was only new to the parliamentary process when he asked my advice about whether he should go onto the committee. I talked him into it by saying that it would probably report in February when we returned to parliament, or in March at the latest; the recommendations and the bill would be agreed to; it would probably meet only three or four times; it would be a good experience to be introduced to the select committee process; and it would be a easy one where everybody would be in general agreement and it would be a matter of tidying up detail and drawing up suitable amendments in a consensus process, whereas in some select committees there is a lot of rancour and argument and they draw out for a number of years. The Hons Mr Davis and Mr Lucas and I have been on one that went through all those processes. I thought this would be a good one to introduce a new member to the process, and here we are reporting in late May. I apologise sincerely to my colleague, but I am sure it is a lesson that he will learn: there are not too many administrative processes

where consensus operates and to which we can get a quick solution.

I congratulate the minister on her diligence in applying herself to a tricky committee, in that there are a number of considerations to be made and sensitivities to be protected. As I said, in relation to dignity in death, the actual burial process is very important for a whole range of people for a whole range of reasons. In our multicultural society there are many variations in relation to preference for burial or the way in which a burial is treated, and we must be cognisant of that. Because we are mainly a parliament of Anglo-Saxon based majority parties, we have to be aware that there are many considerations other than those that are seen as being part of modern day Christian burial.

I was certainly interested in the way in which the minister made recommendations to the committee, and we discussed the way in which an annual report could probably be a good mechanism for people who had an interest in the administrative processes: they could read in an annual report how the process was going. I think cemeteries are going to play a more important role in heritage protection recognition, particularly as people start to get interested in genealogy and, with the growing interest in heritage (certainly, Australia is such a young country), the way in which cemeteries have developed in regional remote and metropolitan areas. They will become part of heritage trails for people to trace their genealogy. Again, the multicultural make-up of Australia and the history of our past can be traced through cemeteries. I also commend the research assistance provided by Bob Teague and the other officers from the minister's department and join with other members of the committee in commending the bill.

The Hon. L.H. DAVIS: I join with my colleagues on the select committee in endorsing the Adelaide Cemeteries Authority Bill which I think has been strengthened as a result of the select committee of Legislative Council members. As honourable members would know, I am the Presiding Member of the Statutory Authorities Review Committee, and that committee tabled three reports into the West Terrace Cemetery specifically. The tenor of those reports was somewhat critical of the management style of the West Terrace Cemetery which, of course, had been taken over by the Enfield General Cemetery Trust. Part of the problem, I suspect, was that the Enfield cemetery was a lawn cemetery, uncomplicated by any heritage constraints—it was quite nice for what it was, but it was quite a different style to the West Terrace Cemetery which, of course, dates back to the late 1830s.

No less a personage than the state historian, Mr Robert Nichol, gave evidence to the committee, describing the West Terrace Cemetery as one of the 10 most significant heritage sites in Adelaide. Scandal, mismanagement and fraud had been associated with the history of the West Terrace Cemetery over the decades. I hasten to remark that, in recent times, scandal and fraud were not features that we discovered in the Statutory Authorities Review Committee inquiry but, certainly, there was mismanagement and, more importantly, a misunderstanding of the important nature of managing a heritage cemetery such as West Terrace. There was a clear understanding, when Enfield Cemetery Trust took over West Terrace, that there would be cross-subsidisation between the cemeteries—given that the Enfield trust had a surplus of $0.5 million a year in 1997-98 and 1998-99—and in the early stages, when much work had to be done to overcome the years of neglect of the West Terrace Cemetery, that some of the surplus of Enfield should be directed towards West Terrace.

That was the clear understanding by all parties when the debate took place in both Houses in August 1998. However, in evidence from Kevin Crowden, the manager of Enfield Cemetery, and Mr Don Noblet, the Chairman of the Enfield Cemetery Trust, they denied that any cross subsidy would take effect. Of course, that was of great concern to the members of the committee, and we reported along those lines. More particularly, there was great concern that the management plan for West Terrace Cemetery revealed a total lack of understanding of the importance of the heritage aspects of the site, that there had been little or no consultation with key stakeholders such as the Adelaide City Council, monumental masons and other interested parties, including the religious groups that have a great interest in that cemetery.

The minister, the Hon. Diana Laidlaw, recognised the deficiencies of that first management plan when it was drawn to her attention by the Statutory Authorities Review Committee and, to her credit, she directed that a second management plan should be drawn up. It is of interest that the select committee report notes that there are certain defects in the second management plan which I can tell the Council is a dramatic improvement by some several hundred per cent on the first management plan. As a result of the discussions in the select committee, specific recognition has been given to the heritage nature of West Terrace Cemetery, and it has been resolved that an Adelaide Cemeteries Authority, heritage and monument committee should be established by the minister and that it should consist of not less than three or more than five members appointed by the minister, one of whom should be a director of the Adelaide Cemeteries Authority, the remainder of the members of that committee having the requisite abilities and experience for the effective performance of the committee's function. That obviously is a significant strengthening of the bill.

Also, the select committee recognised that the expanded role of the Adelaide Cemeteries Authority's directors would require people of appropriate experience and that they should be properly remunerated. The suggestion has been made that increased fees should be paid to the directors of the Adelaide Cemeteries Authority which, of course, will have the overall management of the very important West Terrace Cemetery, the Cheltenham Cemetery and the Enfield Cemetery.

The Statutory Authorities Review Committee did visit Cheltenham and was politely underwhelmed with the way in which the Enfield Cemetery Trust had managed the restoration of that site. If showed little if any appreciation of the important treatment of heritage items and monuments. Now that this nettle has been properly grasped with a tripartisan approach, we now have a statutory authority that will properly understand and manage those three sites and in particular the important heritage and historic site of the West Terrace Cemetery.

I commend the minister for her diligence and her enthusiasm in ensuring that this has had a proper outcome, and I am pleased to say that the select committee has recognised that the Statutory Authorities Review Committee should maintain a watching brief over the management plan which is currently in preparation to ensure that West Terrace Cemetery is properly managed in future years. The last point I would make—and it is a fairly obvious one—is that cemeteries are increasingly regarded around the world for their heritage and historic importance, and increasingly they are becoming tourist attractions. Many famous people are buried in West

Terrace Cemetery. In time one would hope that, with proper landscaping—

An honourable member interjecting:

The Hon. L.H. DAVIS: Yes, indeed, Percy Grainger is there—as in Country Gardens. Many other famous people are buried there and, in time, there will be the ability to increase the visitor attraction to West Terrace Cemetery by bringing it up to the standard that one can find in so many other great cemeteries of the world.

The Hon. R.K. SNEATH: I forgive the Hon. Terry Roberts for his advice. I enjoyed working on the committee; we had a delightful chairperson, especially if you were on time, and we certainly got the business done very quickly and in a positive way towards the end. It opened my eyes to the heritage value of some of these old cemeteries. I have a daughter who is very fond of visiting old country cemeteries; she picks up a lot of history from them. There is a lot of history in country cemeteries and, no doubt, a lot of history in the older Adelaide cemeteries. I believe the amendments recommended by the committee will go a long way towards protecting that heritage and history.

The Hon. T. CROTHERS: I support the proposition. Like the Hon. Mr Davis, I, too, was on the committee inquiring into the Enfield Cemetery. A lot of the genealogy societies have now started taking etchings from the headstones in cemeteries. In fact, some societies have stored them on microfiche. Over the years a lot of the headstones have fallen into disrepair. I wonder whether we could get a more accurate history of those who have been buried if we found out whether the genealogical societies have taken an etching of all the headstones and, if so, how far back. Does it go back beyond the time of vandalism and neglect of the cemetery? We may well get a much more accurate historical record. Mr Nichols, the State Archivist, I think, and a state historian, may well know whether that is so.

I commend the work of the committee, which has been invaluable. In fact, in a city such as ours where there are not many natural tourist attractions, a heritage item such as West Terrace Cemetery, believe it or not, could attract necrophiliacs as tourists to our fair city.

An honourable member interjecting:

The Hon. T. CROTHERS: Mausoleums? If we had one, you would be a candidate—if not now, in a few days' time. I commend the work of the committee; it was a job well done.

Clause passed.

Clauses 2 to 4 passed.

The CHAIRMAN: I point out to the committee that clause 5, being a money clause, is in erased type. Standing order 298 provides that no questions should be put in committee upon any such clause. The message transmitting the bill to the House of Assembly is required to indicate that this clause is deemed necessary to the bill.

Clauses 6 and 7 passed.

Clause 8.

The Hon. DIANA LAIDLAW: I move:

Page 5, lines 2 to 5 (inclusive)—Leave out subclauses (1) and (2) and insert:

(1) The authority may not acquire a cemetery or part of a cemetery, or establish a cemetery, without the written approval of the minister.

This amendment is self explanatory. The authority may not acquire a cemetery, or part of a cemetery, or establish a cemetery without the written approval of the minister.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 5, line 11—After 'Congregation' insert:
Inc.

This is a technical amendment in relation to the reference to the Hebrew congregation.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 5, after line 23—Insert:

(8) The authority's charter under the Public Corporations Act 1993 must contain specific limitations on the authority's activities designed to prevent the authority, through its control of access to authority cemeteries, from unduly restricting competition in the provision of funeral, floral, monument making or other services, or the supply of goods.

This amendment relates to the power of the authority under the Public Corporations Act.

Amendment carried; clause as amended passed.

New clause 8A.

The Hon. DIANA LAIDLAW: I move:

Page 5, after clause 8 (as amended)—Insert:

Minister must give notice of certain proposed transactions of authority

8A.(1) The authority must not—

(a) sell an authority cemetery or part of an authority cemetery; or

(b) grant a lease or licence in respect of an authority cemetery, or part of an authority cemetery, in order to enable the authority's primary functions, or a substantial part of the authority's primary functions, with respect to the cemetery to be performed otherwise than directly by the authority and its staff; or

(c) enter into any partnership, joint venture or other profit sharing arrangement,

unless the minister has approved a proposal for the transaction and has, at least two months before the proposed transaction is entered into—

(d) given notice of the proposed transaction in the *Gazette* and in a newspaper circulating generally throughout the state; and

(e) provided a written report on the proposed transaction to the Economic and Finance Committee of the parliament.

(2) Subsection (1) does not apply to the disposal of land comprising or forming part of West Terrace Cemetery that is surplus to the requirements of the authority.

This new clause provides that the parliament has a role where the authority proposes any grant or licence in respect of an authority cemetery or part of an authority cemetery. The provisions are identical to those provided in the Passenger Transport Act 1994 in terms of any sale or lease of property.

As in that act, this new clause provides that the minister must approve of the proposal and that at least two months before the proposed transaction is entered into there must be a notice of the proposed transaction printed in the *Gazette* and in a newspaper generally circulating throughout the state, and also a written report of the proposed transaction must be provided to the Economic and Finance Committee of the parliament. That committee is the committee of the parliament that addresses matters of the authority because we are establishing the authority as a public corporation.

New clause inserted.

New clause 8B.

The Hon. DIANA LAIDLAW: I move:

After new clause 8A insert:

Surplus West Terrace Cemetery land to form part of Adelaide Park Lands

8B. The authority may only dispose of land comprising or forming part of West Terrace Cemetery that is surplus to the requirements of the authority—

(a) with the written approval of the minister; and

(b) by surrender of the fee simple in the land to the Crown; and, on surrender, the land will form part of the Adelaide Park Lands and come under the care, control and management of The Corporation of the City of Adelaide.

Any surplus West Terrace Cemetery land cannot be disposed of without the written approval of the minister and must only be surrendered to form part of the Adelaide parklands.

New clause inserted.

Clause 9 passed.

Clause 10.

The Hon. DIANA LAIDLAW: I move:

Page 6, line 7—After 'Association' insert:
of South Australia

This is a technical amendment related to the Local Government Association of South Australia.

Amendment carried; clause as amended passed.

Clauses 11 to 16 passed.

New clause 16A.

The Hon. DIANA LAIDLAW: I move:

Page 9, after line 2—Insert:
Adelaide Cemeteries Authority Heritage and Monument Committee

16A.(1) The minister will establish the *Adelaide Cemeteries Authority Heritage and Monument Committee*.

(2) The committee will consist of not less than three, nor more than five, members appointed by the minister, of whom—

(a) one must be a director; and
(b) the remainder must include persons who together have, in the minister's opinion, the abilities and experience required for the effective performance of the committee's functions.

(3) The members of the committee will hold office on such terms and conditions as the minister thinks fit.

(4) The committee has the following functions:

(a) to advise the authority on heritage and historical matters relating to authority cemeteries;
(b) to advise the authority on activities associated with the heritage and historical significance of authority cemeteries;
(c) to advise the authority on the establishment and implementation of policies relating to monuments, headstones and memorials;
(d) any other function assigned to the committee by or under this act, or by the minister or the authority.

(5) Subject to this section, the committee may determine its own procedures.

(6) The committee must submit to the authority for inclusion in each annual report of the authority a report prepared by the committee on its operations during the financial year to which the report relates.

(7) A report submitted to the authority under subsection (6) must be included in the relevant annual report of the authority in unaltered form.

The committee spent the most time considering this new clause in terms of how we deal with the heritage aspects of the West Terrace Cemetery in particular. Members, in speaking to clause 1 of the bill and the report generally, all focused on this matter.

I think it is important to put the following facts on the record because they are not directly referred to in the report. The Enfield General Cemetery Trust, which is to be replaced by the proposed authority, has undertaken 2 300 burials or cremations per annum, on average, over the past five years. At the Cheltenham Cemetery, over the past five years, the trust has undertaken an average of 419 burials per annum and, at the West Terrace Cemetery, which the trust has been given the responsibility to manage, over the past three years there have been an average of 74 burials per annum. It is important to keep the role of the authority in some perspective in terms of the activities undertaken at each of the three cemeteries that the trust is responsible for managing.

However, there is enormous sensitivity in terms of the West Terrace Cemetery. Perhaps because the workflow in terms of burials has been less, initially there may have been less focus by the trust on its responsibilities to the heritage aspects of the cemetery. Neglect had almost overwhelmed the cemetery prior to its being entrusted to the Enfield General Cemetery Trust. Whilst the task may have been bigger than the trust envisaged, it has certainly inherited a huge task. I hope that, through this select committee process and the earlier statutory authority review reports, this parliament has been able to help the trust to proportion the attention that must be applied to the operations of the West Terrace Cemetery.

It is important briefly to place on record reference to a matter discussed by members of the committee. There has been considerable concern about the number of black headstones or monuments that are scattered throughout the West Terrace Cemetery. I highlight that no black headstones or monuments have been erected to denote graves since the Enfield General Cemetery Trust took control of the cemetery in 1997. Therefore, the Hon. Mike Elliott's reference to no development application being properly undertaken as part of the state heritage development process has not led to black headstones being erected. In fact, this all happened well prior to the Enfield General Cemetery Trust's taking over management of the West Terrace Cemetery. In fact, the first licence for a black headstone was issued on 18 April 1967 and the last on 12 April 1985. Whilst they are black and shiny and look very new, I think it is important to say that the current management is not responsible for the additions, and there will be no more.

This amendment establishes the Adelaide Cemeteries Authority Heritage and Monument Committee. The authority has the power to establish general advisory committees, but it was felt very strongly by the select committee that there should be a statutory heritage and monument committee with members appointed by, and on conditions determined by, the minister. This committee must submit to the authority for inclusion in each annual report of the authority a report prepared by the committee on its operations during the financial year to which the report relates, and the report submitted must be included in the relevant annual report of the authority in unaltered form.

The committee must comprise no fewer than three and no more than five members, one of whom must be a director of the authority, and the others must have the ability and experience required for the effective performance of the committee's function. All those functions are related to historical and heritage matters and the implementation policies relating to monuments, headstones, memorials, and other functions as assigned under the act or by the minister.

New clause inserted.

Clause 17.

The Hon. DIANA LAIDLAW: I move:

Page 9—
Line 22—Leave out 'six weeks' and insert:
30 business days
Lines 26 and 27—Leave out 'six weeks' and insert:
30 business days

These amendments are technical in that they define that the period for consultation, in terms of the plans of management that the authority must prepare, will not be six weeks, as provided in the bill, but will be specifically 30 business days in all instances.

Amendments carried.

The Hon. DIANA LAIDLAW: I move:

Page 6—
Line 28—Leave out subclause (6) and insert:
(6) A plan of management for an authority cemetery must, if the cemetery is, or includes, a state heritage place (within

the meaning of the Development Act 1993), be approved by the minister before it takes effect.

(6a) The authority may amend a plan of management at any time during the course of the five year period covered by the plan (and, in that event, the amendment must be presented at public meetings convened by the authority and subsections (4), (5) and (6) will apply to the amendment process in the same way as to the initial preparation of a plan of management).

After line 31—Insert:

(8) In this section—

'business day' means any day except a Saturday or a Sunday or other public holiday within the meaning of the Holidays Act 1910.

These amendments relate to the plans of management and the way in which they will be undertaken in terms of the definitions of the Development Act and also in terms of the conduct of public hearings and meetings.

Amendments carried; clause as amended passed.

Clauses 18 to 20 passed.

Schedules 1 and 2.

The Hon. DIANA LAIDLAW: I move:

Leave out these schedules and insert Schedule 1 as set out in the attachment to these amendments.

Schedules negatived; new schedule inserted.

Schedule 3.

The Hon. DIANA LAIDLAW: I move:

Clause 3, page 13—Leave out 'Schedule 2' and insert:
Schedule 1.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a time third time and passed.

ADJOURNMENT

The Hon. R.I. LUCAS (Treasurer): I move:

That the Council at its rising adjourn until Thursday 17 May 2001.

Can I just indicate, and members might take it up with their colleagues, that the intention is that we debate the gaming bills, the gambling bills, the second readings, at 11 a.m. tomorrow and the committee stages on the first Tuesday when we come back.

Motion carried.

At 6.32 p.m. the Council adjourned until Thursday 17 May at 11 a.m.