LEGISLATIVE COUNCIL

Wednesday 4 July 2001

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay upon the table the 23rd report of the committee and move:

That the report be read.

Motion carried.

The Hon. A.J. REDFORD: I lay upon the table the 24th report of the committee.

The Hon. A.J. REDFORD: I lay upon the table the 25th report of the committee and move:

That the report be read.

Motion carried.

LIVE MUSIC INDUSTRY

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement regarding live music in hotels.

Leave granted.

The Hon. DIANA LAIDLAW: This government has been recognised nationwide for its initiatives to promote contemporary music, ranging from the first appointment in Australia of a Contemporary Music Adviser to the Minister for the Arts to the launch of Music Business Adelaide (which has now attracted Australia Council Funding of $80 000) and the establishment of Music House in the Lion Arts Centre, North Terrace, with federal funding.

Therefore, it is hardly surprising that over some years I have raised with the Liquor Licensing Commissioner, the Capital City Committee, and the Local Government Association quarterly meeting of metropolitan mayors and chief executive officers my alarm at the increasing incidence of neighbourhood/noise conflicts leading to the loss of live music venues in Adelaide. In addition, last year as part of the government's system improvement amendments to the Development Act, and in particular the 'one stop shop' application and assessment initiative, I asked Planning SA to prepare an options paper relating to the integration of the Liquor Licensing Act with the development assessment process under the Development Act 1993.

The whole issue has now been brought to a head following recent development applications and approvals for residential dwellings adjacent to hotels/live music venues in a number of council areas. Whilst it would be improper for me as Urban Planning Minister to comment on individual applications, as Minister for the Arts, I must admit that I am most concerned about the trend and potential consequences. Accordingly, today I advise that I have resolved to establish a working group, which my colleague and champion of contemporary music, the Hon. Angus Redford MLC, will chair, to canvas measures to reduce the conflicts between live music venues and adjacent residential development.

The Environment Protection Agency has agreed to provide a representative to serve on the working group, and I intend to invite representatives of the Australian Hotels Association, the Local Government Association, the Liquor Licensing Commission, the live music industry and Planning SA.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: You may make representations. Perhaps Mr Atkinson with the numbers on the Charles Sturt council will do something about the Governor Hindmarsh. Anyway—

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: Yes, that's right.

The Hon. R.I. Lucas interjecting:

The Hon. DIANA LAIDLAW: That's right. It is my wish that the working party meet expeditiously, canvas all relevant issues and make recommendations to me within eight to 10 weeks. Options which I am keen for the working group to address, although their brief will not be limited to these issues, include:

1. The preparation of a 'buyer beware' policy to reinforce existing use rights issues under the Development Act.

2. An amendment to the Land and Business (Sale and Conveyancing) Act 1994, section 7 and related regulations which recognise existing use.

3. An exemption under the Environment Protection Act 1993, particularly for hotels and other venues where live music is a primary and regular activity, or more generally.

4. Measures to integrate the Liquor Licensing Act with the assessment process under the Development Act 1993.

5. A more effective complaints procedure under the Liquor Licensing Act based on a conciliated outcome.

6. The preparation by Planning SA of an advisory notice or bulletin relating to mixed use type zones to assist councils to undertake further investigations at the Plan Amendment Report (PAR) stage which recognise and list existing uses (and other non-residential uses) and likely impacts on future development.

I have taken the step to set up the working group recognising, first, that the issues currently being experienced between residential dwellings and entertainment venues are also occurring in most other states and capital cities in Australia—however, a brief research effort into the actions by other state governments to combat the issues reveal limited action has been taken; and, secondly, that they parallel recent issues experienced in peri-urban areas of the Adelaide Hills—and some horticulture and viticulture areas across the state—with the increase in the number of people moving to these areas leading to an increase in complaints about farm practices and heavy vehicle traffic movements.

Overall, I am acutely aware that cities have traditionally, and must continue, to provide for arts and entertainment, not simply residential and retail uses. In fact, if live music and hotel uses are lost, the role and fabric of our city will be eroded—and even cafés and restaurants which regularly rely on ancillary entertainment uses to attract patrons will be threatened in the longer term.

I am not pretending that there is one simple, easy answer to resolving the conflicts between live music venues and adjacent residential dwellings but, with the establishment of the working group and goodwill by all, the government will explore all measures to both reduce potential conflicts and resolve them more effectively if and when they arise.

QUESTION TIME

FESTIVAL OF ARTS

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before

asking the Minister for the Arts a question about the Adelaide Festival.

Leave granted.

The Hon. CAROLYN PICKLES: In response to a question I asked on 29 May, which the minister tabled in parliament yesterday, the minister said:

> The Adelaide Festival Corporation does not have any reserves to apply to the 2002 Adelaide Festival. However, the Adelaide Festival has a risk management strategy in place for the 2002 Adelaide Festival whereby there are increased contingencies in each production budget plus a further contingency of $250 000 for the entire festival.

I also note that the minister indicated that the 2000 festival drew $605 000 from its reserves. My questions to the minister are:

1. Is a contingency of $250 000 for the entire festival adequate when it was reported in 1999 that costs for two productions blew out by $300 000?

2. What is the projected budget for the 2002 festival, including estimated box office and sponsorship income and the total costs for 2000-01 and 2001-02 to the festival, of the creation of 10 associate artistic director positions which were created specifically for the 2002 festival?

3. Given that the festival is now operating without reserves, will the minister give an assurance that the 2002 festival will not cause further financial losses?

The Hon. DIANA LAIDLAW (Minister for the Arts): Every best endeavour has been made by the board of Arts SA and me to ensure that the festival for 2000 is run responsibly in financial terms and is highly thrilling for audiences, as well as achieving its traditional role of being an artists' festival—a real hothouse or engine for artists and arts in Australia.

It has always been tricky and complex to balance those often competing needs. But I can assure the honourable member that many discussions have been held with both the previous and the current chairman, and with the administration generally and the artistic director. I am absolutely confident that the board, the management and even now the artistic director understand the need to balance all those issues and ensure that the Festival achieves, and operates within, its budget. Some of the earlier questions were technical in terms of box office, projections and the rest. I will have to seek information from the board in terms of its budget and program—and I understand it has signed off in terms of the first steps towards the program—and I will bring back a reply expeditiously.

ELECTRICITY, SUPPLY

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Minister for Administrative Services a question on electricity contracts.

Leave granted.

The Hon. P. HOLLOWAY: On 15 May the Premier made the following statement in parliament:

> As of 1 July all major government contracts, including industry incentives, asset sales, consultancies, major event contracts, grants of over $500 000 to sporting organisations and copies of all Public Service executive contracts, including those of chief executives, will be earmarked for public release.

On 12 June the Treasurer announced that AGL had been awarded the contract for the supply of electricity for government agencies, which increased prices by 16 per cent, an outcome the Treasurer described as good. I wonder whether the consumers of South Australia will think it is good at the end of next year if they get a 16 per cent increase. Given the Premier's recent commitment to government accountability, when will the minister release details of all electricity contracts entered into by government departments and AGL and, in particular, will the minister say what the contracted quantity of electricity is for 2001-02? What was the consumption of electricity by contestable state agencies in 2000-01? What conservation measures are required of government agencies, if any, under the contracts? Finally, how will each of the 300 government agencies be billed for their electricity in the future?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): Consistent with the statement made by the Premier on 15 May, the electricity contracts will be considered for release with all other contracts. A process has been put in place relating to contracts entered into after 1 July and that process is being gone through. I believe it will be possible for us to release the whole or substantial proportions of the electricity contract that has been entered into between the government and AGL. It is one whole-of-government contract. The honourable member seems to assume in his question that there will be contracts between various government agencies and there will be, I imagine, some form of order arrangement between the contestable sites that have been included in the whole-of-government contract with AGL.

The Hon. T. Crothers interjecting:

The Hon. R.D. LAWSON: W-h-o-l-e: whole-of-government—a double hyphenated word. The honourable member asked questions about the total value and consumption of electricity for the contestable sites prior to this contract being entered into.

It is my recollection that the current power costs, that is, prior to the AGL contract, were about $36 million a year, and the five year whole of government contract that has been entered into will result, as the honourable member said, in an increase of about 16 per cent next year and the net present value of the increase over the whole five years of the contract is about 13.6 per cent. My recollection of the consumption is that it is about 3 000 kilowatt hours, but I will confirm that figure. I do not have it to hand. If there are any other aspects of the honourable member's question that I have not addressed, I will bring back further details in due course.

WATER SUPPLY, INDULKANA

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question on Indulkana water contamination.

Leave granted.

The Hon. T.G. ROBERTS: Just before Christmas 2000, a serious contamination of the water supply of the Indulkana community was detected and steps were taken by the government to replace the offending contaminant, which was, I assume, lead-lined or lead-contaminated pipes, which were used inappropriately to carry drinking water to the community. The government held an inquiry and, although I have not seen all the results, I understand it led to a policy of non-compulsory testing, that is, the people who availed themselves of the testing regime were tested but those who passed through the community or did not put themselves forward were not tested. I suspect the internal inquiry also looked at how the bungle occurred in the first instance and inappropriate piping was supplied, laid and commissioned for drinking purposes. My questions are:

1. What method of tendering was used to install the unsuitable piping for the Indulkana community for the supply of drinking water?

2. Will the minister provide details of the expenditure provided by the department or DOSAA for the initial installation and replacement of the offending water pipe?

3. How long were the pipes used for drinking water and who was the first to detect the contaminated pipes?

4. What was the outcome of the departmental investigation into this lead contamination and has any action been taken to make sure that the same series of incidents do not occur again?

5. Why did the government not test a cross-section of the community mandatorily or voluntarily, making sure that children, pregnant women, teenagers, both male and female, and those most at risk were assessed for any likely problems that might have occurred given the nature of the contamination?

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.

STATE PROMOTION

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before directing a question to the Leader of the Government on the subject of state promotion.

Leave granted.

The Hon. L.H. DAVIS: As the months roll on and we get closer to a state election, understandably the focus falls on what the opposition might offer, and it is interesting to note that the Leader of the Opposition in another place, the Hon. Mike Rann, has been decrying this government's effort to promote South Australia by highlighting some of the achievements in recent times in this state.

The Hon. P. Holloway interjecting:

The Hon. L.H. DAVIS: The Hon. Paul Holloway unwisely interjects, as is his wont, and says, 'Using taxpayers' money.' The Hon. Mike Rann, in a wide-ranging attack, condemned the government for supporting *Postcards*, a Channel 9 program which supports and promotes tourism in South Australia. If the Hon. Paul Holloway knows anything about tourism, and I suspect that he does not, he would understand that in-bound tourism within the state—intrastate tourism—is one of the most valuable commodities one could possibly have. I would have thought that Mr Keith Conlon would be rather underwhelmed by the remarks of the Hon. Mike Rann because Keith Conlon—

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Davis is using opinion—

Members interjecting:

The PRESIDENT: Order! The granting of leave to give an explanation does not allow a member to debate an issue, and members should keep away from personal opinions or the opinions of others.

The Hon. L.H. DAVIS: Keith Conlon is regarded very highly as a fearless and passionate advocate for all that is good in South Australia. Similarly, the Hon. Mike Rann has attacked the *Discover* and *Directions for South Australia* programs, which are all about promoting South Australia; and, presumably, his attacks also spread to the written word, condemning, for example, the *Advertiser* spread on the very important and historic Alice Springs-Darwin rail link. I was rather bemused to see in the past fortnight two other state governments promoting their states in full page advertisements in the national and major dailies.

What shocked me was that these promotions came from Labor governments—one was Queensland and the other was Victoria. The Victorian advertisement promoted the fact that Victoria is a good place to do business. In fact, the advertisement reads:

> Be part of it. Call the Victorian business line or visit the Victorian government web site.

The promotion for Queensland was on behalf of the Department of State Development. What has disappointed me is that nowhere have I seen Mr Rann condemning this waste of taxpayers' money, as the Hon. Paul Holloway would have it, when these state governments are promoting in the national papers their states as a good place to do business. Mr Rann is saying—

The Hon. P. Holloway: They are good governments; they are trying to get business.

The Hon. L.H. DAVIS: The Hon. Mr Holloway has said that if you are a good government you can spend taxpayers' money and promote the state, but if you live in South Australia you cannot.

An honourable member: You can't.

The Hon. L.H. DAVIS: Okay, we have got that straight. My question to—

The Hon. P. Holloway interjecting:

The Hon. L.H. DAVIS: WorkCover premiums up 50 per cent and 100 per cent in Victoria—you like that? I therefore ask the Treasurer: is the government aware that Labor governments in other states have been doing the very things that the Hon. Mike Rann, as the Leader of the Opposition, has condemned this Liberal government in South Australia for doing? Can the Treasurer make any comment on the benefits of promotional material, such as paid advertisements in national and local dailies, and also television programs supported by the government in terms of promoting business and industry and state pride in South Australia?

The Hon. R.I. LUCAS (Treasurer): The hypocrisy of the opposition in South Australia knows no bounds. I think it is quite clear that anyone involved in regional tourism and marketing, in particular, is now being warned about the comments that have been made by Mike Rann and Mr Foley on behalf of the Labor Party because, should they be elected, regional tourism is in for a very bad time.

The Hon. P. Holloway: Don't distort it.

The Hon. R.I. LUCAS: These tourism marketing programs are all about trying to highlight the value of tourism within South Australia and to try to get South Australians, who spend hundreds of millions of dollars on interstate and overseas holidays each and every year, to spend some of that money in regional communities in South Australia, thereby generating jobs for regional tourism businesses in South Australia. That is what Labor is going to stop.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: Yes, that is what Labor is pledged to stop. Kevin Foley, the shadow treasurer, made it quite clear in the estimates committee that should he ever be in the position of Treasurer these particular budgets are going to be cut or slashed or stopped. He made it quite clear to the Minister for Tourism that Labor would not be supporting these sorts of regional tourism promotions. Every regional tourism authority, every regional tourism business, is going to find out over coming weeks the Labor Party policy in this most critical area, trying to attack what many regional

tourism businesses have been doing for the last few years, that is, building themselves up slowly with the assistance of government and the Tourism Commission and the Minister for Tourism, by sensibly spending money in promoting those particular businesses and tourism opportunities to try to, as I said, get that money spent in South Australia.

The Hon. Mr Holloway says that the Labor governments in Victoria and New South Wales are good governments, and it may well be that he is quite happy to see South Australians spending their money in Labor states, generating jobs in Labor states, generating economic development in Labor states, because he puts party politics before good policy. The Hon. Mr Holloway should be condemned for put putting his own party political interests ahead of the interests of regional tourism, regional marketing, and the growth and development of jobs in our regional communities. Thank goodness this government was prepared to support regional communities and regional businesses.

The warning is there, it is clear, it is explicit, that a Labor government will slash this particular area. It will stop this sort of promotion of regional tourism opportunities here in South Australia, and our tourism communities and businesses must know, in the interests of the coming debate over the next nine months, the possible impact of potential Labor government policy in this area.

The only other point I would make is that I am interested to see the examples that the Hon. Mr Davis has highlighted. I had seen the Victorian examples; I had not seen the Queensland example. It is an indication that Labor and Liberal governments make judgments about the promotion of their states and their business and industry. If you are a whingeing, whining opposition like the Labor Party in South Australia, then you would not want to see any promotion of industry and business within your state and, frankly, if you are a whingeing, whining Labor government you might not have much to promote anyway, given the past record of the Labor government here in South Australia.

But the intriguing thing I noted in relation to the Victorian government promotion was that it was not a Victorian government promotion; it was actually the Bracks government. When one looks at the promotion in Victoria, it was actually the Bracks government promotion in Victoria. There has been a lot of criticism made of the state Liberal government. I think the hypocrisy of members of the Labor Party has been made pretty clear over some of their recent statements. As I said, whilst it is alarming in terms of the policy context, it is also a clear demonstration of their hypocrisy.

The Hon. T. CROTHERS: A supplementary question, Mr President: is the minister saying to this Council that the success of tourism in South Australia stops the drift of people from our rural areas to our city areas, and is he aware that that saves us considerable money on having to help create the massive infrastructure that is required to run a city the size of Adelaide?

The Hon. R.I. LUCAS: A most perceptive question from the Hon. Mr Crothers, and I would be happy to try to get some detail on it. I will not take a lengthy time to respond, but it is clearly the point that in the last four to five years we have seen a significant revival in many of our regional communities, for a variety of reasons—wine, aquaculture, targeted spending from the state government, and working with local communities. We have seen the reversal of many of the declining rural communities that were clearly evident—

An honourable member interjecting:

The Hon. R.I. LUCAS: —mining is another one—through the late 1980s and the early 1990s. One of the important areas in which you can see growth in regional communities—because you do not always have the opportunity to see huge manufacturing industries being constructed in regional communities—is in the promotion of tourism—service industries. One of the important issues is that hundreds of millions of dollars every year is spent by South Australian families taking their holidays in Victoria and New South Wales. We want to get those people to spend their money in South Australia. One of the ways of doing that is to highlight the regional tourism opportunities through television and television promotions that exist in regional communities. If we can be successful, we will see regional employment grow; we will see regional economic development; and we will see the sorts of benefit that the Hon. Mr Crothers has alluded to.

ENVIRONMENT PROTECTION AUTHORITY

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 and Heritage, a question in relation to the effectiveness of the Environment Protection Authority.

Leave granted.

The Hon. M.J. ELLIOTT: An article in the *Australian* of 27 June this year (page 44) titled 'Dirty and deadly' states:

> In an illuminating moment in 1996, a young Wollongong leukaemia sufferer attending chemotherapy treatment at a hospital realised she was not alone. Recognising several of her former classmates among the chemotherapy patients, she began to suspect a causal link. The Illawarra leukaemia cluster, as it became known, triggered mass protest among locals who had long suspected the plumes of toxic nasties such as dioxins and furans that spewed from BHP's Port Kembla plant and spread across the southern Wollongong sky each night could not be good. It also triggered a health inquiry by local and New South Wales health officials.
>
> While that study found the incidence of leukaemia among adolescents in the southern suburbs of Wollongong closest to Port Kembla was 10 times higher than the average it could find no direct link 'on the available information'. Part of the reason for that is no research had been conducted into the impacts of industrial by-products such as dioxins.

The article further states:

> . . . we still don't know the dioxin levels in the blood and breast milk of Australians living next door to dioxin emitters. In 1998, Greenpeace Australia conducted a Freedom of Information campaign which identified 70 sites across Australia as known or potential sources of dioxins. An update of that list places among the top sites BHP's Port Kembla sinter plant and Whyalla steelworks. . .

I am picking up the salient points in this article. In regard to BHP, it noted:

> In March this year the company announced a $94 million upgrade of its Port Kembla plant which it says will border on eliminating all dioxin emissions by December 2002. The upgrade is part of a negotiated five-year program with the New South Wales Environment Protection Authority to reduce emissions from 3 nanograms per cubic metre to 0.3 ng of dioxin per cubic metre—still well above the WHO recommended 0.1 per cubic metre.

In other words, currently it is 30 times the world standard and it will be reduced to three times the world standard. The article quotes a BHP spokesperson as follows:

> We understand the sinter plant is possibly the largest single point source of dioxin emissions in Australia. . .

One notes that, while the focus was not on Whyalla, it was identified as one of the potential major sources of dioxins in

Australia. It is also worth noting that the *Advertiser* of 2 July this year indicates that OneSteel Whyalla has been given further extensions in terms of pollution of the marine environment. It has already had, if you like, eight years' notice from when the Marine Environment Protection Act came into force—in fact, I think it was more than eight years ago—and it is still being given extensions in relation to that. People in Whyalla want to know the answers to the following questions:

1. What was the annual amount of dioxins emitted by the BHP operations in Whyalla prior to October 1999; by what factor was this amount above or below the standard?

2. What is the annual amount of dioxins being emitted by One Steel's operations since October 1999; by what factor was this amount above or below the WHA standard?

3. When will the results of EPA monitoring of fallout at 43 Whitehead Street, Whyalla be released?

4. What does the data show re dioxins?

5. Have any health studies been done on the impact of BHP One Steel emissions; if not, when will one commence, given that the severe impact of dioxins on human health is already known?

6. Does the further extension of three years, which has been granted to One Steel and a number of other companies in South Australia in relation to marine environment pollution, indicate that the EPA is not taking its responsibilities sufficiently seriously?

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.

COURT PROCEEDINGS

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Attorney-General a question about the South Australian courts.

Leave granted.

The Hon. A.J. REDFORD: The South Australian courts are gaining a growing reputation for the expeditious manner in which they are dealing with matters.

The Hon. Diana Laidlaw: It's all relative.

The Hon. A.J. REDFORD: There are a couple of matters where I wish they would move a bit quicker. I understand that the Australian Bureau of Statistics has recently published a report comparing the Australian higher courts across the various state jurisdictions. My question is: is the Attorney aware of this report and, if so, can he give the Legislative Council details of some of its findings in relation to the performance of the state's courts in finalising cases?

The Hon. K.T. GRIFFIN (Attorney-General): I am aware of the report of the Australian Bureau of Statistics entitled Higher Criminal Courts Report, which was released about two weeks ago. It contains comparative data between the courts in various jurisdictions in Australia. The report also contains information showing that there is a high rate of overall efficiency in the South Australian justice system. Our courts have a good reputation, certainly interstate, for the ways in which, innovatively, they have sought to address special areas such as Aboriginal issues, mental impairment, domestic violence and drugs, as well as using the processes of mediation and conciliation rather than being involved merely in dispensing justice through the old rigorous, rather inflexible processes.

The statistical report which was published several weeks ago shows that the average time in weeks for a case to proceed from initiation to verdict in the South Australian higher courts (the District Court and the Supreme Court) was 24.7 weeks compared with more than 56 weeks in New South Wales, 46 weeks in Victoria, and 62 weeks in Western Australia. Only 8.5 per cent of cases take longer than a year from initiation to verdict in this state compared with 53 per cent in New South Wales, 41 per cent in Victoria, and 63 per cent in Western Australia.

Over 72 per cent of guilty verdicts are handed down within 39 weeks of initiation compared with a national average of 38 per cent. A sentence is handed down within eight weeks of a verdict in over 70 per cent of cases. The report found that almost 90 per cent of defendants prosecuted where the matter is taken through to a verdict in the state's two superior courts (the Supreme Court and the District Court) are ultimately found guilty. The rate of guilty verdicts reflects well on the work of the prosecutors—the Director of Public Prosecutions and the police prosecutors—as well as the investigators who gather the evidence, identify the alleged offenders and then proceed with prosecution. Of the 692 cases finalised in the Supreme Court and the District Court, 74 defendants were ultimately acquitted.

Almost 76 per cent of defendants in finalised matters actually plead guilty, and that high rate reflects on the integrity of the investigation and prosecution processes in South Australia. Only 193 of the 692 defendants before the courts did not plead guilty. The efforts of the courts in South Australia to make sure that matters are dealt with expeditiously in fact save time and expense for all the parties, including the courts. And, in relation to trauma, which is of particular concern to litigants, the quicker the matter can be resolved, certainly the less trauma is experienced.

The Chief Justice noted during the estimates committee hearings that it is usually the courts now that are actually pushing the parties to finalise matters and not the other way around. One of the court programs to assist this has been a pilot scheme over the past three years of promoting the use of the negotiated settlement of disputes through mediation, conciliation and arbitration for matters before the Supreme Court and the District Court, with retired and serving judges acting as conciliator or arbitrator. Over 60 Supreme Court cases and almost 200 District Court matters have been referred to this pilot scheme with a 60 per cent success rate. These matters are being resolved to the satisfaction of the parties involved within hours rather than days, weeks and even months, and that ultimately reduces the weight of cases required to be determined by the courts.

There is a lot of innovation in the courts in South Australia, extending well into the area of electronic technology, all of which is of benefit to not only those who appear before the courts but also the wider community in South Australia.

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Attorney-General a question about the length of time and the cost that is required to have matters heard in court in South Australia.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.K. SNEATH: Someone must have seen my question.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Sneath. Leave has been granted.

The Hon. R.K. SNEATH: A number of people have raised with me the time and cost involved for the court to decide a straightforward case. The Attorney-General in answering the previous question said that South Australia had a good record compared with interstate. I would be horrified if the national average was more than the South Australian time and cost. One thing the Attorney-General did not touch on was the cost. The court system in South Australia, and obviously elsewhere in Australia, for unemployed and low income people is not working, because people are not taking matters to court when they should be and when they are entitled to some sort of monetary payment or settlement.

The PRESIDENT: Order! The honourable member is giving opinions now and is out of order.

The Hon. R.K. SNEATH: I am sorry, Mr President. I have been told in recent weeks about an insurance claim for $50 000, where seven years ago a widow's husband passed away in an accident.

The Hon. K.T. Griffin: You had better ask their lawyer about it.

The Hon. R.K. SNEATH: It is still going. The costs have gone up to $80 000 for what is a maximum settlement of $50 000, if the widow is successful. The widow has thought about pulling out of this case on a number of occasions—and that would be unfortunate.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: Well, it is a simple case of people who cannot afford to continue—and a lot of it is concerned with lawyers, too, as the Attorney-General said. Lawyers have a way of prolonging the agony of low income paid people; one way in which they slow down things is by not responding to discovery.

The Hon. A.J. Redford interjecting:

The Hon. R.K. SNEATH: We can hear the lawyers trying to interject here; we can see the lawyers around this place.

The Hon. K.T. Griffin: You said they do it for low income people: I thought they did it for—

The Hon. R.K. SNEATH: Well, they probably do it for everyone.

The PRESIDENT: Order! This is not a debate, Mr Sneath.

The Hon. R.K. SNEATH: They continually seek adjournments to slow down things, which results in extra time and cost, hoping people who have claims will go away. My questions are:

1. Has the Attorney-General looked at ways to set a cost structure for particular types of cases by perhaps allowing judges to set a maximum cost before the commencement of a trial?

2. Has the Attorney-General considered ways to ensure that once cases have started they are completed in the shortest possible time?

The Hon. K.T. GRIFFIN (Attorney-General): I cannot give any directions to the courts about how they conduct cases and I do not think anybody would want the Attorney-General to do that—it would begin to smack of political interference in the processes and decisions of the courts. But, in relation to keeping the pressure on the litigants, the courts now do take a much more proactive role in trying to keep the parties up to the mark in terms of the way in which they are dealt with. Our laws already have provision for costs to be awarded against lawyers if they are dilatory or at fault. You will find that provision in the Magistrates Court Act, the District Court Act and the Supreme Court Act. So remedies are available.

There are issues of unprofessional conduct. The major cause of complaint against lawyers is that they do not tell their clients what is happening, and many of those sorts of complaints can be resolved quite easily. If there is a concerted effort to adjourn cases or postpone, it may be ultimately unprofessional conduct. We have set up the Legal Practitioners Conduct Board on the basis that that board can investigate allegations of unprincipled delay, waste of time and the running up of costs. If there are some problems with a particular case, whilst I cannot interfere with what is happening in the court, I am always happy, if members provide me with information about particular cases and can identify them, we can have them looked at and referred off to the Magistrates Court Chief Magistrate or to the Chief Judge of the District Court. They are equally concerned if the courts are delaying—

The Hon. T.G. Cameron: It is an offer you are making to us, is it?

The Hon. K.T. GRIFFIN: Yes.

The Hon. T.G. Cameron: I have a case I might get you to look into. Will you look into the conduct of a magistrate or judge?

The Hon. K.T. GRIFFIN: If there is an allegation about the conduct of a judge or magistrate, all I can do is refer it to the Chief Magistrate or the Chief Judge.

The Hon. R.K. Sneath interjecting:

The Hon. K.T. GRIFFIN: That is rubbish; and you know it is rubbish. The chief judicial officers are honourable people who are intent upon endeavouring to ensure—

The Hon. R.K. Sneath interjecting:

The Hon. K.T. GRIFFIN: Well, no, there are lay people on that. You ought to look before you leap. There are lay people on the Legal Practitioners Conduct Board—you know that. If you do not know it, you ought to look it up.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: We have lay people. We have a lay observer to look at complaints, even about the way in which a matter was investigated by the Legal Practitioners Conduct Board. That has been in place for 20-odd years and there are no complaints about the lay observer. If the honourable member has an example of a widow who has been waiting seven years for her matter to be brought to court, if he could let me have the details I will endeavour to have it examined either by the court or the Legal Practitioners Conduct Board or in some other way. I will not respond to a specific case without the details. Even when I get the detail of a specific case, it may be, if it is a problem with the court, all I can do is refer it to the chief judicial officer of the jurisdiction in which the claim is being made for examination, and I am happy to do that. I do it for a lot of the honourable member's colleagues who raise those sorts of issues and I think that they are generally satisfied that at least I am prepared to have these things looked at, even if I cannot ultimately find a solution because of the separation of the courts from the executive arm of government.

In terms of the question whether I have looked at fixed costs for particular cases, I advise that we have such costs to some extent with criminal injuries compensation cases (and there are enough complaints about that from members of the profession), we have them in some workers' compensation type matters and there are some flat rates in the minor civil claims jurisdiction and in the Magistrates Court, as far as I

recollect. However, ordinarily, if someone is dissatisfied with the cost, they can apply to the court inexpensively to get the costs attached by the court. But if time has been wasted and costs incurred unnecessarily, that is a disciplinary matter that must be taken up with the Legal Practitioners Conduct Board. That ought to be the port of call if there is a complaint against the way in which a particular matter has been dealt with.

I suspect that in this case it is not the court's fault, and from what the honourable member said subsequently after interjections that he thought it was the legal representative, the Legal Practitioners Conduct Board is the first port of call. If he lets me have the detail, I will be able to give him some direction as to where it should go.

POLICE RADARS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, questions regarding interference with police speed radars by mobile phones.

Leave granted.

The Hon. T.G. CAMERON: A recent article appeared in the Melbourne *Herald Sun* that stated that Victorian police are concerned that mobile phones and possibly mobile phone towers appear to cause digital speed radars to give inflated speed readings. Apparently the speed radars were not designed for use with the frequencies used by Australia's digital mobile phone systems and the closer the mobile phone the greater the impact on the police radars. GSM and CDMA mobile phone networks are not used in the US where the speed radars were designed.

Traffic and Operation Support Department Superintendent Bob Wylie said that one of the suspect radars mounted on a police motorcycle had been withdrawn from use pending inquiries. He said, 'If there is a problem identified, all penalty notices associated with it will be reviewed.' More than 50 dash-mounted radars have been withdrawn from service in Queensland where the problem was first noticed six months ago. Motorists in that state had their fines reviewed and penalties withdrawn. My questions are:

1. Is the minister aware of the impact on police speed radars experienced by the Queensland and Victoria Police as a result of digital mobile phones?

2. Have any similar problems occurred in South Australia?

3. If so, what has been done or is being done to fix the problem?

4. Will penalty notices be reviewed in those cases where it is proved that speed radars have been affected by mobile phones?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply. My understanding is that a lot of the technology in South Australia is laser—

The Hon. Diana Laidlaw: There is no legal provision for digital.

The Hon. K.T. GRIFFIN: No—as opposed to radar. I will get some answers and have them brought back.

The Hon. Diana Laidlaw interjecting:

The PRESIDENT: Order! Only one minister is permitted to answer the question.

The Hon. K.T. GRIFFIN: My colleague the Minister for Transport reminds us that there is a bill in the Council that deals with digital technology and she has asked me to communicate to the honourable member a wish for his support in relation to the passing of that bill in due course.

RAIL SERVICES, OVERLAND

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about *Overland* rail services.

Leave granted.

The Hon. J.S.L. DAWKINS: I was recently approached by a constituent in relation to the scheduling of *Overland* rail services to and from Melbourne during the 2001 AFL finals series. The constituent, who has used the *Overland* service when attending football finals in the past, raised the possibility of both the Port Adelaide and Adelaide clubs participating in this year's finals—admittedly the question was raised with me prior to both clubs losing their last three games. However, it was quite pertinent and still is in relation to the rail services available.

My constituent was particularly interested in the possibility of travelling to and from Melbourne in a 24-hour period without needing to stay overnight at a time when accommodation space in the Victorian capital would be very limited. Will the minister advise what arrangements will be in place in relation to *Overland* services during the AFL finals series and particularly during grand final week?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): This question was raised with me by the honourable member a couple of weeks ago and, in turn, I did raise it with the Chief Executive Officer of Great Southern Railway, Stephen Bradford, whose response was that, as a dedicated Melbourne supporter, he saw no likelihood that either of the Adelaide-based teams would be in the finals. However, he did have somewhat of a conflict of interest because, certainly, for the operation of the *Overland* in terms of football generally, but particularly with respect to the football finals, participation, particularly from South Australia but even from Perth, is very important for the patronage and profit of the *Indian Pacific* and the *Overland*.

The honourable member would know that, as part of the budget announcement for this financial year, this government committed—and the Victorian government is matching the sums—business support for the continued operation of the *Overland* service. So, the more passengers we can accommodate who are paying and who are tourist based—not just concession based—the better for the continuing operation of the *Overland* service.

I am advised that the arrangements that have been made at this time for the football finals is that the usual *Overland* service will depart Keswick at 9 a.m. on a Sunday, Monday, Thursday and Friday and return ex-Melbourne 9.30 the same evening. The usual *Ghan* service will depart Keswick at 10.15 a.m. and return ex-Melbourne at 11.30 the same evening. I have been told that a special *Overland* Crows Grand Final service—and this is assuming that the Crows are in the grand final, but it has already been named the Crows Grand Final Service—departs Keswick at approximately 8 p.m. pre-grand final and leaves Spencer Street Station at approximately 9 p.m. on the Saturday evening. I am advised that whether or not the Crows are in the grand final, Great Southern Railway is a corporate sponsor of the Adelaide Crows, hence the naming of that service. Extra carriages are added in addition to those provided to the Adelaide Crows as part of that sponsorship.

I am advised that Great Southern Railway will take all bookings and put all carriages into use to service any demand generated from the football series. Great Southern Railway advises me that the company's yield philosophy is 'to never be full unless every available carriage is in service'. As an example of this policy in practice, the company has highlighted the Easter Thursday *Overland* service which carried 550 customers each way and which exhausted the limit of the Spencer Street Station platform. Except for the special grand final train, all other services will operate for each week of the finals to the maximum number of carriages required to meet patronage.

DRY ZONE, CITY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Attorney-General questions about the declaration of a dry zone in the City of Adelaide.

Leave granted.

The Hon. SANDRA KANCK: On 2 April the Adelaide City Council passed a resolution which reads in part:

> Council instructs the CEO to submit to the Liquor Licensing Commissioner an application together with necessary supporting material for a dry zone declaration covering all city public roads and squares on a 12 month trial basis.

On the same day Premier Olsen issued a media release stating:

> responsibility is now with council to move ahead with a dry zone trial and effect the appropriate planning approvals.

In that release he committed the state government to providing $500 000 towards the establishment of the euphemistically named city stabilisation facility—I would prefer to call it a sobering up centre. The *City Messenger* of 6 June this year carried a report by Elizabeth Rowe in which Elliott Johnston QC is quoted as saying that the Liquor Licensing Commissioner has:

> no jurisdiction whatever to consider such an application or to make such a declaration.

Elliott Johnston QC further states:

> the fact the commissioner sometimes receives suggestions for dry zone declarations and passes them on to the Attorney-General has no significance for the above matters.

In the same article the Liquor Licensing Commissioner, Bill Pryor, confirms that approving a dry zone was not within his jurisdiction. Despite Mr Pryor's comments, the Attorney-General in the same article is quoted as saying that he sees no logic in Mr Johnston's arguments. Yet in the *Messenger* of 27 June, the Lord Mayor, Alfred Huang, confirms that the decision to declare a dry zone rests with the state government and that a steering committee would implement the plan.

Before issuing his media statement that erroneously implies that Adelaide City Council has the legal power to declare dry zones, did the Premier seek advice from the Attorney-General regarding the capacity of the council to declare a dry zone? What precisely did the Attorney mean when he labelled Elliott Johnston's comments on the matter 'illogical'? Does the Attorney acknowledge that the state government, and in particular his department and not the Adelaide City Council or the Liquor Licensing Commissioner, is empowered to declare a dry zone via regulations under section 131 of the Liquor Licensing Act? Do the state government's 'Dry Area Guidelines' stipulate that a proper evaluation of dry areas must be conducted? Can the Attorney give details of any evaluation or review that has been carried out on any or all of the 62 dry zones currently in force around the state? If so, will the Attorney-General table a copy of the stakeholder strategy for each zone, and a list of who the stakeholders were that were involved? Can the Attorney particularly give the Council a report on the effectiveness of dry zones in the Hindley Street and Rundle Mall precincts, in the light of high offending rates in both those areas, including crimes involving alcohol and violence? What evidence can the Attorney offer that the imposition of dry zones has led to improved public safety in the city? Has cabinet signed off on the $500 000 pledge for a sobering up centre? If so, who will cover the recurrent costs associated with operating such a facility? And will the Attorney-General now promulgate regulations for a dry zone?

The Hon. K.T. GRIFFIN (Attorney-General): I am obviously going to have to take a lot of those questions on notice. I cannot remember all of the questions that were raised, but I will give some attention to them. The fact is that for the last 10 years there have been guidelines promulgated by cabinet for dealing with dry area applications. They were promulgated by a Labor government. When we came to office in 1993 we looked at them. We determined that they were an appropriate framework for dealing with the applications for dry area declarations, and we have continued to follow those guidelines. There was one modification and that related to the length of currency of dry zones in some circumstances. But apart from that we are following guidelines which have been in place for at least the last 10 years.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: The law identifies under the Liquor Licensing Act that dry area declarations are made by way of regulation. We all know that regulations are promulgated by the government of the day and laid on the table of both houses of parliament and are subject to the usual disallowance procedure.

The Hon. Sandra Kanck: The Premier obviously did not know that when he put out his statement.

The Hon. K.T. GRIFFIN: That is not right. Under the guidelines, a local government council that believes that a dry area should be declared in its locality will make application to the government with a fairly comprehensive package which identifies what the problems might be that the council believes can be overcome by declaring a dry zone, the levels of consultation within the community, and what sorts of strategies are proposed to deal with underlying social causes for the problems to which the dry area declaration is intended to be directed.

In some instances there will be further examination of the consultation by the Liquor and Gaming Commissioner. The applications would normally be processed through the Attorney-General. In the case of the request for dry area declaration from the City of Adelaide (which I think was received only a few days ago), it has now been sent off to the Liquor and Gaming Commissioner for examination. The Liquor and Gaming Commissioner examines the application and makes—

The Hon. Carolyn Pickles: Doesn't he keep sending it back to you?

The Hon. K.T. GRIFFIN: Well, he will; I am telling you this. The Liquor and Gaming Commissioner, having examined the application, will then refer it to me, or to the Attorney-General, and then I will make an application by way of cabinet submission to the cabinet for approval to draft the regulation which will promulgate the dry area; and then it will go off for drafting. It will then come back as a formal

regulation for promulgation by the Governor in Council after being finally approved by the cabinet.

With the consultation process, it is sometimes necessary to undertake further consultation. In many instances there has already been a significant level of consultation with local communities; and, in the case of some communities that have a crime prevention committee, councils use those committees to undertake the consultation process. In addition to that, views will be sought from the police, the Crime Prevention Unit, Youth Plus, and a whole range of groups within government and in the non-government sector; and my understanding is that a lot has already been done by the Adelaide City Council.

The Premier has indicated that, the council having made application for the dry area, we are processing it through the various steps that normally we would take but that, in the end, the dry area declaration will be facilitated. He has also indicated that the underlying social issues will have to be addressed by local government as well as by government, because that is part of the normal guidelines which we apply in relation to dry area declarations. That is what will happen in this case, and it will be facilitated. At one stage the council was seeking to have a hearing before the Liquor and Gaming Commissioner or, in one case, I think the Licensing Court was mentioned. However, the council misunderstood where, ultimately, the declaration is made. There is no hearing before either the Commissioner or the Licensing Court, and in those circumstances, having been considered as a matter of administration by the Liquor and Gaming Commissioner, it will come to me and then it will be appropriately processed through the cabinet at that point.

In terms of issues of funding, I will take those questions on notice and bring back a reply. In respect of the publicity given to some advice by Mr Elliott Johnston, I do not have that in front of me but I will give a considered response to that. I remember that at the time I looked at it I made a statement that what he was advising (as it was reported) did not make sense. I have seen nothing which suggests that the statement I made was incorrect.

Mr Johnston gave advice, as I understand it from the media reports. I did not agree with that advice and the way in which it was reported just did not make sense, and that is what I said. I do not have any problem with saying that sort of thing but, in any event, that was a matter for the council because, as I recollect, it went to the processes of council not to the processes of government. That is as far as I can take the answers to the longest of the questions at present. I will take the remainder on notice and bring back considered replies.

MATTERS OF INTEREST

OFFICE EQUIPMENT

The Hon. CAROLINE SCHAEFER: Today, I wish to speak on the energy usage of office equipment. In May this year, *Choice* magazine reported on the wastage of electricity by appliances which are left on standby. I was surprised at just how much energy is used by TVs, VCRs and, of course, audio equipment and battery chargers when left on standby. Computer equipment and, in particular, printers use small amounts of power even when turned off.

Choice found that the average annual standby power consumption of computers is 2 watts; monitors, 1.2 watts; computer speakers, 2.1 watts; printers, 2 watts; and fax machines, 8.2 watts per annum. Each watt of standby power costs about $1 a year. Research by the Australian Greenhouse Office has shown that standby power consumption costs Australian households more than $500 million a year and generates more than 5 million tonnes of carbon dioxide a year. This has the same greenhouse impact as 1 million cars.

Reduction in standby power losses is a win-win situation, reducing greenhouse gases and electricity costs to consumers. The Parliamentary Network Support Group advises that in Parliament House and Old Parliament House we have at least 130 desktop PCs and monitors and about 20 printers and 20 copiers. The annual standby energy cost for this amount of equipment is about $13 000. This estimate is based on average equipment type and average use patterns of a 9½ hour work day and 5½ hours inactive time. The federal government has a long-term goal that no electrical appliance will use more than 1 watt per annum while on standby.

The issue of inefficient electrical equipment is being addressed by state and federal government agencies through the national Energy Star program. Energy Star enabled equipment can reduce greenhouse gas emission levels by more than 50 per cent. If all compatible PCs in Australia were enabled with Energy Star, $228 million a year would be saved and greenhouse gas emissions would be cut by over 2 million tonnes. I am pleased to advise that, as new equipment comes into Parliament House, most of it is Energy Star enabled. If all the office equipment in Parliament House was Energy Star enabled, the estimated figure of $13 000 standby power usage would reduce to $6 000.

Energy Star works by automatically switching to a power saving sleep mode after a certain amount of idle time but starts up again as soon as a key is pressed. Currently, as we know, Australian emissions of greenhouse gases are amongst the highest per person of any country in the world. One-quarter of our production of carbon dioxide comes from the burning of coal to generate electricity. Currently, 95 per cent of our power comes from coal fired power stations, and office equipment is the fastest growing electrical load.

What can we do? Obviously, the message is to switch off our PCs at night rather than leave them on standby and to unplug our mobile phone chargers rather than leaving them plugged in and switched on. A normal computer and monitor left on for one year generates the same amount of carbon dioxide as a car travelling from Sydney to Perth. The monitor accounts for about 80 per cent of the energy consumption of the unit. Again, a simple energy saving method for us all would be to switch off rather than leave on standby.

LIONS CLUB OF ADELAIDE ITALIAN

The Hon. CARMEL ZOLLO: A week or so ago, it was a great pleasure for my husband and me to attend the Lions Club of Adelaide Italian (district 201 S2) special night of the year—its 24th handover night dinner. The club was initially established to encourage membership of community spirited people, of Italo-Australian background, from business, the professions and public service. However, of course, it is open to all, with even some of the charter members being of non-Italian background.

It is especially pleasing that the club continues to foster the celebration and recognition of its origins for younger members of the community. The handover program highlighted the attendance of guest speaker Lions Lady Kathy Bernardi at the Sons and Daughters Culture Night, who spoke about Italian culture and the benefits associated with young people learning the Italian language in Australia.

I was particularly pleased to attend in this the International Year of the Volunteer and recognise the contributions made by members of this and similar service clubs, people who are prepared to freely give of their time and talent and especially bring to fruition the many special projects for the betterment of our community. I was involved in a very small way last year by helping to organise a table for a major fundraiser organised by the club that raised funds to provide transport for elderly citizens who attend ANFE in the western suburbs. The commitment and time required to bring that successful fundraiser to fruition was obvious. I was very pleased to see an amount of $10 761.50 handed to ANFE to assist in the purchase of a minibus used to transport elderly citizens.

Other groups that received help from the club in the last year included Life Education SA, the Indian Earthquake Appeal, World Vision and Lions Hearing Dogs, amongst others. The formal ceremonies included the installation of the incoming president and new committee and the induction of a new member, Mr Alex Bryzgalin. A number of awards were also presented to members for outstanding achievement. Mr Frank Russo conducted the induction of the new president and the board for the coming year.

The new President, Mr Tony Simeone, is well respected in the community as a committed and passionate advocate for good causes, and the drive and enthusiasm that his leadership brings will ensure the club's continued success. He will be ably assisted by other new board members for the coming year: Messrs Philip Donato (First Vice-President), Carmelo Baldino (Second Vice-President), Tony Russo (Third Vice-President), Ralph Annetta (Secretary), Tony D'Angelica (Assistant Secretary), Nick Moretta (Treasurer), Ralph Pacillo (Assistant Treasurer), Eric Pagnozzi and Aldo Silvestri (One Year Directors), Claudio Viale (Lion Tamer—Meeting Logistics Officer) and Amedeo Penna (Immediate Past President). The board was duly inducted on 23 June 2001 to be the executive body of the club for the coming year ending on 30 June 2002.

The outstanding award of the evening was presented to Mr Vince Cosmai by outgoing President, Mr Amedeo Penna. The Melvyn Jones Award is the highest award that can be bestowed on a Lions member by the Lions Clubs International Operation and is for outstanding contribution to the Lions spirit. I congratulate all members of the Lions Club of Adelaide Italian for their commitment, generosity, entrepreneurship, camaraderie and, especially, the giving of their time and talent to assist those people in the community less fortunate than others. It is people like members of the Lions Club of Adelaide Italian who provide the social capital that makes our society into a community. I would be reluctant to put a monetary price on their good works, but I am certain that the community and certainly governments of any persuasion would be the poorer without them. I know that the coming year under the presidency of Mr Tony Simeone will again be successful, with many deserving projects being undertaken by the club, and I offer my best wishes to all members.

SLOVENIA, INDEPENDENCE DAY

The Hon. J.S.L. DAWKINS: I was pleased to represent the Hon. Iain Evans, minister responsible for volunteers, at the recent celebrations of the 10th anniversary of Slovenia's Independence Day on 24 June at the Slovenian Club. This celebration took place one day before the actual anniversary of independence and also marked the International Year of Volunteers. There are 385 full members of the Slovenian Club and 25 associate members. The club exists solely on a voluntary work force. The day commenced with a Holy Mass, which was followed by a cultural program, the presentation of certificates to volunteers and a luncheon.

About four decades ago, emigrants from Slovenia came to Australia and brought with them a real need to keep their accustomed social and cultural parts of life. As many other refugees from mostly European countries, they came together on occasions and eventually, with their numbers increasing, they formed an association and built facilities where they could meet. Their bond was mutual and, although loving and becoming real citizens of this country, they nurtured happy traditions of the past in their homes and at the club. They came to Australia with empty pockets and few possessions, determined to make a life for themselves in this country. To this end, with jobs easily found in those times, hard work made them prosper. Some married partners from home or found other Europeans or Australians as life partners.

Their children were afforded most of the things that they themselves had never been privileged to have. This new generation grew in an English speaking environment, particularly when one of the parents was of other than Slovenian background. In some families, folk dancing, singing and Slovene language schooling at the club helped the youngsters to understand and be part of their Slovene heritage. Third generation children are even more integrated into the Australia picture, yet some are fortunate to have learned, and are still tutored in, Slovene.

I was pleased to have the opportunity to speak to those gathered at the Dudley Park clubrooms about the role of volunteers in our society before presenting certificates of recognition to the President, Mr Ignac Simenko, and five past presidents of the club. In addition, I presented Mr Simenko with a Premier's award to the club as a whole. The program of the day included a number of musical items from the Slovenian Choir Adelaide and several younger members of the Slovenian community. A further feature was the presentation of cultural and historical addresses and a traditional luncheon. Trophies were presented following the club's recent bocce competition, while the celebrations also included a wine tasting competition and an art exhibition.

I was pleased to learn about the Slovene language programs which are broadcast frequently on 5EBI FM. In addition, I was delighted to gain more knowledge by reading the latest issue of the *Slovenia South Australia Newsletter*. This publication provides considerable information about many facets of this community, including the cultural subcommittee, the second generation committee, the Slovenian reading tour of Australia, the Slovenian language summer school, the dancing school and a range of others.

I conclude by thanking all involved with the Slovenian Club for their hospitality on 24 June. In particular, I mention Mr Simenko who will step down as President of the Slovenian Club at the Annual General Meeting in August. Special thanks also go to Club Vice President Mr Ernest Orel

for hosting me on the day and the secretary Hans Kettler for the information he provided to me.

HOWELL, Mr J. P.

The Hon. R.K. SNEATH: I would like to speak about a tough man—one of the toughest I have met—who unfortunately passed away recently. His name was John Paul Howell. He was a construction manager with the highways department (now known as Transport SA) for some 35 years. An article appeared in the *Advertiser* as follows:

> John Howell was responsible for more than 2 000 kilometres of road across the state in his 35 years with the Highways Department, winning the South Australian Public Service Medal for his efforts. While being widely applauded for his innovative techniques and management skills, his courage in dealing with ill health won him many admirers.
>
> [John] was diagnosed with chronic renal (kidney) failure in 1974 but, despite a series of stints in hospital, kept returning to work. He underwent two kidney transplants in 1974 and further transplants in 1980, 1986 and 1992. Five kidney transplants is an Australian record.
>
> Because of the medication required to prevent his body rejecting the transplanted kidneys, his resistance to skin cancer and other ailments was substantially reduced. As a result, he had more than 300 skin cancers removed from various parts of his body. But Mr Howell took ill health in his stride, continuing his work on roads across the state. He was also a modest man, saying he was 'embarrassed and pretty overwhelmed' at being the only recipient of the Public Service Medal in the 1998 Australia Day honours list.
>
> John was born and raised in Burra in the Mid-North, at one stage running a series of rabbit traps to supplement the family income . . . He oversaw road reshouldering projects and the initial construction of passing lanes on the Dukes and Sturt highways. He was also responsible for road maintenance gangs in an area from Renmark to Kangaroo Island. He retired in December because of his continuing poor health. His retirement was short-lived, mainly spent in hospital. He died, aged 54, in a Murray Bridge hospital last month—

which is now about two months ago when he passed away—

> He is survived by his widow Pauline, children Paul and Megan, and four grandchildren.

I had a lot of dealings with John Howell. As a union official I would have to negotiate with John on a number of issues. He was one of the hardest men I ever ran across, but one of the fairest. In all the time I was negotiating with him, until I read this article in the *Advertiser* a month ago, I did not know what ill-health he was suffering. Of course, he was the sort of bloke who certainly would not have told you. On those days when I was trying to get something for the highway workers and to fix up some problems, he must have thought, 'I wish this damned union bloke would go away,' because he would not have been feeling well at some of those times. But, as I said, you would not have known.

You certainly did know about the skin cancers which were obvious on his face, and the hard yards he put in at Hawker in his early days in the heat of the sun. He looked like a typical Australian outback drover rather than someone who worked at the end of his life in an office in Murray Bridge. He put in a number of hard yards for many years in the heat in the outback building roads. I had the fortunate experience to run into some fair, hard negotiators while I was a union official, but I would not say that I ran into any harder or fairer than John. He was a credit to what the word 'boss' is all about. He was a boss that many people would like to see today—because I certainly ran into some who would not hold a candle to John. I pass on my condolences to his family. It is a sad loss at a young age of a man who certainly stood by his department and the workers.

LIVE MUSIC INDUSTRY

The Hon. A.J. REDFORD: For over 30 years now, Adelaide has been seen as a leader in the arts not only throughout Australia but also internationally. Indeed, the breadth and depth of our artistic endeavours and talent is something of which all South Australians should be proud.

Today the Minister for Transport and Urban Planning and for the Arts made a ministerial statement relating to some recent issues concerning the live music industry and hotels. The statement announced the establishment of a working party to look at the difficult issue of live music and its interrelationship with neighbouring residents and other land users. In that respect, I know that, as chair of that working group, I will be dealing with some very difficult and contentious issues, all of which exist in a very difficult legal and social environment. I will mention some of the issues that have been raised on this matter in recent times. During the second reading debate on the Liquor Licensing Act back in 1997 I asked the following question:

> What will the Liquor Licensing Commissioner do in circumstances where premises have, over a period of time, provided live entertainment and local residents seek to prevent the continuation of the provision of entertainment by such licensed premises?

To be frank, there was a problem then and that problem persists, despite being raised by me over time. I further raised that issue in committee when I said:

> It would be of enormous concern to me because there are premises out there which have been providing live entertainment year after year or which have the facilities to present live entertainment and along comes a new neighbourhood and says, 'No, we don't want it because we want to change the nature of our neighbourhood.'

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: Indeed. That is exactly what has happened with the East End development, where it has come to my attention that petitions have been circulated seeking to change the entertainment practices in a precinct that is arguably one of Adelaide's most popular entertainment areas. The Austral Hotel and the Exeter Hotel have provided live music for over 30 years. I know that the member for Elder has been a regular patron for much of that time.

The Attorney-General acknowledged the difficulties but ruled out the issuing of guidelines to assist the public in this area, something which is disappointing. Some of the issues that have been raised in the media recently—and I refer to an article in the *Advertiser* of 23 June last—relate to the challenge to the East End hotels and, in addition, to the Crown and Anchor, the General Havelock, the Grace Emily and, more recently, the Seven Stars Hotel. John Lewis, the Executive Director of the Hotels Association, says that hotels have always co-existed with residents since the industry began in 1837. He rightly points out that hotels play an important social role in the community.

One of the most important aspects of the hotel industry is its support of live music. Live music has an important role to play in this state today. They are the Banjo Patersons and the Henry Lawsons of the twenty-first century. They will be looked at in 100 years time to provide some information as to how we live as a society and a community. It is disappointing to hear the views of some residents. In particular, the President of the South Australian Federation of Residents and Ratepayers says:

> In my opinion any noise after midnight is unacceptable.

That indicates a non-understanding of the vibrancy and the pattern of life in our city and of young people. It has brought

some perverse results, too. The proprietor of the Austral Hotel is concerned about the construction of low cost apartments in the East End because they might be bought by students, and the publican believes that that will lead to greater noise, subsequently to complaints from other residents and, finally, to the closure of the hotel or the reduction of entertainment. That will be sad.

This government through the minister has worked hard to establish a good environment for contemporary music with the appointment of a contemporary music adviser and the launch of Music Business Adelaide.

The Hon. Diana Laidlaw: And Music House.

The Hon. A.J. REDFORD: And Music House, too. I hope we can continue to be leaders in this country. On a recent visit to Austin, Texas, one could hear them claim to be the live music capital of the world and I would like us to challenge that.

Time expired.

CRASH REPAIR INDUSTRY

The Hon. IAN GILFILLAN: I raise the issue of a crisis in the crash repair business. It is quite dramatic to hear from those in crash repair businesses—and I have spoken to several in the past few weeks—about the hourly rate imposed on them for crash repair by the insurance companies and the cost that impacts on them. From the figures given to me, I note that the highest payer in South Australia is the NRMA owned SGIC at $25.50 per hour. That compares with the average employee wage of $21 per hour, leaving a very slender and, in fact, ridiculous margin to cover cost, which is estimated by the industry as varying between $70 and $90 per hour to cover panel beating and painting.

The end result of this distortion is bound to result in either inferior work or, to coin the phrase used in the trade, 'funny time for funny money'. It means that, because the repairers are not allowed by the insurance companies to charge a reasonable hourly rate for a job, they distort the amount of time taken to do the job. As anyone can realise, this is totally unsatisfactory. The hourly rate of $25.50 is the highest available in South Australia and has not been altered since 1996, over which time there have been substantial increases in a whole range of costs: wages, superannuation, WorkCover, materials, fuel, power, the emergency services levy, computers, CPI increases and parts.

We must assist the industry to make sure there is a level playing field in the negotiations between the industry and the insurance companies. The MTA (Motor Traders Association) has presented as the body representing the industry and, although it has done its best to raise some issues that I have been aware of in the past couple of days, it is amazing that it has not over time mounted a very energetic and aggressive campaign to attack the insurance companies on what is blatant exploitation.

The exploitation is motivated by a statement of the NRMA in a document it put out regarding a change in the procedure: it says that its first priority is to its shareholders. That may well be a priority. However, its major priority should be to the customer, the insured, the people who are involved in repairing the damage covered by the insurance.

The Hon. T.G. Roberts: And road safety.

The Hon. IAN GILFILLAN: And road safety, as is interjected, because the pressures currently on the industry result in less than optimum standards and the use, in many cases, of second-hand parts. The insurance companies should stand condemned in putting unreasonable pressure on an industry which, in the main, is honest and attempting to do a good job for its customers. It is victimised by this unreasonable pressure from insurance companies.

There is a move by the NRMA to introduce a tendering process which will only exacerbate the situation and virtually put a gun to the head of repairers who will have to quote at prices certainly no more than the standard hourly rate. Under those circumstances, I cannot see the situation improving until the industry itself is reinforced and is able to combat the insurance companies' intimidation and be protected from the threat, either implied or real, that any attempt to combat the insurance companies' position will be taken as collusion, with the threat of a $10 million fine. If there is any collusion, it is in the hands of the insurance companies which, if they were fair and honest in their dealings with repairers, would offer higher hourly rates.

Time expired.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: URBAN TREES

The Hon. J.S.L. DAWKINS: I move:

That the report of the committee concerning urban tree protection be noted.

The Environment Resources and Development Committee, on its own motion, decided to undertake an inquiry into current urban tree protection policy and legislation. That was because of concerns raised by local government bodies over their ability to meet tree protection requirements, both administratively and financially, set by amendments to the Development Act and implications of impending expiration of some measures.

In response to ongoing community and government concerns about tree removal in metropolitan Adelaide, the Development (Significant Trees) Amendment Bill was introduced to address the lack of tree protection afforded to urban areas. That is in contrast to the protection offered to non-urban trees under the Native Vegetation Act. The bill enabled amendments to the Development Act to give local government the ability to both protect and manage significant trees within the urban environment.

The committee initiated this brief inquiry in March by seeking the views of all metropolitan councils on their ability to meet the deadline of 1 July to put in place additional policies for the protection of significant trees. The committee received a number of submissions from metropolitan councils and consulted the Local Government Association. The report highlights concerns in relation to the implementation of urban tree protection policies.

The Development Act now provides that any activity that damages a significant tree is development. Development recommendations were amended to provide that a significant tree is, firstly, any tree in metropolitan Adelaide which has a trunk circumference of 2.5 metres or more or, in the case of trees with multiple trunks, that has trunks with a total circumference of 2.5 metres or more and an average circumference of 750 millimetres or more measured at a point 1 metre above ground level or, secondly, any tree identified as a significant tree in a development plan. Councils have the opportunity to identify and list other trees not within this description as significant trees within the development plan to facilitate protection. The development plan is amended through the plan amendment report (PAR) process to achieve that outcome.

In order to give councils time to prepare necessary PARs, the two additional time-limited categories of significant trees were made available for the minister to implement at a council's request. Six local government bodies—Burnside; Mitcham; Unley; Prospect; Norwood, Payneham and St Peter's; and Adelaide—requested the additional controls.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Elliott should have his conversation outside. Another member is on his feet.

The Hon. J.S.L. DAWKINS: These controls were to expire on 1 July; however, the minister has tabled Development Act regulations to extend that time to 1 July 2002. The new urban tree policies have been introduced with some positive and negative reactions. Mitcham council indicated that the new controls are operating successfully as a significant deterrent against tree removal that it views as being unnecessary. However, despite the additional policies to protect trees less than 2.5 metres in diameter set for a period of time, the time frame was insufficient for local government to implement urban trees PARs. No local government body had set in place additional urban tree protection policies within the prescribed time frame, despite considerable cost and effort by some. Several councils have also directly expressed difficulties in preparing and implementing current tree legislation and subsequent policies. The report tabled recommends that the Minister for Transport and Urban Planning:

1. Extend the time line for protection of trees less than 2.5 metres in diameter for a minimum of an additional 12 months.

2. Expedite the implementation of local government urban tree PARs by: processing urban tree PAR statements of intent as a priority; encouraging the use of interim controls under section 28 of the Development Act; and supporting local government in the preparation of urban tree PARs through technical assistance.

3. Review the urban tree policy subsequent to the initial 12 month implementation period, considering the effectiveness of policies and implementation, alternative legal mechanisms, and support for local government in data collection, policy preparation and enforcement.

In closing, I commend the minister for already responding to the first recommendation by gazetting regulations to extend this period for an additional 12 months. In fact, the members of the committee noted the ministerial statement that she made in this place in relation to this issue on 7 June. On behalf of the Presiding Member of the committee (the member for Schubert), and his House of Assembly colleagues the members for Chaffey and Hanson, and also my colleagues the Hons Terry Roberts and Mike Elliott, I thank the staff, Mr Knut Cudarans and Mr Steven Yarwood, for their work on this report. The committee looks forward to the minister's response to the additional recommendations in this report.

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

PARLIAMENTARY SUPERANNUATION (PRESERVATION OF PENSIONS) AMENDMENT BILL

The Hon. T.G. CAMERON obtained leave and introduced a bill for an act to amend the Parliamentary Superannuation Act 1974. Read a first time.

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

That this bill be now read a second time.

Restricting the access of members of parliament to their superannuation until the age of 55 has been SA First's party policy since February last year when it was released as part of our parliamentary reform policy package. This bill seeks to restrict the access of members of parliament to their superannuation for any reason before they are 55, except in the case of permanent disability—the same as is the case for all other citizens of our state. It is time that the superannuation of state members of parliament was brought into line with community expectations and standards.

Even the federal government has finally seen the light and is moving towards restricting the access of MPs to their superannuation until the age of 55. The state system needs to be overhauled as well. SA First recently conducted a survey—during April and June this year—of city and country households, asking people for their views on parliamentary reform and politicians' perks and, to date, we have received over 1 000 replies. The sections of that survey that have relevance to this bill are that 99.5 per cent of people believed that an independent tribunal should control politicians' superannuation and 98.4 per cent of people thought that MPs should have access to their super only at the age of 55.

The results of the survey clearly indicate that most people want members of parliament to cut their perks, particularly superannuation entitlements. I think that what particularly makes people angry is not necessarily that MPs get a very generous superannuation package but that conditions apply to members of parliament, such as accessing their super before the age of 55, that are available to no other members of the community other than judges. That is what really irks them. This move is long overdue, it is time we acted and I urge all members to support the bill.

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

HIH INSURANCE

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

That the Legislative Council urges the South Australian government to provide assistance to persons affected by the collapse of the HIH Insurance Group and, in particular, policy holders or those making a claim against policy holders.

(Continued from 6 June. Page 1727.)

The Hon. T.G. ROBERTS: I indicate that the Labor Party will be supporting the Hon. Mr Elliott's motion but we are supporting it in an amended form, and I therefore move:

To leave out all of the words after 'the South Australian government' and insert 'to investigate the impact of the collapse of HIH Insurance Group on policyholders and claimants against policyholders with the intention of assisting victims caught through no fault of their own and ensuring through legislation that these circumstances do not occur again'.

Along with the Democrats, we have asked a number of questions in relation to the collapse of HIH in South Australia and the impact that it is having in the community, particularly on the building industry and those builders who must insure to protect not only their own interests but also the interests of those people who could be possible claimants—those people who are building homes in the community. It is true, from the replies given to us by the government, that the eastern states have certainly been harder hit by the collapse of HIH than we in South Australia. Builders are also experiencing a problem in relation to finding an insurer that will take on the type of insurance that HIH was holding for and on behalf of the industry.

A filtering process appears to be occurring where builders who have been with HIH are asked to apply again to other

insurance companies and their past history is being investigated by the insurance company. There is nothing wrong with that—it is clearly a commercial protection for their own best interests—but, in some cases, builders have had difficulties during downturns in other periods. I do not think that there is a subcontractor or small builder in any state in Australia who has not experienced difficulties during a recession, depending on its depth. Fortunately, we have not had a recession for some considerable time, but it depends on the depth of a recession as to how many small subcontractors and builders are hit.

In many cases subcontractors can be quite cashed up and are able to operate but, in fact, are affected by the fall of the bigger dominoes within the building industry. Although they can absorb some impacts in relation to downturns when cyclical recessions occur (and that is part of our economic system), if a recession bites too deep and too many of the big building contracting firms fall over, the small contracting firms are ultimately affected by that and, in many cases, they go into either receivership or are ultimately declared bankrupt.

It is some of those that we would regard as legitimate operators within the industry who—through no fault of their own because they have managed their businesses adequately, they have had adequate cash flows, their standard of work is appropriate and they have looked after and trained skilled labour within their work force in terms of taking on apprentices and those sorts of responsible positions within the building industry—have, unfortunately, fallen over. Those people, I believe, need to be protected by governments, both state and federal, in dealing with the collapse of HIH.

The reason I have moved my amendment is to investigate the circumstances in which states find themselves, and particularly this state, South Australia, in relation to HIH, and to look at it in conjunction with what is happening at commonwealth level. Although South Australia's responsibility in supporting builders in this state will not be as onerous as, perhaps, in New South Wales, Queensland and Victoria, we do not want to get into a situation where we have a system duplicated in terms of assisting people in the industry either to find temporary finance or to be paid subsidies via the commonwealth purse.

We do not want to be put in a position where we have a bureaucracy set-up that runs parallel with the commonwealth's system of identifying those affected and paying the appropriate amounts to those companies to subsidise them against the losses that they have incurred through no fault of their own due to the incompetence or dishonesty, which is to be investigated, of the managing directors of HIH.

The other part of the opposition's amendment is to ensure through legislation at a state level that the same circumstances do not occur again. Although there is the corporation law at a commonwealth level it needs to be examined. The state needs to take into consideration any state responsibilities that we could have that may bring about a strengthening of corporation law that does not allow directors of companies to pay themselves huge bonuses before they collapse and then leave the people who actually put bricks and mortar together at a ground level at a point where they are the ones who are the victims of dishonest practices in a corporation, which is happening more and more often.

Those individuals within corporations who commit white collar crime who, in the main, do not contribute one jot to the wellbeing of our citizenry but prey on them need to be separated out of the corporate packs, and legislation needs to be examined to see whether we can bring about protection, and to highlight the legitimate operators that operate within the corporate world so that those people who actually contribute to the wellbeing of our citizenry are rewarded properly through a system that gives them some protection from the corporate greed of individuals who operate sometimes within the law but in most cases outside of the law.

In a lot of cases their actions are detected too late to prevent the catastrophes that occur, and in many cases by moving their assets around and drawing their court cases out through, in some cases, legitimate stalling tactics, and in some cases by fleeing overseas, they are able to escape the justice that could be meted out if they were caught by the law and sentenced for a lot of the corrupt practices that they are involved in. So I think all of us on both sides of the Council would support this amendment and would hope that it is passed ASAP so that the government can act on it as soon as possible.

The Hon. P. HOLLOWAY: I indicate briefly that I support the amendment that has been moved by my colleague the Hon. Terry Roberts. The HIH Insurance collapse has, of course, been disastrous for many people in this country. Fortunately for this state most of the people who have been affected are in the eastern states; however, there are people in this state, particularly those who are dependent upon builders' warranty insurances, who have been affected, and I will say more about those in a moment.

First, I would just like to make the point that the role of the federal government in relation to the collapse of HIH I think is yet to be fully unravelled, and indeed the incompetence of APRA, the new body which is supposed to oversee insurance companies and other such bodies, is a matter that is now subject to a royal commission, and appropriately so, and I guess we will see in the next two or three years exactly what it has to say. But I will be most surprised if that body does not make some attacks on the performance of APRA. It is my understanding that when insurance companies were formally administered in this country they were under the control of the Insurance and Superannuation Commission, which was set up by the former federal Labor government.

When the Wallis committee report came down several years ago when the Howard Government came to office that body was abolished and APRA was put in place to supervise financial institutions. Unfortunately, as was so common of the federal government, it cut the resources available to those bodies. In areas such as aviation we have seen where those cuts have really created some enormous problems in terms of public safety and public confidence in our regulatory bodies.

One of the changes that was made involved the number of actuaries available to APRA. I understand that the number available to APRA, compared to the old Insurance and Superannuation Commission, was substantially cut. It is hardly surprising, therefore, that when the problems of HIH emerged APRA was not in a position to deal with it. However, the collapse has occurred and we are left with the problem.

During the estimates committee hearings of the last fortnight my colleague the shadow attorney-general raised this issue with the Attorney. My colleague in another place pointed out that other states of Australia have indeed put in place schemes to protect those consumers, those customers of HIH, who have been particularly adversely affected by the collapse of HIH. Of course in those states, such as New South

Wales, compulsory third party insurance is a private market, and HIH underwrote a significant amount of insurance in relation to compulsory third party insurance, and the collapse of that body would mean that people who were seriously injured in car accidents would stand to get nothing due to the collapse of that company and, of course, the commonwealth government and the state government there have stepped in.

HIH also in some states underwrote workers compensation insurance. I think both in Victoria and Tasmania HIH underwrote workers compensation insurance, and state governments there have brought in levies to cover that particular problem. HIH was also a very significant insurer of professional indemnity insurance, doctors and lawyers in particular. In this state, I understand that solicitors with the South Australian Law Society had their indemnity insurance placed with HIH. So a number of areas have been covered, but in this state the particular concern that we all have relates to builders' warranty insurance. Under the laws of this state, builders' warranty insurance is required to be taken out. So any builder who has undertaken work on a property must, under the laws of this state, be covered by builders' warranty insurance.

Estimates suggest that about one-third of the builders' warranty insurance market in the state was underwritten by HIH. In particular, builders who were operating under the Master Builders Association were covered by HIH. So, the collapse of that body has led to quite catastrophic losses for some individuals in several ways. First, the collapse of HIH has meant that customers who were having houses built by builders who went bankrupt and who had not completed the house simply lost everything: they were unable to have their building completed. If the builder went bankrupt, as happened in a couple of cases, and if the insurer also went out of business, there was absolutely no protection for people.

Secondly, people have suffered if the house was completed but the building work was unsatisfactory. In such cases, claims would have been made at some stage in the future. It may well be that, with the collapse of HIH, the builder is unable to cover the costs of rectifying those mistakes, so those people may not be covered.

After the HIH collapse, I had a chat with another insurance company that covers this area. It gave me some very interesting information in relation to how builders' warranty insurance works. Apparently, when a building is first completed, or when the contract is first signed, in the first year a little over 20 per cent of non-completion claims are made; and, in the second year, over 80 per cent of non-completion claims are made, as one might expect. Where a builder goes bust, insurance cover is available. Where a company goes out of business and a house is not completed, at least 80 per cent of related claims are made within the first two years. By year three, well over 90 per cent of non-completion claims have been made.

However, in relation to warranty claims—that is, where faults in the building show up after some time—after the first year only a very low 2 or 3 per cent of claims are made. After the second year, less than 20 per cent of claims have been made; after three years, only 40 per cent of claims have been made; after four years less than 60 per cent of claims have been made; and, after five years, it is still less than 80 per cent of claims. However, by year six it is approaching 90 per cent of claims and, finally, by year seven, almost 100 per cent of warranty claims have been made.

What those statistics indicate is that, with the collapse of HIH, the people whose houses were completed in March or April this year when HIH collapsed, even though there is no risk of non-completion, may wish to claim under the warranty insurance for a period of up to seven years where faults arise. That means that the exposure that people have in relation to the collapse of HIH, as far as home owners' warranty insurance is concerned, may not be known for many years, such is the nature of this kind of insurance.

What we know from other states where HIH underwrote builders' warranty insurance is as follows. The New South Wales government has decided to cover insurance losses; indeed, it has put forward a considerable amount of money—I think it is well over $500 million—to cover people who suffered losses as a result of the HIH collapse in areas such as compulsory third party and builders' warranty insurance. The Victorian government has imposed a $32 increase on the cost of building permits for every $100 000 in construction so that it can cover those people who will suffer as a result of the HIH collapse. My understanding is that there was no HIH exposure to builders' warranty insurance in Queensland, although that government has undertaken a scheme to cover people whose compulsory third party insurance was covered by HIH.

It is my understanding that the Western Australian government is currently looking at a scheme to cover people who have suffered as a result of the collapse of HIH builders' warranty cover. It is also my understanding from people to whom I have spoken in the industry that, as in South Australia, in Western Australia a similar proportion of people were covered by HIH—roughly 30 per cent of the market. In the ACT, a rescue package has been announced by the government in relation to builders' warranty insurance. In the Northern Territory, it is not applicable because there is a government based building indemnity scheme. In effect, South Australia is the only state where the HIH collapse has affected builders' warranty insurance that does not have a scheme in place to assist consumers who may be affected.

In his response to the questions raised by my colleague during the estimates, the Attorney-General made some interesting points. No one would pretend that this is an easy issue and that there are not some considerable philosophical issues to be answered in respect of this matter. Nevertheless, I think the important point is that, under the laws of this state, any builder who is building a house must have an effective indemnity insurance policy. The people who are having the work done have to pay additional building expenses to cover the cost of that insurance. I think the premiums amount to several hundred dollars.

If the laws of this state require that people should be covered by insurance and if a company goes bust, what obligations does that place on the members of this parliament who require that that insurance be taken out? It also emerged during the estimates that the Office of Consumer and Business Affairs made the point that enforcements have been undertaken by prosecution where instances of failure to obtain building indemnity insurance have been brought to the attention of the office. In other words, if it is brought to the attention of the office that a builder is building without insurance, that builder is prosecuted—and perhaps appropriately so—but if there is a failure of the insurance company apparently there is no obligation for the state to take any responsibility.

I point out that in every other state of Australia where the HIH collapse has had an effect in this building area the government has stepped in and introduced a scheme,

generally funded by the industry, to address the problem. During the estimates, the Attorney made the following point:

> . . . the government as a whole has taken the view that this is a private sector collapse and that we will monitor what happens in other jurisdictions as well as in South Australia. It raises some fundamental questions about the extent to which the government and taxpayers ought to be funding the consequences of a private sector collapse. We are certainly not doing it with One.Tel and its collapse and the effect that it has on communities—perhaps in individual cases a much smaller level of impact than the HIH collapse—nor do we as a government pick up the consequences of other private sector collapses.

I suggest that the comparison with One.Tel is a bit unfortunate and quite irrelevant. The point is that builders' warranty insurance is required under the laws of this state. The ordinary consumer who is having a home built is not in most cases, perhaps in very few cases, able to assess whether their builder's insurance company—even if they knew who that was—is likely to be solvent. Under the laws of this state, we require that the builder take out insurance. I suggest that the collapse of One.Tel and other private companies is completely different because this state is not involved in obliging people to use their services. The Attorney went on to make some other comments. He said:

> What can the government do? Ultimately, if the government is to establish a scheme which helps to meet the problems of those who suffer as a result of the HIH collapse, it is a question of who pays. Does it come out of Consolidated Account so that all South Australians pay for the consequences of the private sector collapse? Is it by levying to establish a particular fund and, if so, is that levied on all those who are building but who are doing so through builders who have already taken out cover and are passing on the cost to their customers? Or is it done by levying builders directly? If so, should those who have taken a prudent course be paying for those who have relied on other advice and perhaps have taken a cheaper option?

Again, part of the problem is that the ordinary person who is having a house built by a builder is not really in a position, first, to know which insurer their builder has taken out insurance with and, secondly, to assess whether or not the insurance company is solvent. It is for that very reason that the commonwealth government has APRA, the body which supervises this industry. As I mentioned earlier, sadly, the job that APRA performed was less than satisfactory. I guess that the royal commission will tell us more about that.

In that regard, it is my personal view that the commonwealth government should play a much greater role than it has to date. If the commonwealth government takes the responsibility—and it does have responsibility to the taxpayers of this country to ensure that our major financial institutions are sound—then I think the federal government should take the greater part of the responsibility for the collapse of these bodies. Nevertheless, builders' warranty legislation is required under state law. Every other state government where this is an issue has introduced some sort of scheme to deal with the matter.

What we are calling for in the amendment of my colleague the Hon. Terry Roberts is for the government to seriously investigate the impact of this problem on the state. We need to get a handle on how many people are affected and what alternatives we have to deal with this problem. These victims are suffering through no fault of their own, and we need to try to find some way to address the problems faced by these unfortunate victims of the HIH collapse.

This government has shown a real reluctance to take action. Because of some prodding, it has taken a few tentative steps in the right direction. It may be that, if this motion is carried, the government will take the issue a little more seriously and that it will then get the information that we need and see whether there is some scheme that can appropriately deal with this problem. I support the amendment moved by my colleague the Hon. Terry Roberts and the general thrust of the motion.

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

BENLATE

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

That the Legislative Council urges the South Australian government to provide assistance to those horticulturalists whose crops were damaged by Benlate but who have been unable to reach a settlement with DuPont.

(Continued from 30 May. Page 1614.)

The Hon. T.G. ROBERTS: I rise to indicate that the opposition will support the motion in an amended form. I move:

Leave out all words after 'South Australian government' and insert 'to investigate the circumstances surrounding horticulturalists whose crops were affected by Benlate with the intention of offering appropriate assistance'.

I move that amendment to the motion to indicate that, in the same way that the HIH insurance collapse needs to be investigated before assistance can be provided, finance would be required in all cases. I cannot think of any case where assistance would not be financial assistance.

In the Benlate situation, the problem was created by horticulturalists using a recommended chemical in their industry which, in the case of the northern horticulturalists, in the main was carnations and flowers for sale. It was a case of a recommended chemical being used and the crops dying. Damages sought from the chemical maker DuPont left these horticulturalists isolated because the manufacturer would not accept responsibility that the chemical itself caused the problem. That left the horticulturalists with nowhere to go. In the main, they were small growers who did not have the finance to take DuPont to court to argue a case in relation to damages. This situation is almost the same as that raised by my colleague the Hon. Bob Sneath in question time.

The mover of the motion, the Hon. Michael Elliott, visited horticulturalists in the United States whose flowers and crops were affected by the same chemical. At the same time, class actions were being considered in the United States against DuPont for releasing a chemical without appropriate warnings or information about protection from spray drift and protection for certain flowers. DuPont was already in trouble internationally but, as with all chemical companies the size of DuPont, if there are any impacts which are untoward and which are affecting third parties generally, through spray drift, inappropriate use or problems that are not anticipated in the company's research and development trials, the general reaction is to stonewall any legal action taken by individuals. In the United States, where it is much more common to take out class actions, the only way in which people could get any justice was through class actions by aggregating individuals affected by chemical makers and producers.

The growers in South Australia were not able to aggregate themselves or to take out a class action, as I understand it, because, even with the aggregated numbers, they were still not able to raise the funds required to fight an outstanding case. Certainly, we are watching with interest the outcome in

the United States. My information is that in the United States an out of court settlement was made for damages: DuPont did take some responsibility for its negligence in not advising of the implications associated with the use of Benlate in some circumstances. It paid a certain amount of money to those people affected. I understand that in South Australia some growers got a small amount—

The Hon. Ian Gilfillan: No.

The Hon. T.G. ROBERTS: The honourable member is shaking his head. It is rumoured that some growers were paid some out of pocket expenses, but in the main the majority of the growers did not receive anything. If some growers did receive something, as a basis of settlement they were not to talk about it or release the results of those discussions or the size of payments—if, indeed, there were payments. I certainly do not want to mislead either the public or members of this Council to believe that some individual growers may have got damages because I have no reliable information to lead me to make that statement.

The motion and the amendment, if supported, will at least bring about some justice (if the government accepts the motion and acts on it) that was not deliverable at the time when this problem occurred. It occurred under a Labor government some considerable time ago. Preliminary investigations took place to try to establish responsibility but, as time went on and as the case went on, it was clear that DuPont was not going to take any responsibility or make any voluntary payment to those people who were affected.

The general rule of thumb in relation to getting chemical companies, in particular, to take responsibility for their products in terms of questionable outcomes generally goes back to the chemical plants themselves where the product is produced. The first people to feel the impact on occupational health and safety, if there is to be an impact on humans, are usually those people producing the product. Epidemiological studies usually start to take place after a number of people report untoward health effects.

In the worst possible cases, the damages start after the body count starts or if unusual numbers of cancers and/or leukaemias are detected in a work force or in a radius of the vicinity of a chemical plant. In relation to agricultural and horticultural products, that tends not to be the case. The case is very difficult to prove. I have taken up cases for people in the South-East in relation to spray drift, and there are two classified areas in relation to the inappropriate use or the abuse of chemicals within communities. Where the chemical is being used agriculturally and horticulturally, the impact is usually felt by neighbouring farmers, horticulturalists or agriculturalists whose products are not normally exposed to the chemical but are exposed to spray drift.

The spray drift occurs during weather conditions where there are high winds and can occur on still, warm days when the droplets aggregate and move off the target area. If an affected farmer is to make a claim, they have to cut sections off the affected product, put it into freezer bags and have it analysed within certain time frames because collecting the evidence to support their assertion that they have been exposed to a certain chemical, if no admissions are made, is very difficult. Sometimes by the time the evidence is analysed it has been contaminated, either through misappropriation or misuse following the collection of the material for testing, from lying in a scientific or testing area for too long or from being exposed to the wrong conditions for too long. With the evidence required by law to confirm the case that the accused is making, it usually means that the material is not able to be used properly.

Very few cases are brought to court and, if they are, the method of collection of evidence generally is contaminated, so damages cases are rare. You have to negotiate for all those reasons the cost of the court hearings, the inability of individual agriculturalists or horticulturalists to raise the funds necessary to fight the big chemical companies and, if the denials come from the manufacturers or distributors, it is difficult to get the evidence required to get a conviction of either misappropriate practice or a damages claim for negligence.

It is now starting to happen, not because of the impact of agricultural or horticultural chemicals on people, which I would have thought would be a greater incentive to get some form of justice in relation to the damage caused to people's health, but because there seems to be an aggregated concern amongst agriculturalists and horticulturalists, departments of agriculture and so on to ensure that crops such as vines and others are protected from misuse and abuse of agricultural chemicals, which has been going on in the community for some considerable time. As we have heard in this chamber, where people are exposed unnecessarily, either in a work-place or community, to chemical misuse or abuse, it is very difficult for the medical profession to conclusively say to the satisfaction of a court that people have contracted some sort of illness associated with exposure. We now have a much more sympathetic and different approach being taken to the exposure of crops such as vines where wines are concerned and where keeping our state clean and green is concerned.

I hope that economic rationalists who involve themselves in maximising returns for the growers in relation to growing vines and other crops and who have a keen eye on making sure the exposure levels and rates are appropriate in the community take into consideration the health effects on people as well as on our environment. If we combine the activity levels of both those pressure groups, we may end up with a much safer environment. The motion the Democrats have moved with my amendment offers the best of both worlds, that is, that we investigate the circumstances surrounding the horticulturalists.

I certainly have not had contact with the horticulturalists who were affected those many years ago and it would be good for the government to do an assessment given that in the United States there have been actions or activities taken by DuPont to come to terms with some of the customers over there. In the absence of any damages being paid by DuPont in South Australia, we may be able to bring some justice to those growers who have been affected but, first, let us do an assessment.

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

GOVERNMENT ADVERTISING (OBJECTIVITY, FAIRNESS AND ACCOUNTABILITY) BILL

Adjourned debate on second reading.

(Continued from 6 June. Page 1727.)

The Hon. K.T. GRIFFIN (Attorney-General): The government opposes this bill and also the amendments proposed by the Hon. Terry Cameron. At the very least consideration of this bill ought to be deferred until the Senate Finance and Public Administration Legislation Committee in

the federal parliament has made its report on two bills on government advertising that have been introduced into federal parliament. I understand that the Senate committee is due to report in less than three months, by 27 September 2001.

I hasten to say that I do not object to objectivity, fairness and accountability in government. It is important to ensure fairness and it is certainly important that governments are accountable, although there will be debates on what fairness might be and how it might be identified in particular circumstances. Also there are debates about what is proper accountability, for what objective and in what circumstances. I argue that, notwithstanding that those principles are agreeable, the proposition in the bill is the wrong way to go about it.

The bill would require government advertising to meet minimum standards of objectivity, fairness and accountability and would prohibit the expenditure of taxpayers' money on advertising which promotes party political interests. Ministers who authorise the use of public moneys for government advertising or information programs would be responsible for ensuring compliance with principles and guidelines set out in the schedule to the legislation. Failure to do so would be a criminal offence, punishable by a maximum penalty of $100 000, which could not be paid out of public funds. In addition, anyone registered to vote in South Australia may apply to the court for an order directing compliance with those principles.

The Hon. Mr Cameron seeks to amend the bill in three main ways. First, he would create a further offence under which a minister who authorises the use of public money for polling or research for his or her own private political purposes, or those of his or her political party, is liable to a maximum penalty of $100 000. Second, he would expressly allow a person to lodge complaints of offences against the act with the DPP and require the DPP to assess and, if he saw fit, refer complaints to the Commissioner of Police for investigation. The Commissioner of Police would be required to report the results of the investigation to the DPP. Third, applications to the court for compliance orders may be made, not by people on the electoral roll, but by the DPP or by any resident of South Australia.

While I support the proposition that a government should act responsibly in its use of taxpayers' money to advertise changes in the laws or to provide public information about new laws or initiatives, policies, projects or programs, I do not think that this bill, with or without the Hon. Mr Cameron's amendments, will necessarily ensure that this happens. In fact, I rather suggest that, because of the way in which it is drafted, it would significantly constrain legitimate information provision to members of the public.

I agree that party political advertising should be paid for by non-government funds. However, modern governments are expected at appropriate times to provide objective, factual and explanatory information to the public about impending or enacted laws, new laws or schemes. It should always be in the interests of the public rather than of the government for this information to receive publicity. Sometimes the publicity needs to be targeted at a particular group and on other occasions aimed at the public at large. Sometimes to reach a targeted audience effectively, the publicity will take the form of mass media advertising, for example, by paid television advertising, advertising on radio, or advertising in the newspapers. At other times it may be less overt, for example, by printed brochure or leaflet, by press release, online on a government site, or by any combination of these.

By and large, governments give responsible, appropriate and timely publicity to issues about which the public needs to know. However, from time to time, government publicity has been criticised as an improper use of public funds. Examples of such criticisms are that the publicity is inaccurate, that it expresses opinion rather than fact, that it is politically partisan, that it promotes particular people in government and that it occurs within a politically expedient and otherwise unjustifiably selective context—for example, in the run up to an election on an election issue.

Usually these criticisms are made during political debate both in and out of parliament. They are quite understandably in that political context highly subjective assessments, often based on motives other than the public interest. They will influence not only the way people perceive the information being publicised but the relative credibility of the government and its critics on this issue and others and ultimately the way people vote. The very subjectivity of this kind of criticism means that they should not be embodied in legislation as legal precepts. The proper and ultimate sanction against government misuse of public funds in publicity campaigns is a vote against it by electors.

Another democratic sanction is a resolution of disapproval or censure by the house of parliament in which the government may not have a majority, and even an attempt for a censure motion in the house where the government does have majority support will frequently focus on the issue and draw attention publicly to the issues being debated and the publicity that is the subject of the debate. The Hon. Mr Xenophon's bill and the amendments proposed by the Hon. Mr Cameron impose a further layer of sanctions.

The Hon. Mr Xenophon's bill seeks to make irresponsible government advertising a criminal offence by the minister who authorised the expenditure of public funds on it and to allow voters to apply to a court to prevent or restrain government advertising that does not comply with certain guidelines. I indicate at this stage that ministers generally do not authorise much of the publicity of government: it is authorised within departments or agencies. Ministers might get an opportunity to comment on it, they might say what they do or do not like, but they do not formally authorise publicity campaigns, polling, brochures, and so on.

The Hon. Mr Cameron's amendments seek to extend ministerial criminality for the use of public funds for private political polling or research to set up a new investigative process by police and the DPP and to give the right to take civil action to enforce compliance to the DPP and anyone resident in South Australia. There are a number of reasons why I think these proposals are both undesirable and ineffective. First, they shut the gate after the horse has bolted. The publicity would have reached its audience or the political polling or research have been completed before institution of a criminal prosecution. A criminal penalty may, in the overall scheme of things, be a small price for an unscrupulous government minister to pay for the electoral advantage the advertising may secure. Once if becomes the subject of a court action or prosecution, a campaign may attract welcome free publicity.

Secondly, the offences as framed would be very difficult to prove. They are summary offences involving the trial of a minister by a magistrate. Proving that a minister has authorised the use of public money at all is, as I have already indicated, the first hurdle. The next hurdle is in proving that the failure to comply was intended. The proposed guidelines are so vague that proof of such an intention beyond reason-

able doubt would be a very high hurdle indeed. In the case of the offence proposed by the Hon. Mr Cameron, I would suggest that proving that the polling or research is for the minister's private political purposes or for his or her party and not for the benefit of the government with whose interests the ministers are by definition closely aligned will be extremely difficult. I suggest that, in both cases, the legislation will prove to be window-dressing, with perhaps the side effect of encouraging vexatious litigation.

Thirdly, the bill requires the judiciary to evaluate an action taken by the executive and tell it what to do and, as such, may be open to constitutional challenge as a contravention of the separation of powers. The judiciary is to place itself in the position of the executive in interpreting the guidelines as to responsible government advertising and, if it thinks there has not been full compliance, to direct the executive to do something to ensure compliance. Whatever order the court makes, it will be perceived as adjudicating between opposing political viewpoints and of telling executive government what to do, particularly if it is asked to issue an injunction to prevent any or continuing publicity.

That is a particularly important area upon which to focus because it brings the courts into the political process. They should be, as far as it is possible for us to do so, enabled to keep themselves away from political comment. There has been a lot of criticism of courts in more recent years when they seek to get involved, either as courts or as judicial officers, in public debate about public policy. That is nothing compared with what the controversy will be if this bill passes and the courts have to be involved in resolving political conflict.

Fourthly, the bill requires the court to find an offence proved, not in the usual way, upon proof beyond reasonable doubt that the person has committed an act that is prohibited by law, but on the basis that a person has failed to comply with the responsibility imposed by a set of guidelines. The guidelines are cast positively (for example, principle and guideline 2: 'Material should be presented in an objective and fair manner'), which means that there is no particular prescribed conduct. Whenever a law requires a court to impose a criminal conviction, it must clearly delineate what constitutes the relevant criminal behaviour.

Fifthly, because the principles and guidelines are so general and imprecise, reading more like a moral code of conduct than a description of conduct that is prohibited by law, the court order provision is capable of disingenuous use by interest groups, political opponents or individuals to prevent or delay any government publicity indefinitely. The bill would allow anyone who is enrolled to vote to apply to the court for an order on the basis that the publicity (and, presumably, also intended publicity) does not or will not comply with the principles and guidelines. Under the Hon. Mr Cameron's amendment, not just voters but anyone resident in the state could apply—for example, a child or a political activist from another country, state or territory. Even the DPP could apply—an unusual venture of the DPP into the civil jurisdiction. The DPP's role is to prosecute criminal cases on behalf of the state, not to take civil action by virtue of his office.

Under this proposal, the DPP would be placed in the same unenviable position as the courts in having to evaluate guidelines and substitute his or her decision for that of the executive. As an independent prosecuting authority, the DPP should be very reluctant to investigate and initiate civil action against a minister, particularly where this involves no criminal offence.

Sixthly, and finally, a proposal by the Hon. Mr Cameron for complaints of offences against the legislation to be lodged with the DPP, assessed by the DPP and passed onto the Commissioner of Police for investigation and report is superfluous. Any citizen who thinks that an offence has been committed against any act may already report it to the DPP or the police and the appropriate police investigation and report will be undertaken. If legislation is the way to tackle the problem of improper use of public funds in government advertising—and I am not convinced that it is—there are some models that could be considered. Several of those models are similar to the bill before us—and they are under consideration by the federal parliament at present and have been referred by the Senate to the Finance and Public Administration Legislation Committee for inquiry and report by the end of September this year.

I hasten to stay that I do not think that those models are appropriate for this, either, but I am suggesting that, whilst there are similarities, they certainly ought to be weighed in the balance and ultimately discarded. In the federal parliament we have some funny legislation—funny in the sense of curious in the way in which they seek to deal with the political process. I do not disagree with the objectives and the principles but, in my view, seeking to enshrine them in legislation is just a nonsense. I refer to the Charter of Political Honesty Bill 2000 (a Democrats bill) and the Government Advertising (Objectivity, Fairness and Accountability) Bill 2000 (an opposition bill).

Then there is the Electoral Amendment (Political Honesty) Bill 2000, which would amend the commonwealth Electoral Act to prohibit political advertising that is misleading to a material extent. We have provisions about misleading material in our own Electoral Act, and that is material which we introduced as a Liberal government. Also at the federal level is the Audit of Parliament Allowance and Entitlements Bill, and that would establish an office of Auditor of Parliamentary Allowances and Entitlements as an independent officer of the parliament.

The Hon. Mr Xenophon's bill, which is of the same name as the bill in the federal parliament and which was introduced by the federal opposition, proposes a model, as I indicate, similar to that proposed by the federal opposition. The principles and guidelines in the schedule to the Hon. Mr Xenophon's bill are identical to those in the schedule to the federal opposition's bill. Where there is a difference is in the penalty: Mr Xenophon's bill provides a $100 000 fine and the federal opposition's bill provides seven years imprisonment. There are also differences in process: the Hon. Mr Xenophon's bill contains a procedure for voters to apply to the court for orders for compliance with the principles and guidelines and that is not, as I understand it, in the federal opposition's bill.

The Australian Democrats Charter of Political Honesty Bill 2000, in so far as it addresses the misuse of taxpayer-funded advertising campaigns for party political purposes, sets up an independent statutory committee to monitor adherence by public authorities to guidelines for government advertising campaigns set out in the schedule to that bill. That committee would comprise the commonwealth Ombudsman, the commonwealth Auditor-General and a person with knowledge and experience in advertising appointed by the Auditor-General.

The committee is to make instant findings on alleged breaches and direct the person to withdraw or modify a campaign or refrain from or limit expenditure upon a campaign and could institute proceedings in the federal court for contravention of its directions. It is a particularly frightening proposition, in my view, that here we have a proposition for the commonwealth Ombudsman, the commonwealth Auditor-General and one other appointed by the commonwealth Auditor-General to get down into the political process and do what I have already indicated would be required of the courts under the Hon. Mr Xenophon's bill. Both would be totally unacceptable, in my view, in respect of interference in the political process.

I do not believe any of these models will work, that is, those to which I have referred in the federal jurisdiction, as well as the South Australian proposition by the Hon. Mr Xenophon. I have great reservations about the respective roles of the court and the statutory committee that is proposed at the federal level. They are fundamentally undemocratic and they are not accountable to anyone. The government and its ministers are constitutionally responsible for the parliament and the electorate.

The decision about government misuse of public funds in authorised advertisements in publicity campaigns, in my view, should be left to parliament and to the ballot box. For all those reasons, the government and I do not believe that this is a worthy piece of legislation. It certainly will not be supported by the government.

The Hon. P. HOLLOWAY: I indicate that the opposition will support the bill moved by the Hon. Nick Xenophon to bring some fairness and accountability to government advertising. It is interesting that the Attorney, in his contribution just completed, said that modern governments were expected to provide information (I think they were the words he used). Certainly, I wrote down the words, 'they were expected to do it'. I would expect that what has happened with modern governments, particularly the more recent state and federal Liberal governments, is that they have got away with—and that would be a better term—providing government advertising to an extent that is quite unprecedented in this country's history.

In his second reading explanation, the Hon. Nick Xenophon mentioned some press articles which point out just how there has been such a massive increase. Governments have always undertaken a certain amount of advertising, and certainly this opposition has accepted that there is a genuine, legitimate role for governments to advertise on occasions. A good example of that might be after every budget when taxation changes are made and various decisions affect people. Previous Labor governments have issued brochures outlining what has happened in the budget. This Liberal government has done the same and the opposition has accepted that as legitimate activity. It might be legitimate for a government to advertise changes such as one sees in a budget.

From what we have seen I guess the most glaring example of government advertising abuse was the so-called Unchained campaign that the federal government had for the new tax system, where something approaching half a billion dollars of taxpayers' money was spent on advertising in that particular campaign. I guess one might say that it was a monumentally unsuccessful campaign, judging by recent opinion polls which have suggested a vast majority of Australians say that they are far worse off under the system. Nevertheless, the scale of money, $400 million, even at a federal level, is absolutely massive. This state's per capita share of something like that would be about $40 million. While it might have been good for advertising agencies and television stations, I would suggest that that sort of money could have gone to much better use.

Certainly one could understand the government having some sort of campaign with a new tax system, and I certainly would not have had any objections to the government having a campaign of a reasonable size. But I think $400 million is out of all proportion. I think the Hon. Nick Xenophon pointed out in his speech that previously where the former government had had Working Nation ads and things like that the amount was of an order of magnitude less than what was spent on the Unchained campaign.

The Attorney-General spoke earlier about the problems of subjectivity, and he said that the best way we can deal with this problem is the democratic sanction at the ballot box. The only problem is that, as we have seen with this massive scale of advertising, to the extent that it is successful then, of course, it does actually completely degrade the whole democratic process. When a government is using government advertising to promote party political purposes it puts opposition parties at a massive disadvantage.

The Hon. T.G. Cameron: What if it uses public money for polling?

The Hon. P. HOLLOWAY: Well, that's another issue, but in the Hon. Nick Xenophon's bill before us he is putting up a procedure which involves principles and guidelines for government advertising which should be observed. I think the vast majority of electors of this state would agree that those principles should be upheld.

I am not sure whether the Treasurer will come in and speak on this bill. I see he is listed, but perhaps he has already had his go in response to the dorothy dixer asked by the Hon. Legh Davis earlier today, when he had a go at the opposition, and the opposition leader in particular, in relation to some statements that he had made in relation to the government television programs. As is the wont of the Treasurer, he of course grossly misrepresented, as he so frequently does, the position of the opposition in relation to this matter. He chose as an example the television program *Postcards*, which has been around for a number of years now. It is a program which highlights certain parts of the state, and I guess if people, the opposition included, had a problem with that particular program we certainly would have complained much earlier. But, again, the problem that we are seeing now illustrates the whole scale of the problem under this government. The government, we believe, is now seeking to extend its support for television programs on every single television station, and that of itself raises a number of issues.

Let us go back to what the Leader of the Opposition said on this matter. Perhaps I should read out his press release in full, because given that the Treasurer has chosen to misrepresent the position it is perhaps as well to put it on the record. The press release states:

> State Labor Leader Mile Rann says he supports proposed new laws to cover financial 'kickbacks' and 'cash for comment' in a range of areas including the media.

And the leader is referring here to some legislative changes that were introduced recently by the Attorney-General. The press release goes on:

> But he says the laws must include the government as well.
>
> 'If a journalist receives a reward of some kind from a company or business in exchange for favourable coverage of a product or

service—then I believe it is only right that there should be proper disclosure given by the journalist or media outlet.

'The public has a right to know that information.

'If we are to bring in a law to cover these situations, then those laws must also apply to governments that give some reward, inducement or funds to the media for favourable coverage.

'For instance, the Olsen government is putting millions of dollars into television programs on commercial television.

'Those programs only feature good news and positive stories.

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Well, in answer to the Attorney's interjection, that is not necessarily the case. But the press release continues:

'Everyone has a right to know that those programs are sponsored by the state government. When a journalist or television news crew is sponsored on an overseas trip by the government to cover the announcement of an event—

and it happens very frequently with this government, I might say—

it should also be fully disclosed when the story is put to air in the nightly news bulletin.

'Labor agrees with the intent of the proposed legislation, which I understand has come about largely as a result of the "cash for comments" inquiry into radio broadcasters and others interstate.

'Shadow attorney-general Michael Atkinson has been urging the Olsen government since last year to introduce these laws and we look forward to seeing the proposed legislation,' Mr Rann said.

So that was the press release by the Leader of the Opposition in relation to the fact that the government was supporting a number of commercial television shows, and we raised our concern in relation to the fact that every single television station now, apparently, is to have a program, on different subjects that are supported by the government. There is a question about how much disclosure there is in those programs, about what the government's role is. It also raises the issue of: is the government seeking to influence favourable coverage by the media in exchange for all the dollars that it is putting up? They are legitimate questions in a democracy.

Certainly, what the opposition leader did not do was criticise the *Postcards* program or criticise Keith Conlon as the compere of it, and really the comments that were made today by the Treasurer in relation to that matter were quite outrageous. The concerns that the opposition raised were quite legitimate ones, that if a government is to be heavily involved, to the tune of millions of dollars, in supporting in various ways television programs on commercial television then there should be some level of accountability to the public for the expenditure of that money, and there also needs to be some protection that the influence that will inevitably come as a result of the expenditure of that money is not used for gaining political influence.

They are legitimate questions. They might be uncomfortable for the government but they are legitimate, and the opposition will continue to ask them. But to try to suggest that somehow or other we are saying that there should not be promotion of tourism, as the Treasurer was suggesting today, is absolute rubbish and it is just typical of the sort of nonsense and distortions we hear so often from the Treasurer.

The only other point I make in relation to the sponsorship of these programs on television is that I think it is rather incredible that in the last few years this state government has sold the Electricity Trust, it has sold the TAB, it has sold Ports Corp—

An honourable member: Not yet it hasn't.

The Hon. P. HOLLOWAY: Well, maybe it hasn't yet, but it is on the verge of it. It certainly wants to do it. And it wants to sell the Lotteries as well.

Members interjecting:

The Hon. P. HOLLOWAY: Well, the point is that—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: The Hon. Terry Cameron has supported the last three privatisations; he can justify that.

The Hon. T.G. Cameron: And you Paul Holloway supported every single privatisation.

The Hon. P. HOLLOWAY: That's not true.

The Hon. T.G. Cameron: You supported—

The PRESIDENT: Order! The Hon. Paul Holloway has the call.

The Hon. T.G. Cameron: You supported the sale of the Commonwealth Bank; you supported the sale of—

The Hon. P. HOLLOWAY: No I didn't, it was a commonwealth issue. I was never in a position to either support it or oppose it. But the point I am making is: what logic is there in a government selling off assets like this, and outsourcing hospitals, prisons, water resources, and areas like that? It has sold off these agencies, it has outsourced them, but now it says that it is going to come in and sponsor television programs. Where is the logic in that? On the one hand, this government is getting out of the direct ownership of assets but is now moving into sponsoring television programs. What is the logic in that?

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: Well, yes a different type of marketing and, unfortunately, the concern is that it is political marketing for the Liberal Party. It is using taxpayers' money, in many cases, and that is the concern of the opposition. I mention the assets sales program to highlight the inconsistency whereby, on the one hand, the government is getting out of those matters and, on the other, we are putting taxpayers' money into these other areas.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: Well, let us see what the programs are—the latest one is described in a press release of Mark Brindal of 30 May. Titled 'SAVVY Times Ahead for SA Youth' it states:

South Australian youth will have a new television program soon after the state government announced part sponsorship of a new local, half-hour, weekly program 'Savvy TV', specifically targeted towards young people.

The government has now moved out of running hospitals and water resources and is going into sponsoring television programs.

Members interjecting:

The PRESIDENT: Order, the Hon. Terry Cameron!

The Hon. T.G. Cameron: It is something for all the unemployed kids to watch.

The Hon. P. HOLLOWAY: Well, is it? That is the question: what exactly is in this program? If this government has nothing to hide in relation to it then it should not worry about the Hon. Nick Xenophon's bill because that is its subject. If it is serving legitimate purposes it will fit in with the guidelines. The other program is *Discover*. As I said, *Postcards* has not been a program that the opposition has ever complained about, to my knowledge. However, in relation to the extension to all four television stations, it does open up the avenue for this government to unduly influence the political and editorial treatment that it receives on these stations. Of course, that is why the Attorney-General is

introducing legislation in response to the 'Cash for Comment' scandal.

We know what happened in the commercial radio and television sector with 'Cash for Comment'. We know that comperes on those programs were mixing up their editorial comments with their commercial interests. All the opposition is saying is, 'We do not believe that the government should do the same thing that these radio people have been doing in relation to cash for comments.' That is the only point that we have made in relation to that, and we will stick very strongly by it.

I conclude by saying that we support the bill moved by the Hon. Nick Xenophon. It will be a difficult area to police, certainly, but what we have seen in the past five to 10 years has been an absolute explosion in the amount of expenditure that governments have made on advertising of all forms. Many of those forms we have seen have gone beyond what the vast majority of the voters of this state would regard as reasonable and necessary to inform the public about what has happened. We believe, unfortunately, that it is time to draw a line under that, and that is why we will be supporting this bill. If there are any technical problems in relation to particular aspects, we will deal with those during the committee stage. We would like to see the bill pass the second reading stage and then we can deal with those problems.

The Hon. T. CROTHERS: I wish to speak.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: I cannot resist.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Yes, I will bet you do, and you will even wish more that it could when I am finished.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, it will be better than your rubbish.

Members interjecting:

The PRESIDENT: Order!

The Hon. T. CROTHERS: Thank you for your protection, sir. I rise today as I have some simpatico with the bill that is currently before us. I understand what the Hon. Mr Xenophon is trying to do. I have been a member in here, however, for 15 years, whilst he is still serving an apprenticeship and cutting his teeth on the toing and froing of parliament. I want to talk about truth in government because that is what the Hon. Mr Holloway is all about—truth in government. But when I talk about 'government' I talk about the whole of government, all of the political parties that make up the parliament, including the opposition, the Democrats and the Independents. That is what I mean by 'government'.

If you are going to have the party that is in office bear some responsibility for the truthfulness of its actions, then the opposition and other members of these parliamentary houses have to be no less honest. I have seen this time and again. When my own party was in power there would often be all sorts of little dodges done come election time.

The Hon. T.G. Roberts: Name them.

The Hon. T. CROTHERS: I've got the party secretary here—let him name them. Let me give you one example, if I may. A building owned by the federal Labor Party has been leased out for $35 million over three years, I think. And guess who is the owner? It was done when Keating was the Prime Minister. It is the Australian Labor Party. This is taxpayers' money. When you talk of taxpayers' money—and I was almost going to—

The Hon. Carmel Zollo interjecting:

The Hon. T. CROTHERS: Well, listen and you will learn. I was almost going to get up today when the leader—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, you'll never learn: you're too thick. Even x-rays have trouble getting through to the seat of your thinking capacity. The point is that I was almost going to get up when the Hon. Mr Lucas and the Hon. Mr Holloway were sparring with each other today over the expenditure of taxpayers' money by Bracks, Olsen and Peter Beattie.

This is something that you cannot bandy about from state to state: it must be fixed by the federal government, because much of the money that is now being given to the federal government comes from the GST, which is a federal tax. Therefore, any money that is being spent by Bracks, Olsen or Beattie is, in part, federal money. It no longer belongs to the taxpayers of this state or that state: in the main, it belongs to the taxpayers of Australia. So, if you really want something done about this matter, you have to ensure that you do it not just as a penchant for the moment when the Liberal Party is in power but as something that is there for all time for any party that is in power.

The Hon. T.G. Roberts: For the Democrats?

The Hon. T. CROTHERS: The Democrats included. Don't you kid yourself; the way the polls are going there could be a couple of lower house seats pass to the Democrats. Let me tell the Hon. Mr Terry Roberts that I have no doubt that, in the next election, one way or another, their preferences will assist in determining who will go in this state.

The Hon. T.G. Cameron: The problem for the Labor Party is that your preferences will get them into the lower house next time.

The Hon. T. CROTHERS: I have no comment.

The Hon. T.G. Cameron: That's your problem.

The Hon. T. CROTHERS: Not being a—

An honourable member interjecting:

The Hon. T. CROTHERS: I have, however, made a few notes. All I say with respect to the Hon. Mr Xenophon is that I know where he is coming from. He is partially right when he talks about truth in government, but the problem is that it is a one time fix, and when the government changes and there is some other party in opposition it will occur again.

The Hon. P. Holloway: If it is an act of parliament, it will apply to all governments.

The Hon. T. CROTHERS: There are acts of parliament now that are bypassed. We will debate the electoral bill directly. I suppose that your party will be on side with the government on that one. In my view, I think it shames the democratic process, but that is a matter for another time. I am saying that the Hon. Mr Xenophon's intentions are quite honourable. I have no doubt that the government has spent money advertising because of an election being so close. However, equally, I have no doubt that the negative carping of the opposition leadership in another place—not in this place, I might add—has left the people having to be told just what the truth is in order to sort the wheat from the chaff.

If you really want to talk about truth in government in respect of expenditure, I say to the Hon. Mr Xenophon that you have to talk about truth in opposition of the party which, if you like, is peddling negativity around, perhaps even talking like sophisticated Rhetosians intoxicated with the exuberance of their own verbosity at times. So, you really have to ensure that, if you are going to strike a blow for truthfulness, you tick that as the whole, not just as the

government of the day but as the whole of the apparatus that goes to make up parliament. If you do that you will have done a noble service not only for the people of this state but for the people of every English-speaking and non-English-speaking democracy in the world.

One only has to look at the expenditure of moneys on an American election by both the Republicans, who I suppose equate to the Liberal Party, and the Democrats, who I suppose come closest to the left of centre parties—either the Democrats here or the Labor Party. It is nothing but disgraceful how influence is bought and peddled. I have no doubt that the same thing can happen here, because the government can buy agencies that are capable of putting forward electoral programs. I am thinking of Rod Cameron, when he was a successful electoral adviser to the Hawke government for many years; it was money that bought him and his loyalty through some advertising. That may not be the only thing but it was a very good contributor.

I am sympathetic to the Attorney because of the negativity of the opposition in another place. It does not matter what this government does, because there are always people, some of them trained journalists, whose training in part for their profession is to be negative. That is what Murdoch used here for years to sell the *News* and other people have used it to sell their newspapers. The *News* and the *Australian* spring to mind and I suppose the news of the world and the *Advertiser*.

The Hon. P. Holloway: They really gave the Labor Party a good go when we were in government.

The Hon. T. CROTHERS: Who?

The Hon. P. Holloway: Murdoch, the *News*, all those—

The Hon. T. CROTHERS: Murdoch got you into power first. I can go back to the go that he gave you in the *News* when the *Advertiser* was against you when Dunstan first won government in this state and when Hawke first won government federally in the early 1970s or whenever it was. Both of us admit that the press has power—we know that—but, because the press is generally comprised of money people, who support the conservative side of politics and who always display—and I say this as a former union official—more bias towards capitalists than any other major party.

However, I have some doubts, not so much about the Democrats but about my former party when I look at the number of times that I had to oppose privatisation in our caucus and at our conventions only to be beaten time and again by people such as John Bannon and others who spoke in favour of it. I was forced to agree to the lease of ETSA. We should consider this. Members will recall that I asked for four 25-year blocks, but the Labor Party decided that it wanted to show that it could play a role, so it changed—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, you wouldn't know; you were just used—

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: You were just used.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, I'll tell you what you did in a minute.

The Hon. R.R. Roberts: Nobody voted for your idea.

The Hon. T. CROTHERS: No. You voted for the whole bill.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: You voted for the bill in this Council. The Labor Party voted for the lease in this Council.

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts!

The Hon. T. CROTHERS: Thank you for your protection, Mr President. It is hard to be protected from ignoramuses. When the Labor Party sold off all the enterprises, no thought was given to the protection of workers—none. Indeed, the same can be said for the Liberal Party. It was not until I became involved when I had a good card to play on the lease of ETSA—four 25-year blocks so that we could have some control over the lessor—that we were able to protect the jobs of the workers in ETSA, covered, I might add, by the union, of which Mr Roberts from Port Pirie was a member.

I told them, 'Reith has so decimated you that you could not protect them—nor did you when you were selling off the other parts of government.' I know because I was there on the national executive for the Labor Party and the state executive of the Labor Party and I was President of the branch—which the honourable member certainly was not. Ignorance is a terrible curse, I am afraid, in respect of the interjectors.

We did that, but what happened? The members of the Labor Party decided that they would put their collective legal heads together and make it a 99 year lease on the basis that we would get more for the lease of ETSA. I warned against that in this Council. In fact, those members who have an even-handed memory will remember that I abstained from voting and I pointed out—

The Hon. T.G. Cameron: Ron remembers.

The Hon. T. CROTHERS: I will come to him in a moment.

The Hon. R.R. Roberts interjecting:

The Hon. T. CROTHERS: Well, you are an idiot. That is what you are. No, I am wrong; I withdraw that.

The PRESIDENT: Order!

The Hon. T. CROTHERS: An idiot has more brains. I withdraw that.

The PRESIDENT: Order!

The Hon. T. CROTHERS: What then happened was that they stuffed up their amendment so, in effect, the government was able to lease it for 200 years—no control whatever over the lessor.

The Hon. T.G. Cameron: Why did they do that?

The Hon. T. CROTHERS: Well, I do not know.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! I remind the honourable member that this debate is about advertising.

The Hon. T. CROTHERS: Exactly, sir. What I am trying to say, sir—

The PRESIDENT: It has gone right around the world to get there.

The Hon. T. CROTHERS: —is that the negativity of the opposition has portrayed the government in a bad light and has forced it into this position of having to advertise the truth. That is the part I am coming to. When I withdrew from the chamber—

Members interjecting:

The PRESIDENT: Order, the Hon. Ron Roberts and the Hon. Terry Cameron!

The Hon. T. CROTHERS: —the Labor Party crossed the floor and voted with the Liberal government to get the bill up. Now, the Labor Party, after having been responsible for that, is being highly critical of this government and the price people are paying for electricity. Well, please! It does not surprise me—

The Hon. P. Holloway interjecting:

The Hon. T. CROTHERS: Well, you would not know. You are a Johnny-come-lately, of course. Unfortunately, you are the deputy leader; you try to do a good job but all those

eggheads you have to deal with in another place are giving you questions to ask that you know—

The Hon. CAROLYN PICKLES: I rise on a point of order, sir. The honourable member is casting personal aspersions upon members. It does not further the debate one whit and I ask him to desist.

The PRESIDENT: I agree with the Leader of the Opposition.

The Hon. T. CROTHERS: What is the point of order?

The PRESIDENT: I would appreciate it—and so would all honourable members—if you dealt with the bill which is before us and which is about advertising. We are denigrating the dignity of this parliament by taking it outside as though it is a Trades Hall or Liberal Party meeting.

The Hon. T. CROTHERS: I take your point, sir.

Members interjecting:

The PRESIDENT: Order! Can we regain the dignity of this parliament?

The Hon. T. CROTHERS: I take your point of correction, sir.

The PRESIDENT: I think you understand what I am saying.

The Hon. T. CROTHERS: I understand completely, sir, but I hope that the Council understands the interconnecting point I am making in respect of the government's being forced into its present position about advertising what it has done and what it has not done.

The Hon. T.G. Roberts interjecting:

The Hon. T. CROTHERS: The Labor Party has done that, too. If the Hon. Mr Xenophon wishes to draft his bill in such a way as to allow advertising, I point out that if it applies not only to government but also every other party that is capable of being on the parliamentary benches—or, indeed, any other party—I will agree with it. However, as it is currently worded, it does not do that. That is why it is—

An honourable member interjecting:

The Hon. T. CROTHERS: Mr President, is it not against standing orders for members to continually harass me and interject?

The PRESIDENT: All interjections are out of order, and answering them is equally out of order.

The Hon. T. CROTHERS: Thank you for your protection, sir. I am sorry I had to raise that minor point of order. The position is that I am simpatico with the Attorney-General—not because I believe that what this government is doing is right but because I believe that, if you want truth in government, because of the way in which the opposition is behaving in this place and in other places, whether Liberal or Labor, you are forced to advertise what you have done and what you have not done. I commend the Attorney-General in whatever he is doing.

The Hon. T.G. CAMERON: I rise to support the second reading. I will ignore all the interjections; I am usually well behaved when I am on my feet. I support the second reading but indicate, quite clearly, that I am not happy with the bill standing in the name of the Hon. Nick Xenophon. I think the Hon. Nick Xenophon is to be congratulated for pushing forward this bill, and I make the point that it is a bill that would be pushed forward only by someone who did not belong to either the government or the opposition. It is very interesting to note the Labor Party's position on this bill—it is supporting it. It will be interesting to see how much support there is at the end of the day when we tidy up the bill—if there is the will in this place to tidy it up.

If one looks at the bill standing in the name of the Hon. Nick Xenophon, clause 2(1) provides:

> A minister who authorises the use of public money for a government advertising or information program. . .

The clause then goes onto refer to the schedule, which contains 1½ pages of material that should be relevant to government responsibilities, how it should be presented and guidelines in relation to its distribution. Quite clearly, in my opinion, if this is to be a meaningful bill and is to have any real impact on government, whether it be a Labor, Liberal or Democrat government—and the Democrats will note that, as a result of the latest polls today, they have to be included given the possibility of their winning seats in the lower house; and, who knows, they may even enter into a coalition government with one of the major parties—and it is to hold government properly accountable, we need to tidy up clause 2(1).

In my opinion, while I have an amendment standing in my name, my amendment would also include the use of public money for polling or research for a minister's own private political purposes or for the purposes of a political party to which the minister belongs. It is quite clear that what I am attempting to do is expand the principles and guidelines for government advertising—

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Well, the Hon. Terry Roberts interjects that it is a Cornwall clause. I do not know that now is an appropriate time to debate the Hon. John Cornwall's demise from this place. I think his main problem was that he had the effrontery at times to stand up to the Premier and at times was not appreciated for contradicting him during caucus meetings. Quite clearly, if this bill is going to properly cover or address this subject of advertising, it also needs to take into account government money that may be used for polling or research.

The reason I say that is that it has probably not been unknown for governments in the past to commission polling and research and for the results of that polling or research to end up in the hands of—surprise, surprise—the same political party as is the government. On one occasion I can recall that there were some rather sustained attacks by the then opposition, the Liberal Party, over the Labor government's use of Rod Cameron and ANOP, who were the Labor Party's private pollsters and who were also being used by the government to undertake large polling and research programs for the government.

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

The Hon. T.G. CAMERON: Prior to the break I was referring to the inadequacy of clause 2(1) in the Hon. Nick Xenophon's bill, which restricts the principles and guidelines for government advertising only to the use of public money and then defines it as 'for a government advertising or information program'. As I was outlining earlier, that clause does not go anywhere near far enough. I have submitted an amendment which provides:

> (2A) A Minister who authorises the use of public money for polling or research for the Minister's own private political purposes, or for the purposes of a political party to which the Minister belongs, is guilty of an offence.

I am seeking to have that amendment inserted into this bill, notwithstanding some of the problems I will go through with it in a moment. The real opportunity to misuse government or public money for political purposes does not relate

specifically to government advertising or an information program.

The Hon. R.I. Lucas: How can governments misuse market research? What was the technique used?

The Hon. T.G. CAMERON: The Treasurer interjects. I think he is referring specifically to ANOP and Rod Cameron. I would not want to be drawn into discussion on this matter, but to assist the Treasurer I may give him a couple of hypothetical, theoretical outlines as to how it would be possible for a government to misuse research.

The Hon. Carolyn Pickles interjecting:

The Hon. T.G. CAMERON: The leader may be correct: I may know a lot about the misuse of government funds for political purposes, but we will leave that for another time, I suspect. I would prefer to outline at a theoretical level some of the ways in which it is possible for governments to misuse money. The easiest way is to commission some polling research and slip a few questions which might overlap into the body of the research. If you are fortunate enough to be in government and you hired the same pollster who conducts the same polling for your political party, it would be fairly easy to rort the system.

The Hon. R.I. Lucas interjecting:

The Hon. T.G. CAMERON: The first way is to have one report and to slip whatever questions you want into that report. The problem with that technique is that you have to disguise the questions. The questions would have to be changed in some way—

Members interjecting:

The PRESIDENT: Order! There should be only one member speaking.

The Hon. T.G. CAMERON: Do not bother about them, Mr President, because they are not bothering me. They can babble on as much as they like. It just makes interesting background noise. The first way that it is misused is by slipping questions into the general body of the questionnaire. It is possible to do that by reframing some of the questions that the original pollster puts up. You can be a little crude and merely insert into the body of the questionnaire the questions that you would like, but there is a little bit of a risk with that because, if that piece of research gets out or the opposition, in particular, gets hold of it, someone who has commissioned public research before would only have to go through the questionnaire and suspicions would be aroused.

The Hon. T. Crothers: Are you only theorising?

The Hon. T.G. CAMERON: Yes, I am only theorising. The simplest way is that the report commissioned by the government just happens to turn up in the hands of the party secretary or a member of parliament. As I understand it, they can make very interesting reading. However, that does not really glean for you the information that you want. The best way of doing it is to tag or insert into the questionnaire a number of questions and, when the report comes back from the pollster, it contains answers only to the government's questions. The other questions, what they mean and an interpretation of them would have to be presented then as a second report.

There is a third way of getting around it, but this does not involve the use of public funds. You find some friendly company to commission a research project and the pollster goes along and talks to the political party about what kind of questions they want to go into the company's polling research. Of course, the company gets its copy of the polling research because it paid for it, but that confidential report then finds it way back around to the political party. It would be fairly simple to have hundreds of thousands of dollars of research and polling conducted on that basis.

The Hon. P. Holloway interjecting:

The Hon. T.G. CAMERON: The Hon. Paul Holloway might interject, but I am sure it would not surprise him to know that it has probably been done before—probably when his party was in government. I do not know whether he wants me to keep going and get a whole lot more specific, but I am more than happy to.

Members interjecting:

The PRESIDENT: Order!

Members interjecting:

The Hon. T.G. CAMERON: In fact, a couple of those might still be around.

The Hon. Carolyn Pickles interjecting:

The PRESIDENT: Order, the Leader of the Opposition!

The Hon. T.G. CAMERON: Thank you for silencing the interjectors, Mr President, and allowing me to get back to the body of the bill.

The Hon. R.I. Lucas: I hope those reports turn up one day.

The Hon. T.G. CAMERON: Well, anything is possible. With reference to the bill, I disagree with the principle set out in clause 2(3), which states that a fine imposed on a minister under this section is not to be paid for out of public funds. I do not support that and at the end of the day I will not support any bill that contains that measure. That smacks of a mealy-mouthed approach to me. A minister may well recommend to cabinet that the government not proceed with this advertising program. He may be overruled by cabinet, so he has to introduce it and then he has to cop the fine. How silly is that!

I also have a problem with the court's power to enforce compliance, particularly clause 3(2), which provides that an application may be made under this section by any person enrolled as an elector for the House of Assembly. The problem with that is that it provides an opportunity for political mischief to be played. Every time any government, whether Labor or Liberal, ran an advertising program of any kind, it would be a fairly simple matter to hold that up and, quite frankly, I think the Supreme Court has better things to do.

I am more than happy to support a bill along these lines but I will have a closer look at clause 2(3) and its reference to the Supreme Court. The message I have for the Hon. Nick Xenophon is that, with the Labor Party's support, numbers are there for a decent bill on government advertising to go forward, provided that it incorporates some measures relating to polling, where some of the real rorts may be taking place. I guess it will be up to the Hon. Nick Xenophon to have a discussion with the various groups because I can see that there is support in this Council for the bill to go through provided, however, that it takes into account some of the problems that I have outlined.

I am a little concerned about some of the wording of the principles and guidelines for government advertising, and it is only a suggestion, but if the numbers are here to see this bill pass through the Council, I would like the principles and guidelines for government advertising to be considered by a properly represented select committee so that they can work through that. I do not believe that an appropriate way to resolve some of the wording problems with the schedule would be to go through an exhaustive debate, clause by clause, in this chamber.

I will support the second reading. I am particularly interested to see which way the Labor Party votes on this

issue. I note that it has indicated that it supports the principle that has been outlined by the Hon. Nick Xenophon but, when we get to vote on whatever bill we finally end up with, I will be very interested to see what position the Labor Party adopts.

The Hon. M.J. ELLIOTT: I support the second reading of the bill but indicate that I am not supportive of the content in its current form and will wait to see how it evolves during committee. Members' views have ranged far and wide, but I think that the underlying principle is that, in relation to advertising undertaken by the government, it should be for a demonstrable public benefit and not for the benefit of the government of the day in a political sense. The sorts of matters that are covered in the schedule, without going into the fine detail of that, are the sorts of matters that need to be addressed when deciding whether or not something is or is not for public benefit or, as I said, essentially for political benefit, and that is ultimately the test that an advertising campaign must stand up to.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Arguably so, but I think that, at this stage, one failure of the bill is that, really, it is an after-the-event test. In other words, the advertising campaign has been run. Unless it is a long-running campaign, the chance to challenge in the courts has gone—the campaign has been completed, the money has been spent, etc. I would rather have gone done the path—

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: Yes, but, as I said, in many cases if you put an insert into the *Advertiser*, it is done, it is gone. It may be a single insert campaign, and this and previous governments have done plenty of those. I am suggesting that, in the first instance, it is after the event. It has taken some time but I have given notice of a private member's bill. I have been trying to tackle the issue the other way around. Essentially, I want a series of tests and, before a campaign starts, an independent person or body to say, 'Here is the advertising campaign we are intending to run. Does it comply with these tests?'

On the basis that it complies with the tests it can then run. So, the suggestion that there should be any court involvement, fines, or anything else, becomes unnecessary other than if one attempts to run an advertising campaign that has gone against the requirement that it first be an approved campaign. I think that that is a much better way to go. It does not involve the courts. We have seen that the court system can be very slow. How long has this 'liar, liar' case been running, how much money has it cost and how determined does one have to be when one is, in fact, taking on the public purse in trying to have the argument?

Using the courts is not a satisfactory way of resolving this issue. It is not satisfactory, first, because, as I said, it is after the event; and, secondly, one needs very deep pockets before one goes into the courts to try to enforce compliance. We have any number of bodies, such as the Ombudsman's office, and others, where—

Members interjecting:

The Hon. M.J. ELLIOTT: Mr President, in this case we do not have interjections: it is just conversation across the floor of the chamber.

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, the Hon. Mr Davis!

Members interjecting:

The Hon. M.J. ELLIOTT: If the interjectors can leave each other alone long enough—

The Hon. L.H. Davis interjecting:

The Hon. M.J. ELLIOTT: I can see that the honourable member is enjoying it, but I will not go further into that.

Members interjecting:

The Hon. M.J. ELLIOTT: I do not think Paul was enjoying it.

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: As long as both members are enjoying it, it is okay. Consenting adults. I really think that the government is being a bit disingenuous when virtually its only defence is not whether or not it is running a political campaign but when it says, 'We are not doing anything that the previous government did not do.' That is not a defence. The argument is what is or is not acceptable to the public, and there is no question that the public do not find the use of public moneys for unauthorised political campaigns acceptable; and to say simply that the previous government did it does not address the issue.

At least, I suppose, whilst the present government might say, 'Look, it is hypocrisy if this legislation gets up in whatever form', in the future it will be constrained by it. So, at least it can be acknowledged that the Labor Party has recognised the error of its previous ways and, when it seems to be facing going into government, it has been prepared to address it. As for the existing government that is about to spend some time in opposition, it seems to be wanting to guarantee that the next government can continue to spend public money for a political purpose. That seems quite bizarre.

The Hon. R.K. Sneath interjecting:

The Hon. M.J. ELLIOTT: As for the view put by the Hon. Trevor Crothers that he was—

The Hon. T. Crothers: Now you are talking about a bit of commonsense.

The Hon. M.J. ELLIOTT: Well, in his contribution the honourable member was not. The Hon. Trevor Crothers suggested that the opposition was telling terrible lies and therefore that justified the government's spending government money to counteract it. Whether or not governments or oppositions are telling lies is not the issue here. Many would say that a number of government ads have been, at the very least, highly misleading, but that is not the issue. The issue that is being addressed here is not whether or not governments or oppositions are being honest: the core issue is simply whether or not a government, just because it has control of the purse, should be able to spend public money for its own benefit, and that is the issue that must be addressed. The government has skirted right around that, other than to suggest that the previous government did it. Unless the government does address that issue, it stands condemned.

The Hon. R.I. LUCAS (Treasurer): Does any other member wish to speak?

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The honourable member has already made a contribution. I will speak briefly now and then seek leave to conclude. A broadly similar piece of legislation, I think, was introduced by the Hon. Mr Xenophon a year or two ago and, at that stage, on behalf of the government, I opposed it. I wanted to support my colleague the Attorney-General and, again, oppose this piece of legislation and highlight the absurdity of some of its provisions. As the

Hon. Terry Cameron has highlighted (and I think that the Labor Party has indicated its support of this), I saw—I think on a Sunday evening—a joint press conference between Mike Rann and the Hon. Nick Xenophon.

I am not sure that the Hon. Nick Xenophon has done a joint press conference with the Liberal Party but, anyway, he had a joint press conference with the leader of the Labor Party at which time they indicated their intention to introduce these reforms as part of a new grouping in the parliament (Labor and the No Pokies)—at least on this issue. I am afraid that I have not been able to obtain some of the detail that I wanted to refer to as I speak to this bill this evening. I want to seek leave to conclude my remarks over the next few days—not necessarily next Wednesday—to highlight further some of the unreasonable provisions of the legislation. First, it is important not to note what is intended but what is drafted. It may well be what is intended but I highlight the drafting of the legislation. Clause 2 provides:

> A minister authorises the use of public money for a government advertising or information program.

From some of the discussions that members have had they obviously have in mind particular advertising or information programs that have been engaged in by Liberal governments, and I am not sure whether any have highlighted similar campaigns that previous Labor governments have engaged in. But the bill just says, 'a government advertising or information program'. It does not say one which involves the expenditure of $1 million or $500 000 or $100 000; it is 'a government advertising or information program' of any size. One of my responsibilities in government is to be involved in a cabinet communication committee which looks at the range of communication activities that government departments and agencies engage themselves in.

It ranges, in the main, through a whole series of very small and relatively inexpensive information programs, which might involve the development of a new web site and some limited amount of publicity, either posters in schools or in the general community, or maybe a leaflet which identifies a particular program. In some cases it is extended to the use of bus posters, or the bus packs as they are referred to. In some cases the posters are at the bus stops and there is advertising space available at those sites there where bus passengers stand protected from the elements, where a number of government departments and agencies have advertised.

So most of the information programs are of a relatively modest nature which might involve a range of those sorts of communication mechanisms. It then, of course, ranges through to some of the largest, but certainly nothing that the state government does rivals anything that the commonwealth government does in relation, for example, to the national tax reform packages or some of the big information programs that are conducted. I suppose one of the two bigger ones in recent times has been where each year the budget is publicised through an information campaign, and in the last two or three years the government, in terms of its Directions Statement, in terms of the direction of government policy, has sought to publicise and highlight that particular program.

As I said, there are literally hundreds of different government information and advertising programs. We are not just talking about a half a dozen programs in a year. That is important also as the sort of alternative that the Leader of the Australian Democrats talked about, when he said that his alternative is a model, that I think the federal parliament is looking at, where some version of an independent panel seeks to, before the event, view it and approve it as being an appropriate government information and advertising program.

That model would just grind all information and advertising programs to a halt, because, as I said, we are not talking about a small number. Every government department and agency, in most cases in a relatively modest way, is trying to highlight or advertise various government programs, through the various mechanisms that I have highlighted. The dilemma with this particular provision, too, is that under the pain of going to gaol—

An honourable member interjecting:

The Hon. R.I. LUCAS: I am presuming that if you do not pay the fine you go to gaol. If a minister does not have $100 000 because he has been fined under this bill and does not pay the fine I presume the minister goes to gaol. He loses his seat and goes to gaol. So the penalty here is up to $100 000 and, potentially, if you do not pay the fine, I assume in some way you would end up having to go to gaol.

As I said, there are literally hundreds and hundreds of government advertising and information programs conducted each and every year by departments and agencies, and in some cases by agencies which are just formally subject to the direction of a minister, for example, something like a lotteries commission or an entertainment centre or something like that, but in practice that sort of day-to-day control over the decisions on information programs is not overseen by the minister. It would be run by the chief executive and/or the board. But under the current provisions, the very cleverly drafted provisions by the Hon. Mr Xenophon, should an offence be committed by an officer under the minister's authority, that minister would carry the can for the maximum penalty up to $100 000, or indeed go to gaol if you cannot pay. Now, if your previous career was that of lawyer or a solicitor, or you are independently wealthy, you might be able to pay the odd $100 000 fine or two as a minister; but this is really a means of intimidating people from a background where they are not wealthy.

An honourable member interjecting:

The Hon. R.I. LUCAS: Well, it certainly does not. Certainly I would put myself in the position; I am not an independently wealthy person. I am not a lawyer, able to—

The Hon. L.H. Davis: But you're an economist.

The Hon. R.I. LUCAS: I am an economist. I don't have access—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, it is not why you have parliamentary privilege. That is a completely wrong reason for defending parliamentary privilege, if that is what you think it is about.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No it is not. What I am saying is that it is okay for people who are independently wealthy or if they are lawyers or have access to friends who are lawyers, in terms of being able to run court cases all the time at either no cost or at friends' rates, or whatever it might happen to be, but to actually have ministers who come from not that sort of background being subject to fines of up to $100 000 personally because an offence might be committed by them, or by one of their officers acting underneath their direction and control, is a form of intimidation of ministers in terms of trying to go about their particular task. It is not, as the Hon. Terry Cameron says, conducive to good governance to have a situation where nothing—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Yes, but what I am trying to explain, and it takes a while to get through the cranium of the Hon. Mr Holloway—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, we are not spending $400 million.

Members interjecting:

The PRESIDENT: Order! The minister will return to the bill.

The Hon. R.I. LUCAS: What I am trying to highlight, Mr President, is that the hundreds of information and communication programs conducted by state government, and that is the only one I can talk about with any authority, are relatively inexpensive web sites, limited advertising, press advertising, leaflets, or government material—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No. The Hon. Paul Holloway says it is not covered. Of course it is covered. This is your policy. Mike Rann and Nick Xenophon, in a joint press conference, launched this policy—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: That is what the guidelines say. There is nothing in the guidelines which says that a government program of $10 000 should be treated any differently from a government program of $500 000. None at all. That is the policy of the Labor Party and Nick Xenophon, in their joint press conference, when they launched this policy jointly. That was the policy that was being put. What I am saying to you, because I actually know a bit more about the sort of government programs that go on than anybody—

The Hon. P. Holloway: I am sure you do.

The Hon. R.I. LUCAS: Well I do. At least I am speaking from a situation of some knowledge. The Hon. Mr Holloway looks on from a distance and talks about the federal government programs, which have got nothing do with the state government at all, in terms of their programs. The biggest spending program that state governments might have would be the tourism programs, which for ever and a day have taken different approaches, such as the Secrets campaign and those sorts of things, which are government authorised communications programs.

They are probably in and of the range of the most extensive programs in which state governments get themselves involved. We are not involved in multimillion-dollar programs like the federal government. However, what we have here is something which will apply right down to the $5 000—it can be even less than $5 000—information programs conducted on a regular basis by government departments and agencies across the board. The schedule provides that this 'may involve restrictions on the use of ministerial photographs in government publications'. Every year there would be hundreds of departmental publications such as regular newsletters from ministers or regular newsletters—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: No, regular newsletters from departments, and within those newsletters there may be a column from the minister or a photograph of the minister presenting a grant to a particular organisation. Every department or agency would have a series of these reports, bulletins or newsletters which go out, communicating what the department is doing and how public money is being spent.

This raises the spectre that there may well be restrictions on the use of ministerial material. The only way that you will find that out is if someone like the Hon. Mr Xenophon with his legal friends and expertise takes to court a minister—whose departmental publication happens to show on page 16 a photograph of the minister presenting a cheque to six volunteers—under clause 3.4 of the schedule, which provides that 'this may involve restrictions on the use of ministerial photographs' because, in his judgment, this was done in a political fashion. If the Hon. Mr Xenophon takes it to court and gets a decision against the minister, the minister is up for a fine of up to $100 000 and criminal sanctions as a result. That is the sort of policy that the Labor Party has now pledged to support. The Leader of the Opposition—

The Hon. L.H. Davis: Do we know what they do in the other states?

The Hon. R.I. LUCAS: In every other state, the Labor Party does exactly the same thing in terms of departmental publications and information programs—and, I might add, to a much greater extent. The Hon. Mr Davis highlighted a full-page of advertisements talking about a synchrotron—

Members interjecting:

The PRESIDENT: Order! there is a member on his feet.

Members interjecting:

The PRESIDENT: Order! I have called for order.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, Mr Davis!

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order, for the last time!

The Hon. R.I. LUCAS: The problem with the Hon. Mr Holloway's assessment is that he says we are only after political propaganda, but the way that the Hon. Mr Holloway—

The Hon. P. Holloway interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: Well, the Hon. Mr Holloway says that it is okay for Labor governments to advertise as they have but it is not okay for Liberal governments.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, no, you defended it today.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: You defended it today. It not only described itself as a Victorian government but as the Bracks government—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The Bracks government—

The Hon. L.H. Davis: It wasn't the national newspapers; it was the *Age*—snap! The *Age* happens to be a Melbourne newspaper, did you know that?

An honourable member interjecting:

The PRESIDENT: Order! I am trying to call the Treasurer. If he does not want to contribute to the debate, he can resume his seat, but I will call the Treasurer.

The Hon. R.I. LUCAS: The government's position is very clear that these provisions—and I want to go through a number of them this evening—are unreasonable for ministers who would be genuinely going about their tasks but who, in essence, would be forever fearful that officers acting on their behalf may well take decisions which would ultimately mean that ministers might end up having to pay a fine of up to $100 000. I will go through some of these provisions in the schedule. Clause 1.3 provides:

> No campaign shall be contemplated without. . . appropriate market research.

Some campaigns conducted by this government departments and agencies, as I have said, might require expenditure of $10 000 or $15 000 and the establishment of a web site.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: They would be forced to do appropriate market research to establish their web site and produce perhaps 5 000 copies of a leaflet that highlights a particular government program for, say, domestic violence. The government might spend $100 000 on a new domestic violence service. It produces a web site and 5 000 copies of a leaflet highlighting the domestic violence program which are disseminated. Under pain of this penalty of up to $100 000, in developing any material for communication to the public, they cannot do anything unless appropriate market research has been conducted. I do not know whether the honourable member has conducted market research for the No Pokies Party recently, but I assure him that it is not inexpensive to do that.

The Hon. P. Holloway: It depends how much you do and whether it is appropriate.

The Hon. R.I. LUCAS: It provides that you have to do appropriate market research.

The Hon. P. Holloway: Yes, 'appropriate'.

The Hon. R.I. LUCAS: Well, what does 'appropriate' mean? Nothing?

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: So, if you are expending only $10 000, you only have to ask one person, do you? Appropriate market research—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: The honourable member has no background in market research at all. If—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I do not have to look at the Oxford to see what 'appropriate' means. If you are going to conduct appropriate market research, you will have to conduct research which validates an information program. You will have to interview enough people to justify the expenditure of $ 5000, $10 000 or $15 000, or whatever amount of dollars you want to expend in a particular area. You would have to identify a need, a lack of information about a particular program—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: May I speak? You would have to identify what the market for your program was going to be, what information needs they require, what communication mechanisms ought to be best used to get through to them. If it is a young audience, you might want to advertise on younger persons' radio or in schools. So, you have to conduct appropriate market research to know how you should communicate your message to that particular group.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: Well, that is right. If you are spending $10 000, $15 000, $20 000 or $30 000, you do not spend $30 000 on appropriate market research beforehand because that would be a ludicrous waste of resources. Given that this is the Labor Party's policy which members have committed to this particular legislation, if before they even spend $20 000 on a few leaflets they require that market research must be conducted for every one of those campaigns before it is actually commenced, we will see a huge blow-out in consultancy costs under a Labor government. This government has been reining in consultancy costs very successfully from over $105 million down to less than $50 million in two years. Under this policy of the Labor Party, we will see a huge blow-out in market research costs. Clause 2 provides:

> Information campaigns should be directed at the provision of objective, factual and explanatory information. Information should be presented in an unbiased and equitable manner. Information should be based on accurate, verifiable facts, carefully and precisely expressed in conformity with those facts. No claim or statement should be made which cannot be substantiated.

Given that anyone can take legal action against a minister under pain of a fine of $100 000, these sorts of provisions, particularly in the political arena, are not always as easy or as black and white. There are always shades of grey in terms of programs and projects for government service delivery. So, regarding the issue of having to be verifiable and substantiated, clearly everyone would agree that that ought to be the objective, but to have the pain or penalty of fines of up to $100 000 should someone make a slip-up or an error in terms of a particular information program is, in my submission, unreasonable. Clause 2.3 provides:

> The recipient of the information should always be able to distinguish clearly and easily between facts on the one hand, and comment, opinion and analysis on the other.

That seems to be inconsistent with clause 2.2 which seems to argue strongly against comment, opinion and analysis, because clause 2.2 provides that no claim can be made which cannot be substantiated, yet clause 2.3 provides the need to distinguish between comment, opinion and analysis and facts, on the other hand.

During the committee stage the Hon. Mr Xenophon will need to explain how clauses 2.2 and 2.3 of the schedule are meant to live with each other. Clause 3 of the schedule provides:

> Material should not be liable to misrepresentation as party-political.
>
> 3.1 Information campaigns should not intentionally promote, or be perceived as promoting, party-political interests.

How on earth will a court make a judgment about 'be perceived as promoting party-political interests'? We already have the opposition claiming that a range of attitudes expressed by the government are party-political interests. The government would put a very strong point of view, similar to previous governments, particularly under Premiers Dunstan and Bannon, that these are not party-political views that the government puts but, rather, government policy.

How is a court meant to distinguish between a government policy, which has been put by a Premier or a minister on behalf of the government, and what the opposition or some litigious observer of the political scene might perceive as promoting party-political interests? We have seen many recent examples with this Liberal government and, prior to that, we have seen many examples under Labor governments led by Premier Bannon, in particular, and Premier Dunstan who used government information programs through television, radio and media advertising to highlight government programs and government interests.

It then goes on to try to highlight why communication might be perceived as party-political, and clause 3.2 of the schedule provides:

> Material should be presented in unbiased and objective language, and in a manner free from partisan promotion of government policy and political argument.

Again, we have inconsistency between clauses 2 and 3 of the schedule. Clause 3.3 provides:

> Material should not directly attack or scorn the views, policies or actions of others such as the policies and opinions of opposition parties or groups.

I will return to that provision later. Clause 3.4 provides:

. . . it may involve restrictions on the use of ministerial photographs. . .

As I have said, there are literally dozens, if not hundreds, of departmental reports, leaflets and newsletters which involve either commentary or, on occasions, photographs of ministers in the community actively involved in the delivery of government services; and, if the Labor Party is saying that no photograph of a minister can appear in those publications, it is the height of hypocrisy given the history of the Labor Party, in particular, for the 11 years under Premier Bannon, and then Premier Arnold between 1982 and 1993, when virtually every departmental publication, newsletter or propaganda piece, if you want to call it that (as the opposition is), involved photographs of Labor government ministers and the Premier of the day involved in community functions.

Clause 4.1, which deals with 'distribution of sensitive material', provides:

As a general rule, publicity touching on politically controversial issues—

however one might define that—

should not reach members of the public unsolicited except where the information clearly and directly affects their interests. Generally, material may only be issued in response to individual requests, enclosed with replies to related correspondence or sent to organisations or individuals with a known interest in the area.

This provides that, for example, with the annual budget program, where information is provided generally to South Australian families and households, unless they have individually requested information, a Labor government—if ever elected—will never send them anything. That is the Mike Rann and Nick Xenophon joint press conference policy position.

That is just bizarre; it is frankly unbelievable; and it is the height of hypocrisy for the Leader of the Opposition to pretend—and to obviously have convinced the Hon. Mr Xenophon—that he is genuine in his belief that he, on behalf of a Labor government—given his history as a former media adviser to Premier Bannon and how he used public moneys as a media adviser to the former Premier—will implement these sorts of programs and policies.

No-one else in South Australia would believe that Mike Rann would do it; no-one else, other than possibly the Hon. Mr Xenophon, would believe it. Even members of the opposition could not believe Mike Rann will do it. Most members opposite cannot stand him anyway, but even members of the opposition could not believe that the Leader of the Opposition, with his history of media manipulation, will have a situation where he will genuinely say, 'I will not send any material to a constituent unless they have requested it.' Every member of the Labor Party at the moment is sending thousands of unsolicited pieces of propaganda—using the global allowance—to individual constituents when it is not—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: Well, everybody, but you are standing up in this place and saying that you support this and that you will stamp it out. That is where the hypocrisy lies. We are supporting the position where members, parties and governments can communicate to get a message across. You are the ones who are saying, 'Material shall not be issued unless in response to an individual request'. Unless a constituent in the electorate of either Mr Koutsantonis or Mr Atkinson writes in and says, 'Please send me some material about the policies of the Attorney-General in relation to law and order and the drunks defence,' or whatever unsolicited material Mr Atkinson sends out to electorates at public expense—

The Hon. L.H. Davis: Or Barton Road.

The Hon. R.I. LUCAS: Yes; or Barton Road, for example. Unless a constituent writes to Mr Atkinson, the government or a minister and says, 'We want information on this particular issue,' the Leader of the Opposition's policy and the Hon. Mr Xenophon's policy is that, generally, you should not send material to people unless it has been in response to an individual request or it is 'enclosed with replies to related correspondence or sent to organisations and individuals with a known interest in the area'. No-one in this chamber and no-one in South Australia, other than the Hon. Mr Xenophon, believes that the Leader of the Opposition will introduce a policy or will implement a policy along these lines—no matter what he says when he is at a joint press conference with the Hon. Mr Xenophon saying, 'We are going to support this public accountability and we will support this legislation in relation to government advertising.'

Clause 4.5 of the schedule provides:

No information campaign should be undertaken without a justifiable cost/benefit analysis. The cost of the chosen scale and methods of communicating information must be justifiable in terms of achieving the identified objective(s) for the least practicable expenses.

Again, as I said, we have hundreds of relatively modest information campaigns in government which, I can assure members, do not have a comprehensive cost/benefit analysis attached to them in terms of, 'These are the benefits involved and these are the costs involved.' Basically, they include a telephone number and web site to contact and say, 'We are introducing a domestic violence campaign. We will spend $50 000 on it. We want to highlight it to a range of community groups and organisations. We want to produce a leaflet which highlights the nature of the program.' The government or the minister, or any other process government might have, ultimately says, 'That is a reasonable program and a reasonable expenditure. It is authorised as long as you do it within these parameters.'

In most cases it is not done, as provided for in clause 1 of the schedule, based on appropriate market research having been conducted for every information campaign. It is certainly not done for the smaller campaigns, anyway—the bigger ones clearly do—with cost/benefit analyses having been conducted for those programs.

I will seek leave to conclude. I wanted to raise a number of other issues. The issue I will conclude on tonight is the absolute hypocrisy of this joint policy between the Hon. Mr Xenophon and the Leader of the Opposition, Mike Rann, in relation to how it treats government advertising and everything the opposition and the Independents undertake. In this we see a deliberate attempt to restrict what governments can do and yet, deliberately, every opposition and Independent member—and let us look at the opposition members in the Lower House who get global allowances of some $25 000, and they have available to them about $500 000 a year (over a four year parliamentary term about $2 million) in the Lower House in the Labor Party—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: But ministers and governments will be hamstrung by this. Who is not hamstrung? Opposition members with their $2 million—

Members interjecting:

The Hon. R.I. LUCAS: So, it is all right for the opposition with $2 million of taxpayers' money to have no restric-

tions on what can be said and done in terms of advertising campaigns, and no restrictions on sending out material unsolicited to anybody. So the Labor Party and the Independents can send $2 million worth of advertising material to constituents and electors—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: So the Labor Party can send $2 million worth of advertising over a parliamentary term. Under clause 3(3) the government is not allowed to directly attack—

Members interjecting:

The Hon. R.I. LUCAS: It is taxpayers' money. You are getting $2 million worth of taxpayers' money to spend. Where do you think the money is coming from?

Members interjecting:

The Hon. R.I. LUCAS: It is the taxpayers' money you are spending. We are talking about taxpayers' money. You want to talk about the government, but you do not want to talk about the $2 million of taxpayers' money which you say—and the Hon. Mr Xenophon says in supporting you—it is okay for the Labor Party to spend attacking the government in a most—

Members interjecting:

The PRESIDENT: Order! I call order!

The Hon. R.I. LUCAS: Without any factual information they can make extraordinary claims, any claim they wish: it does not have to be fact. They can make any claim they wish. They can spend $2 million worth of taxpayers' money. The Hon. Mr Xenophon is saying that it is okay for the—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is okay for the Labor Party; it is okay for the Independents; it is okay for No Pokies to attack the government through the use of taxpayer funded advertising.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: It is okay for anybody to attack the government without any of these restrictions. The only restrictions—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: I will bring in next week or when we next debate the matter a sample of the newsletters being circulated by Labor members with taxpayers' funds and I assure members that in a number of cases the statements being made by Labor members are demonstrably wrong and misleading. The restriction that Labor supports for the government—that is, that material should not directly attack or scorn the views, policies or actions of others, such as the policies and opinions of opposition parties or groups—means that the government cannot criticise the opposition but the Labor Party can spend $2 million of taxpayers' money every parliamentary term scorning and attacking the government's policies and actions. But they seek to tie the hands of the government behind its back in relation to putting its viewpoint on a particular issue. That is the hypocrisy of the Labor Party in relation to this issue: let us stop the government from being able to put its side of the story, but let us not let the people of South Australia know anything about our $2 million worth of taxpayer funded advertising, which we can circulate without any restriction at all.

Why is there not something in here that says that the $2 million worth of taxpayer funded advertising every parliamentary term will be subjected to the same sorts of rigorous rules and new restrictions they say they will all be accountable for? What hypocrisy from the Labor Party! What hypocrisy on the part of the Hon. Mr Xenophon as well! He stands up on a Sunday night with Mike Rann, the Leader of the Opposition, and supports a position in a joint press conference with Mike Rann to say that it is okay for the government to be stopped but we will let No Pokies, the Democrats, Labor and the Independents say whatever they like with no restrictions at all. They can heap scorn on the government and attack the government, but we will stop the government in terms of the campaigns.

We look forward to further debate on this bill. I intend, in seeking leave to conclude my remarks later, to bring back examples of the sort of material that the Hon. Mr Xenophon and the Labor Party are saying should be allowed to continue to be sent unsolicited to constituents. The poor constituents are not writing in to Mr Koutsantonis or Mr Atkinson saying—

The Hon. Carmel Zollo: Are you suggesting they are breaking the guidelines?

The Hon. R.I. LUCAS: If you want to ask some questions, I am happy to answer them.

The Hon. Carmel Zollo: What about your backbenchers—

The Hon. R.I. LUCAS: I would not advise—

The Hon. Carmel Zollo interjecting:

The Hon. R.I. LUCAS: I am the minister responsible for this, so do not ask me those sorts of questions if you do not want the answers.

The Hon. Carmel Zollo interjecting:

The PRESIDENT: Order, the Hon. Carmel Zollo!

The Hon. R.I. LUCAS: If you do not want the answers, the Hon. Ms Zollo, do not ask the questions. I do not think it is in your interest for those questions to be asked. I will come back at the next opportunity to highlight some of the examples of material that Labor members with $2 million worth of taxpayer funded advertising are able to send unsolicited to constituents, attacking the government in a most unreasonable, irrational manner, heaping scorn on the government—something Mr Rann says should not be allowed. He says that one should not attack or scorn the views of the opposition: that is Mr Rann's policy and Mr Xenophon's policy as outlined in their joint press conference. You should not attack or scorn the views of the opposition. What arrant hypocrisy on the part of the Hon. Mr Xenophon and the Leader of the Opposition. I am enormously disappointed that the only person in South Australia who obviously believes the Leader of the Opposition in relation to these issues is the Hon. Mr Xenophon—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: And the fact that he would involve himself in a joint policy launch of this on a Sunday evening with the Leader of the Labor Party in a most partisan way on this issue. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

CAFFEINATED BEVERAGES

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

That the Legislative Council requests that the South Australian government—

I. (a) Examines whether caffeinated drinks should be banned from sale to minors, in the same manner as tobacco and alcohol;

(b) Promotes caffeinated energy drinks as being unsuitable for the general population, particularly children and caffeine-sensitive people;

(c) Endorses proposals by the Australia New Zealand Food Authority for stricter labelling and marketing controls for caffeinated energy drinks; and

II. Uses its role on the Australia New Zealand Food Standards Council consisting of health ministers, to lobby for the passage of strict food standard regulations to cover formulated caffeinated beverages.

which the Hon. Carmel Zollo has moved to amend by leaving out subparagraphs (a) and (b) and inserting—

(a) Examines what sale labelling and marketing restrictions should be imposed on formulated caffeinated beverages, particularly in relation to minors.

(b) Promotes excessive consumption of caffeinated energy drinks as being unsuitable for the general population and that caffeinated energy drinks are particularly unsuitable for children and caffeine-sensitive people.

(Continued from 30 May. Page 1616.)

The Hon. NICK XENOPHON: I indicate my support for the motion. The issue of caffeinated drinks is one that is becoming increasingly important given the marketing push by a number of food companies to caffeinate drinks to an ever increasing extent. There is a health issue here that is at stake. As I understand it, the AMA has commented on this issue in the past in terms of the impact of caffeinated drinks on young people, particularly on children, and the marketing of these drinks. I think this chamber owes a debt of gratitude to the Hon. Mike Elliott for moving the motion and having it subject to debate and public comment. Along with the Hon. Mr Elliott, I support the motion.

The Hon. M.J. ELLIOTT: In closing the debate I thank those members who have spoken, and I think all members who have spoken have spoken in broad support if it. I do not think that the amendments on file change the essential thrust of the motion. I have been informed that late this month or in early August ANZFA will be making a determination in relation to caffeinated energy drinks. I believe that it has sought the advice of the ministerial council of health ministers. The South Australian health minister is the present chair of that council, and I understand that he personally is concerned about caffeinated energy drinks. So I hope that the South Australian government, on behalf of all South Australians and this parliament, will express a view that what has evolved over the last 12 months is starting to get out of hand.

It is worth noting that in the last three weeks Cadbury has put a caffeinated chocolate bar—a product called Viking—on the shelves. Essentially, it is a Mars bar plus guarana. As I noted during my earlier contribution, guarana is a berry with very high levels of caffeine—in fact, higher levels of caffeine than you would find in coffee beans. If one lifts the flap of the chocolate bar one will see the warnings it carries near the bar code. I am sorry that I do not have a bar with me, but the warning says—

The Hon. Carolyn Pickles: Do they have them in the parliamentary bar?

The Hon. M.J. ELLIOTT: No; I have not seen them, anyway. The warning says that the product is not recommended for children under the age of 15 or for diabetics and pregnant women, and lists a whole lot of medical conditions which preclude people from eating the bar. It also recommends that people should not have more than three bars a day. I do not know whether or not you can have three bars plus two caffeinated drinks, a coke and a cup of coffee or what.

It is worth noting that this chocolate bar, like all the caffeinated drinks to my knowledge, are coming out of New Zealand. It appears that the trans-Tasman trade agreement is being used to ensure that foods recognised as foods under the laws of New Zealand are accepted into Australia. Clearly that loophole is being exploited quite significantly by manufacturers of not only soft drinks but also now chocolate bars.

I have made it quite plain that I am not against people using caffeine. However, I personally have reduced my intake of it because I have discovered that it has some negative impacts—as it does have with many people. It is quite a different thing from drinking tea and coffee, which predominantly has been an adult pastime. The arrival of Coca-Cola and the increasing use of beverages has meant that younger people are getting more caffeine than they used to. All soft drinks other than the cola drinks were not being caffeinated, although as I said in the United States other soft drinks were. In fact, the original application to ANZFA was for all soft drinks to be caffeinated. It was only after a fuss was made late last year that that application was withdrawn. It now only seeks recognition in relation to the energy drinks.

Since moving the motion I have been informed that a recent survey has shown that energy drinks have been the fastest growing classification of items in supermarkets in the previous 12 months. Admittedly it was a survey with a very small base, but there has been quite a dramatic increase in their usage. What is important is that adults are given good information about all drugs that they choose to consume—whether it is alcohol, tobacco, cannabis or anything else.

People must be given good, reliable health information to enable them to make informed decisions. I do not think that is happening. Many current soft drinks carry a warning but it is printed in such small print on the label that most people would not even see it. If we are to run public education programs about drugs I think we should cover all drugs. It is important that adults are properly informed.

When we consider children I think we have to be even more careful. It seems to me that it is totally inappropriate that such drinks should be sold in school tuck shops. We should think more carefully about the justification for these drinks to be generally available to kids. Anyone who has seen the advertising—which for one product in particular is cartoon based—will know that it is very attractive to children, even though I am sure the manufacturers will deny that that is the intent of the advertising.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: That is a very interesting question: it depends whether you make it yourself or buy it. As I said when I made my earlier contribution, I attended a national conference of psychiatrists in Adelaide and was involved in a session addressing the issue of drugs. I spoke about cannabis and cannabis laws and the other speaker spoke about caffeine. When I saw caffeine on the agenda I thought, 'What is the significance of this?' I was surprised and shocked by the information he imparted to the conference and I no longer saw caffeine as trivial. The contributor at that conference is one of the advisers to ANZFA, but he is not the only adviser and I do not know what the other advisers are thinking at this stage.

In relation to the amendment that has been moved by the Hon. Carmel Zollo, I am quite happy to accept it. As I said, it essentially does the same thing as the original motion but with quite different wording. I hope it enjoys the support of

all members of this place and that our health minister, first in the ministerial council and then in communication with ANZFA, gives a very clear and strong message that this is a matter that deserves urgent attention and action.

Amendment carried; motion as amended carried.

DAIRY INDUSTRY

Adjourned debate on motion of Hon. Ian Gilfillan:

I. That, in the opinion of this Council, a joint committee be appointed to inquire into and report on the impact of dairy deregulation on the industry in South Australia and in so doing, consider—

(a) Was deregulation managed in a fair and equitable manner?

(b) What has been the impact of deregulation on the industry in South Australia?

(c) What is the future prognosis for the deregulated industry?

(d) Other relevant matters.

II. That, in the event of a joint committee being appointed, the Legislative Council be represented thereon by three members, of whom two shall form a quorum of Council members necessary to be present at all sittings of the committee.

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

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

which the Hon. T. Crothers has moved to amend as follows:

Leave out paragraph III.

(Continued from 2 May. Page 1406.)

The Hon. IAN GILFILLAN: I thank members who have contributed to the debate. I note that an amendment has been moved by the Hon. Trevor Crothers which, I hope, will not be persisted with. With that hopeful wish, I look forward to the Council's support for the motion.

The Hon. DIANA LAIDLAW: Mr Acting President, I draw your attention to the state of the Council.

A quorum having been formed:

Amendment negatived.

The Council divided on the motion:

AYES (12)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Gilfillan, I. (teller)
Holloway, P.	Kanck, S. M.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Sneath, R. K.
Xenophon, N.	Zollo, C.

NOES (9)

Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Laidlaw, D. V.
Lawson, R. D.	Lucas, R. I. (teller)
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

Majority of 3 for the ayes.

Motion thus carried.

ELECTRICITY, PORTFOLIO

Adjourned debate on motion of Hon. Sandra Kanck:

That this Council recommends that the Premier should relieve the Treasurer, the Hon. Robert Lucas, of all responsibility for the South Australian electricity industry and create a special minister for electricity supply to oversee and facilitate the security and reliability of the industry in this state,

which the Hon. R.R. Roberts had moved to amend by leaving out all words after 'electricity industry'.

(Continued from 11 April. Page 1341.)

The Hon. SANDRA KANCK: As members will know, on Sunday another tranche of electricity customers became contestable in our electricity market.

The Hon. M.J. Elliott: Lucky devils!

The Hon. SANDRA KANCK: Yes, and tonight we are going to vote on my motion which calls for the Treasurer to be stripped of responsibility for the electricity industry and for a special minister for electricity supply to be appointed. I thank the members of this chamber who have contributed to the debate on this motion. I do note the amendment moved by the Hon. Ron Roberts, in which he attempts to cut off the latter half of the motion. I will not be accepting it in that form, because the issue of creating a special minister with responsibility for electricity supply is a very important component of this motion.

In concluding tonight I particularly want to concentrate on the response that was given by the Treasurer to my motion. I believe it is instructive of the state government's mindset regarding electricity, and perhaps the most disturbing aspect of the Treasurer's reply was the depth of his denial. At the very moment that South Australia is facing its most serious economic challenge since the collapse of the State Bank the Treasurer attempts to deny responsibility. 'Nothing to do with me' he says. Nowhere in his reply did the Treasurer acknowledge his role in the ruinous escalation of electricity costs. He claims, as follows:

Even with prices going up, someone has to be losing money.

Yes, Treasurer, it is South Australian business and taxpayers that are losing money—hand over fist. Not a word of apology has he given to those contestable customers who have been ambushed by price increases of up to 100 per cent. Not even a nod towards his government's oft-repeated claim that privatisation of our electricity utilities was going to lead to cheaper power.

The Hon. Ian Gilfillan interjecting:

The Hon. SANDRA KANCK: Well, I expect so; I hope so. Members would know that many of these businesses are facing ruinous price increases. One Steel at Whyalla has price increases of 75 per cent for its electricity. One Steel was already paying $12 million per annum before these price increases hit them. I was up there in May and met with some of One Steel's executives and discussed what would happen if their prices went up for electricity. They told me that there would be a cost to the community because they would not be replacing anybody who left employment at One Steel.

We have seen one of South Australia's leading exporters, Sola Optical, facing a 62 per cent increase. We have seen our church based nursing homes facing increases of up to 45 per cent in their electricity cost. There is no way that organisations like that can cut back their costs. The only alternative, and it is one that the government should seriously look at as a consequence, is that some of the organisations that have got licences for beds for nursing homes may not proceed to develop them.

But the Treasurer seeks to lay the blame at the door of others. He conjures up the lame accusation that the Labor administrations of the 1980s failed to act on a government committee recommendation that a new coal-fired base load station be built by 1993. How that fact exculpates the conservative administrations that have held office in this state

since 1993 is beyond me. After all, it was this government which refused to upgrade the generators at Torrens Island Power Station. The Treasurer referred in his speech to a media release I issued in 1998 entitled 'Lucas caught with his pants down'. He claims it was factually incorrect. In that media release—

Members interjecting:

The PRESIDENT: Order! Is everyone finished now?

The Hon. SANDRA KANCK: In that media release I stated that the Auditor-General's Report showed that ETSA returned approximately $290 million to Treasury in the financial year 1998-99. The Treasurer stood in this place and claimed that part of that payment was interest on ETSA's debt and that I was misleading people about the amount of money ETSA contributed to the state's coffers. Nowhere did the Treasurer acknowledge the impact of the 1996-97 so-called special dividend. That transferred $450 million of state government debt onto ETSA's books and it had nothing to do with the operation of ETSA. It was a simple cash grab by this state government, and in the following year ETSA had to pay interest and repay the capital of that $450 million 'dividend'.

Yet by some perverse logic the Treasurer imagines those interest payments and capital repayments should not be considered as state government income. It is the equivalent of an employer paying an employee's mortgage and pretending it is not part of the employee's income. The Treasurer should try that one on the taxation department. One wonders what the Treasurer imagines ETSA would have done with the money it spent on servicing the state government's debt—hide it under the carpet? The fact is that it would have been available for dividends, the very form of income the Treasurer likes to base his calculations on.

The Treasurer also likes to scoff at the use of EBIT when assessing the sale price of our electricity utilities. He suddenly goes very folksy when considering the earnings of our electricity companies. 'Don't worry about that money', he says, 'not all of EBIT made its way into the hands of Treasury anyway.' Using the Treasurer's logic, if a company did not return any dividends it would not be worth anything.

This leads us to a very important point: the lack of probity in the government's figures of interest saved by retiring the debt versus revenue forgone as a result of privatising the utilities. So, when the Treasurer talks about the financial benefits of selling ETSA, the people of South Australia can safely ignore him. The Treasurer has no credibility. He ignores the facts that do not suit his argument just as the honourable leader—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order! These are the concluding remarks on the motion.

The Hon. SANDRA KANCK: And he has a firm friend in the Premier with this sort of behaviour.

The PRESIDENT: Order! The Hon. Sandra Kanck should adhere to her own motion, which is about the Treasurer and the words 'reliability and security of the electricity industry'.

The Hon. SANDRA KANCK: Thank you, Mr President. I recently had the unfortunate experience of watching the Premier on television claiming that the state government had been misled by the economists regarding the operation of the national electricity market. It was a pitiful performance. Here was the man who had the resources of an entire state government and the additional support of $100 million worth of consultants claiming that he did not understand how the market would work in practice. He could not see that selling the generators with the constrained supply in South Australia was a recipe for higher prices: others could.

I refer to a letter from Mr Bruce Dinham, the former General Manager of ETSA, which was published in the *Advertiser* of 1 March 1998. The letter states:

> Selling ETSA (including Optima) will not remove or reduce the burden of state debt. All it would do is transfer the burden from one group, the general taxpayers, to another, electricity consumers, and in the process is likely to increase the burden. The argument that privatisation will reduce electricity prices is nothing more than a fatuous cliche. It is more likely that privatisation would result in electricity tariffs even higher than the present excessive level.

Bruce Dinham, the former manager of ETSA, saw the future in March 1998. I would also like to quote from my own media release of 25 June 1998. I hope that the Hon. Mr Davis is listening. That was the day on which I announced that the Democrats would not support the government's privatisation legislation. I stated in that media release:

> All the evidence indicates keeping ETSA and Optima in public hands will protect South Australian electricity users from predatory pricing.

South Australia, with the help of Labor defectors Crothers and Cameron, gave up that option. We are now paying the price, and so should the Treasurer. I urge this chamber to uphold proper standards of accountability and support this motion.

Members interjecting:

The PRESIDENT: Order!

The Council divided on the amendment:

AYES (17)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I.	Pickles, C. A.
Redford, A. J.	Roberts, R. R. (teller)
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stefani, J. F.
Zollo, C.	

NOES (3)

Elliott, M. J.	Gilfillan, I.
Kanck, S. M. (teller)	

Majority of 14 for the ayes.

Amendment thus carried.

The PRESIDENT: I recognise in the gallery Queensland Senator John Woodley. I welcome him to the calmness and quietness of the Legislative Council, which I am sure is mirrored in the Senate. I wish him well during his stay in South Australia.

The Council divided on the motion as amended:

AYES (9)

Elliott, M. J.	Gilfillan, I.
Holloway, P.	Kanck, S. M. (teller)
Pickles C. A.	Roberts, R. R.
Roberts, T. G.	Sneath, R. K.
Zollo, C.	

NOES (11)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin K. T.	Laidlaw D. V.
Lawson R. D.	Lucas R. I.
Redford A. J.	Schaefer C. V. (teller)
Stefani, J. F.	

Majority of 2 for the noes.

Motion as amended thus negatived.

DIGNITY IN DYING BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1618.)

The Hon. R.K. SNEATH: I support the Hon. Sandra Kanck's bill for a number of reasons. I think that voluntary euthanasia should be an option for the terminally ill in South Australia because every day in every hospital around the world terminally ill people are suffering. Of those terminally ill patients, a small number request the assistance of their doctor to hasten their death. The practice of voluntary euthanasia does occur in Australia despite existing laws that prohibit the practice. Essentially, the voluntary euthanasia debate is one of choice. A point worth remembering—but so often forgotten—is that voluntary euthanasia is choosing to die, that is, making a choice about one's own destiny. Those in favour of legalising voluntary euthanasia are in favour of empowering the terminally ill. They are not arguing that all terminally ill patients should be treated as such—they merely want the terminally ill to have some control over their own life and death.

The assertion that voluntary euthanasia is against the common good is a minority view that ignores the opinions of palliative care specialists and is completely dismissive of the 5 per cent to 10 per cent of terminally ill patients whose suffering is so great that palliative care cannot relieve the painful symptoms associated with those terminal illnesses. The idea that voluntary euthanasia is a quick and easy way to dispense with the elderly and the disabled is absurd and an insult to doctors who treat the terminally ill; and to the families of those people who strongly believe that voluntary euthanasia is the best option in certain exceptional circumstances.

The idea of preservation of life is accepted and respected in Australia, so how can it be claimed that we are respectful of the life of a person who is irreversibly ill and in pain when we do not provide them with suitable choices and alternatives to enable them to determine their fate with respect to medical care? Voluntary euthanasia is about showing care and compassion to a person who either faces or is experiencing total dependence on others as a result of loss of control of physical or mental functioning and is in extreme pain and suffering. The spreading of scare tactics that suggest otherwise is unnecessary and irresponsible.

If members have known, as I have, relatives or friends who have endured extreme suffering as a result of terminal illness, you will know that it is inhumane to not allow that person the option of voluntary euthanasia. The person whom I knew and to whose family I was very close—and I am still very good friends with the husband (with whom I spoke today)—was Janet Mills, who was the second patient of Dr Nitschke. Janet was the same age as I am now when she made the decision to have her life ended at the age of 52. Janet was suffering for a long time with a very rare disease, which was unusual and which tormented the person who had it. The last time I saw Janet, shortly before she went to Darwin, she looked like a cooked lobster and could not help but pull at her skin because of terrible itching and pain.

Janet's husband and family were under tremendous pressure towards her last few months of life. I know her husband Dave was under tremendous pressure to take his wife's life, and he told me today how she begged him on numerous occasions to end her suffering. I am sure that, if it were not for the decision of Dr Nitschke and some other doctors in Darwin and the Northern Territory to end Janet's suffering, Dave might have been forced to do something which he would later have regretted or for which he would have been in a lot of trouble. We are thankful that he did not have to go to that extent.

Each time I visited Janet in her home before she went to Darwin she would ask me to pray for her—to pray that she would die. The Presbyterian minister visited Janet every day of the week. She would beg him to pray for her to die. He would promise to do this and would say, 'Next time when I come back after I pray you won't be here.' But each time he did and returned, Janet was still there and still suffering. Whilst I am sure that prayer is answered in some cases, it certainly does not get answered in all cases and, in the case of Janet and the terminally ill, it does not get answered perhaps sometimes when it should.

I respect religious views and the views of people in this chamber who will perhaps vote against this bill because of religious beliefs, but I wonder whether those same people would have the same beliefs if their closest relatives and next of kin were lying on a bed as Janet Mills was, suffering as she was and begging to die as she was. Would they then start to question some of the advice they were given by their churches? Janet made some statements that I would like to quote from the papers and some of the stories that were printed shortly after Janet passed away in the Darwin hospital. The *Advertiser* printed the headline, 'No-one wants to die if they don't have to. No-one should suffer. . . '. They were Janet's words. Janet was the second Australian to die at the hands of the friendly Dr Nitschke. She described euthanasia and the article states:

> 'The greatest thing' for people with terminal illnesses. It's a wonderful idea and stops people from suffering when they don't need to' she said in a statement released on the computer internet yesterday. 'No-one wants to die if they don't have to, but I know I have had no hesitation in asking for this. No-one should have to suffer when they don't have to.' With her husband Dave beside her, Mrs Mills uttered the final words 'peace at last' and pressed a key on a lap-top computer which set in train the lethal injection.

I knew Janet for many years and she was not an overly daresome sort of woman. She would not try to swim the River Murray, hang glide, parachute or anything like that but, when it came to her own life and the pain she was suffering, she was fearless and courageous. People who are not like that in the right frame of mind will not make that decision. She made that decision because of her suffering and because she was courageous. She made it with the blessing of her husband and three children. She had talked about it and discussed it, and people do not and will not make those decisions otherwise. As members of parliament we have received letters from either the uninformed or those who have been brain washed, in my opinion. One of those states:

> Please let the voice of a person in her late eighties be heard. Euthanasia is murder. Interest should be focused on improving palliative care. This bill must not be passed. It is dangerous and would open the floodgates for abuse of the elderly, the deformed and the mentally ill. Consider the consequences of passing the abortion bill. Thousands and thousands of children are being murdered every year in Australia. You must do all you can to prevent the voluntary euthanasia bill being passed.

I am positive that not one member of parliament and not one doctor in Australia would not have their parents live as long as possible in health or in sickness. Recently my mother passed away. Although she had had a stroke and it would have been her choice not to lie in bed for four or five years as her mother did—to beg to die and have both legs amputat-

ed while she was there—I would not have been able to make that decision on behalf of my mother. I would have left her there to lie for four or five years because I knew she was there and she was my mother. She had to make that decision and had she made that decision she would have made it with my blessing.

That is the difference. Children cannot make decisions for their parents. Parents cannot make decisions for mentally ill children. This bill does not allow for that, nor should it. People must be like Janet Mills and make their own decisions and that is where we as politicians do not have the right to say to anybody with sound mind that they cannot make a decision to end their own life.

Janet said that she wanted peace in her life: 'I just can't go on.' She had spent most of her life with her husband, Dave, who was a shearer and who travelled around shearing jobs, living in caravans and raising three children. She had a magnificent garden. She was the ordinary, everyday house-person, like a lot of other ordinary, everyday people. They were an ordinary, everyday couple who had had the unfortunate problem of a terminal illness being inflicted on one of them. Janet had made a decision that later was totally supported by her family.

Janet's husband Dave told me that he made a commitment to Janet before she passed away—a commitment to fight all he could to support some sort of bill that would allow people like Dr Nitschke to put people with a terminal illness to rest at their request. Dave has continued that fight and, unfortunately, it has not always resulted in Dave being looked upon in the community as a responsible person, as sometimes happens in a country community. I assure members that Dave Mills will go to his grave trying to keep up the fight and the promise he made to his wife minutes before she died.

At the time of Janet's death I was Secretary of the AWU and did not know that I would have the pleasure of being in this chamber one day. However, she asked me, if I ever got the opportunity to support such a bill or was in a position to do anything to help change the laws and to overcome the circumstances that Mr Kevin Andrews brought about in the federal parliament after Janet's death, to promise to do so, and I certainly did. As we vote upon this bill and hear people speak on it, like any issue—as we went through recently with the conscience issue on the prostitution bill—we will hear different sides of the story and different views from both sides of the chamber. I respect that.

I noticed some quotes in the paper when the story was released just a couple of days after Janet died. There was a quote from two of the premiers, one being from the South Australian Premier, Mr Olsen. The article states:

> . . . he remained personally opposed to euthanasia, which was a social conscience issue for politicians.

That is correct. It continues:

> 'But I do support a state's right to legislate and to be accountable for any laws they pass, and the territory has that right,' he said. The Victorian Premier, Mr Jeff Kennett, said Mrs Mills had exercised her right as a citizen. 'I have used the expression before of people in those circumstances: I think that form of exit is beautiful,' he said.

There are a number of quotes from the churches. One is as follows:

> South Australia's Catholic Archbishop, Leonard Faulkner, described Mrs Mills' death as a 'loss not only for this one family, but for our entire community'. 'Appropriate palliative care is an alternative whereby our community accepts proper responsibility,' he said.

There is no doubt that palliative care puts tremendous pressure on nursing staff and doctors. Because euthanasia is not legal, people in hospitals everywhere in the world who are suffering from illnesses such as Janet and who want to die put tremendous pressure on nursing staff and their families and will continue to do that. In a lot of cases palliative care leads to euthanasia because of the pressure that is applied to staff, doctors and family. But it is illegal, so we have pressure on people to do illegal things.

Surely it is a doctor's professional responsibility to alleviate the suffering of a terminally ill patient? Surely it is the right of an individual to determine one's own destiny with respect to the endurance of horrendous suffering prior to death? There is no sound reason why we should not vote in favour of the bill. This parliament must heed the legitimate wishes of the community and adopt a compassionate, commonsense approach to the rights of the terminally ill.

Along with Janet—may she rest in peace—I hope we pass the bill. I know that if we do, we have responsible citizens in families, doctors and in the parliament to make sure that it is exercised in a responsible manner. I support the bill.

The Hon. IAN GILFILLAN: I oppose the bill. To express my view succinctly and to begin my contribution I will read a statement that I made to the Democrats Party, wherein the debate has been active for some time. It is as follows:

> I wish to indicate my inability to accept certain clauses of the Democrat right to die policy, in particular the permitting of voluntary euthanasia. Although I am strongly supportive of the majority of the text [which included quite a lot of palliative care aspects] I am strongly opposed to clause 2(d) concerning active voluntary euthanasia which can be patient or doctor administered, and to clause 3(a) and the phrase 'or access to voluntary euthanasia'.
>
> It is my belief that voluntary euthanasia is misconceived to be a boon to dying people. I believe that there would be dangerous pressures and undesirable options which would come upon those who are or who are considered to be dying. This would occur often when they would be at their most vulnerable. It is also my belief that voluntary euthanasia disseminates a culture that life is dispensable and can be surrendered under certain circumstances.
>
> I acknowledge with deep appreciation that the motive for introducing voluntary euthanasia is overwhelmingly compassionate—compassion for those seeking death is an escape from their insufferable condition. I believe that fear of anticipated distress beyond endurance and fear of lingering on as an incontinent, incoherent and maybe comatose person are also factors in convincing people to support voluntary euthanasia. I do not believe that these reasons justify legalising voluntary euthanasia and therefore I advise my colleagues and the party that I will not support any bill or any measure which introduces it.

It is quite clear that a lot of people have had personal experiences of lingering death under painful and extenuating circumstances, and I believe that that assists those of us who are wrestling with the issue of voluntary euthanasia.

For that reason I indicate to the Council that my sister suffered from breast cancer for a long period of time before she died and experienced quite a few incidents—such as the breaking of bones—that were very distressing. It was quite a painful, drawn-out process. I was one of those—and there were several and most were nearby—who spent a lot of time with her every day. I have had first-hand personal experience of this situation and have known other people who have had terminal illnesses and have died.

I make it plain that my point of view is in no way affected by a Christian or religious conviction. I do not have any instinctive religious objection to intervening with life and seeing it as being abhorrent in all circumstances. That is not my position and I do not believe my religious belief pushes

me into that conviction. However, I am most concerned about the unpredictable but real pressures that could come upon those people who are not being considered by the promoters and supporters of the legislation—those people who are not reinforced by their own strength of personality, assertiveness or sense of well-being to make a decision totally uninfluenced by the pressures of others, which can be very subtle.

The Hon. Bob Sneath very movingly gave the example of a person who wished for release and an early termination from life and for whom it was very hard not to feel compassion. Members should consider my example of someone who could be vulnerable under the circumstances of this legislation—an individual who is able to be intimidated by their family and who maybe has had a family history throughout a lifetime of not wanting to be a bother. It is not difficult to see that such a person could feel pressure from their family that it is a bother to come and visit, that it is a very expensive process to continue to be cared for in palliative care and that they would be a lot better off to take this option that is now legal and is quite reasonable to take.

The Hon. Carolyn Pickles: Do you know of any cases like that?

The Hon. IAN GILFILLAN: Obviously not now because it is not legal to do it.

The Hon. Carolyn Pickles: Well, it happens.

The Hon. IAN GILFILLAN: Yes, I am sure it can happen. I am just saying that people can be vulnerable to pressures which—

The Hon. Diana Laidlaw: What, the pressure of pain?

The Hon. IAN GILFILLAN: No, the pressure of being a nuisance. In debating the bill I think that we are obliged to look at the consequences right across the board. It is no good just considering those cases that stand out starkly as being the emotional and strongly portrayed justification for voluntary euthanasia: it has to be looked at right across the board.

The other aspect—and I will look at this in more detail—is that the bill allows for insufferable situations of life which do not involve pain. Under those circumstances it would be possible for someone to implement voluntary euthanasia in a circumstance which has nothing to do with insufferable pain. Insufferable quality of life is a very loose term which I believe can lead to quite extraordinary and undesirable opportunities for people to prematurely terminate their life.

I have various documents which I would like to quote during my contribution as it is useful in indicating to the Council how I have come to my view and to share the similar views of others. Dr Anthony Radford of Adelaide, South Australia presented a paper in 1995 when an earlier bill was presented by John Quirke, the final paragraph of which states:

> If those advocating euthanasia or assisted suicide prevail, it will be a reflection that as a culture we are turning away from efforts to improve our care of the mentally ill, infirm and the elderly [whom I might add Brian Burdekin, the Australian Human Rights Commissioner, has observed are already 'the most systematically abused and the most likely to be coerced']. Instead we would be licensing the right to abuse and exploit the fears of the ill and accepting the view that death is a preferred solution to the problems of illness, age and depression.

Dr Robert Britten-Jones sent me a letter in which he included his own letter to the *Advertiser* dated 20 March. He also included a critique of the bill by Dr Brian Pollard, a retired palliative care specialist in New South Wales. I think that it would take up more time of the Council than is necessary for me to go through the submission by Dr Pollard, but he does take quite a lot of effort in analysing, section by section, what he believes are the dangerous and unsafe aspects of the bill. The contribution by way of letter of Dr Robert Britten-Jones is supportive, and I will read some paragraphs from it because it does do justice to what he had to say to me and, through me, to others. The letter states:

> Mary Gallnor is wrong to call Dr Rice [the President of the South Australian branch of the AMA] hypocritical for giving pain relieving but potentially life-shortening drugs to terminally ill patients. . . The key issue is the doctor's intention to relieve pain, not to kill. Our society's laws include intention as a critical factor in deciding whether an act is right or wrong. The South Australian parliament has already passed an act allowing a doctor or nurse to give drugs or other treatment to relieve pain and distress even though it may hasten death (Consent to Medical Treatment and Palliative Act 1995).
>
> The Dying with Dignity Bill at present before parliament is unnecessary. More importantly, it is dangerous on three counts: first, because of undue pressure on the patient, real or imagined, by relatives. Second, the trust between doctor and patient would be destroyed. Instead of being invariably trusted as only to relieve and comfort, doctors would become double agents: agents of both health and of death. Third, doctors are fallible. Over the years I have seen patients labelled 'Hopelessly ill' when in fact they have recovered to lead useful lives. This act would allow them to have their lives unnecessarily terminated. My experience is that with modern palliative care the overwhelming majority of patients die free of pain or distress.

An interesting and quite topical article appeared in the *Australian* of 2 July (page five for those members who want to refer to it) entitled 'Easing the pain of the terminally ill'. The first paragraph of the article by Richard Yallop states:

> If ever there was a time when Alan Williams might have considered euthanasia it was last November, when his advanced kidney cancer seemed to be closing in. It had already spread to his back and, hobbling across the living room on crutches, there was a sudden double crack as his left femur shattered, throwing him to the floor. The tumour had spread to his leg. Lying in hospital, depression, pain and fear overwhelmed him. What could he expect next from this disease he had fought for nearly five years? What pain, physical disintegration and loss of control? After his broken bone had been pinned, he returned to his home in Melbourne's eastern suburbs and the support of the local palliative care nursing service. His mood lifted and his opposition to euthanasia increased. 'The problem is you go into periods of depression where you're not thinking straight', Mr Williams, 59, said, 'So it would be dangerous to introduce euthanasia without a lot of controls.

Obviously, he has contemplated it and properly identified that, if it does come in, it must have a lot of controls.

There are examples of the risk in Dr Jack Kevorkian. I know this is an extreme and extraordinary set of circumstances, but the *Newstext Focus* of 8 December last year says:

> BOSTON: An analysis of 69 assisted suicides supervised by Dr Jack Kevorkian between 1990 and 1998 found that 75 per cent of his patients were not terminally ill when he helped them to die, and autopsies could not confirm any physical disease in five of them. The University of South Florida study's findings were reported in the *New England Journal of Medicine*. Kevorkian, who helped more than 100 people commit suicide, is serving a gaol sentence of 10 to 25 years.

There was a contribution from Dr David Tye, Chairman of the South Australian and Northern Territory Faculty of the Royal Australia College of General Practitioners, and the Hon. Sandra Kanck indicated, as she distributed it, that it took a position, which, in her view, was neutral and that was the way she preferred to see the medical profession addressing it.

It is important to acknowledge that there must be many doctors who are torn between support and opposition to this particular measure as they experience the suffering that has been illustrated to us from time to time. I refer to one paragraph which says:

It is a big step to support Euthanasia, and I believe that it is one that can only be made individually from our own hearts and beliefs. The college cannot and should not impose standards based on personal beliefs and convictions.

The college will not support the bill, nor will it actively object. It is properly the parliament as the voice of the people that must make this decision. I would encourage everyone to read the bill and approach your parliamentarian if you have a strong view.

The South Australian Voluntary Euthanasia Society, to its credit, has kept us regularly informed with supportive argument, and that is to be expected. I refer to three newsletters which have been distributed to all members of the South Australian parliament. First, the newsletter of 8 June this year says:

Dear Member,

Those who oppose the Dignity in Dying Bill 2001 are claiming that there are not sufficient safeguards. They are claiming that:

- patients could be pressured into choosing voluntary euthanasia;
- patients could impulsively choose voluntarily euthanasia;
- the process by which doctors assist patients to die is too quick.

The third of those I do not have a particularly strong view about, but, in relation to the first two, I do believe that patients could be pressured into choosing voluntary euthanasia, and I also believe that patients could impulsively choose euthanasia. The newsletter of 1 June was addressed to us all and it asked certain questions. It says:

A government's task of balancing potential social benefit against potential social harm in legislation requires an assessment of probabilities, not a judgment of 'conscience'.

The question facing law-makers is NOT:

- 'Do you personally consider euthanasia right for yourself?' or 'Is the proposal repugnant to you?'

BUT such questions as:

- 'Should those who consider it right be allowed to choose?'
- 'Can we ensure that the law will apply to them alone?'
- 'Will the legislation reduce human suffering without unacceptable complications?'
- 'Will the legislation confer greater social benefits than the present prohibitive legislation?'

These are all relevant questions, but the last three are the ones to which I—

The Hon. A.J. Redford interjecting:

The Hon. IAN GILFILLAN: This is still the South Australian Voluntary Euthanasia Society and I am referring to the second newsletter. To the last three questions I answer, in my own personal judgment, emphatically no. Can we ensure that the law will apply to them alone? The answer is no, in my view. Will the legislation reduce human suffering without unacceptable complications? My answer is no. Will the legislation confer greater social benefits than the present prohibitive legislation? I would argue about 'prohibitive', but I answer no to that. The other newsletter of 27 May from the South Australian Voluntary Euthanasia Society, which is addressed to all honourable members, states:

Contrary to the understanding of some Members, the Consent to Medical Treatment and Palliative Care Act has not removed the need for a Voluntary Euthanasia Act.

Excellent though the Act is, it will not serve the best interests of all dying people because of a cruel disparity. Under the new Act, although it specifically disallows voluntary euthanasia, some patients will be helped to die as has always happened. However, the doctor is now legally protected if the patient is in pain and the patient and the doctor use the politically correct terminology. This requires patients to claim that their pain is intolerable and doctors to say, 'I am doing this to end your pain', not 'I am doing this to end your life'. . . This subterfuge is not available if the patient is suffering unbearably, but is largely or wholly free of pain. The Remmelink study found that less than 5 per cent of Dutch patients who requested euthanasia gave pain as the only reason.

That paragraph causes me profound concern, because it brings into the concept of justification for voluntary euthanasia the indeterminate phrase 'suffering unbearably' but 'is largely or wholly free of pain', so it must involve other factors which, even in the cases that I have heard about to date, have not explicitly described other than where intolerable pain has been the major reason. The newsletter finishes as follows:

Surely responsible legislators cannot accept that such discrimination and invitation to duplicity is just and proper? It will only be ended with the inevitable introduction of a VE act.

It then goes on to ask for support. In covering this area, I think it is important that, if others and I are to put so much emphasis on palliative care, it is hypocritical of us to lean heavily on that and not also argue that it be thoroughly and adequately resourced, not only for the privileged few who may be able to pay for it but also for all those who are in need of loving and effective caring at that critical and terminal time of their life.

Comments were made in a newsletter Palliative Profile of May 2001 by a person who has been involved in palliative care and who makes some criticisms about it. I will read these comments into *Hansard* so that we can see this debate as evolving more widely than just the emotional contest between those who support voluntary euthanasia and those who do not:

In theory I commend the principles of palliative care where there is a shift afoot to see that the terminally ill are able to die at home surrounded by their loved ones not dissimilar as was occurring in the early part of last century. However it needs to be recognised that we do not live in small communities or villages, as once was the case, where there is unlimited hands-on support, which is what a carer desperately needs. We live in a fast and disposable society. The only certainty that terminal illnesses bring is death. The length of this illness and the path it will take—well, no two cases are identical.

I am extremely fortunate to be a government employee and to work for an organisation that has a family friendly policy.

I would like to point out that earlier in the article she described how she had cared for both her father and her mother who died at home in drawn-out circumstances with family around them. It continues:

At all times during the illnesses of both my parents the Federal Police encompassing both management and my colleagues were totally flexible and supportive of my needs.

My experience however has left me with some grave concerns about our health system.

- If a patient is in hospital both the government and private health funds contribute to their care. However if a patient is at home neither the government or the private health funds assist in the actual day to day nursing of patients, other than daily visits by the RDNS. Yet how much are we saving the public purse by keeping these patients at home? To hire a carer (not a registered nurse) through an agency is upwards of $20 per hour. This cost is borne by the patient and/or their family, therefore making it largely prohibitive to most people.
- During the entire dying process, whilst the patient is in the home environment, all that is offered to the carers in the form of respite, which is donated by the goodwill of the Anti-Cancer Foundation, is 24 hours that is 3 x 8 hour shifts.
- What happens to the patients who are deemed to be terminal but not terminal enough to stay in hospital or go to a hospice and for whatever reason do not have someone to care for them in the home?
- There are too many cottage industries in the health system all struggling for resources. To name a few that I have had contact with: RDNS, RDNS Palliative Care Unit, Aged Care Assessment Team, Aged Care Housing, Domiciliary Care, Private Home Nurses. This does not include the battery of Doctors, Specialist, Hospitals and other health care workers one has to deal with. In an ideal world perhaps a pooling of administration would lessen the amount of times a patient and their carers need to tell their 'story' from the start.

· Nothing within the health system, of any significance that has come to mind, has changed in the five years since my mum died.

I think it is important to emphasise that if we do not resource palliative care it is going to mean that those who are less well financially resourced, less well surrounded by family, will be those who, if this legislation does come to pass, will just by virtue of the circumstances and the lack of resources be pushed towards a decision which they may otherwise not have chosen. I think that is a move that must be guarded against strenuously.

A colleague of mine, Jeff Heath, may be known to some members as he is the Senate candidate for us in the federal election. He is a paraplegic and he has had breast cancer so he certainly knows the meaning of suffering and some substantial degree of physical incapacity in life. It is interesting to note that he is a fervent opponent of euthanasia and I feel that, with his physical situation, it does add—and I certainly take it as adding—significant value to his personal opinion. To do his argument justice I will read a couple of paragraphs from an email that he sent to me on 15 April this year:

My opposition to euthanasia is well known. One of my main concerns is that any legislation will open the floodgates. It is extremely hard to "restrict" euthanasia to any one group of people. Proponents tell us that euthanasia is for people who are terminally ill and in uncontrolled pain. Yet, the SA bill mentions NEITHER terminal illness OR uncontrolled pain and makes it available to a much larger group which is dissatisfied with the quality of their life and "hopelessly ill" (a term not defined in SA hospital or university medical texts).

As the South Australian parliament debates euthanasia, proponents say that the Dutch have got it right (last week they became the first country to pass euthanasia into law).

Local MPs also maintain that their SA bill will not take us down the garden path to the slippery slide.

Then he refers to a Reuters news story which deals with the situation in Holland which I do not intend to read. I am sure that some of you would remember receiving from him a memo dated 11 April. In that he draws the difference between the Dutch legislation and the SA bill currently before parliament, as follows:

According to press reports, euthanasia will only be an option for people who are

1 terminally ill, and

2 suffering uncontrollable pain

These two safeguards are **not** in the SA bill—a bill that is to make euthanasia available to people who are "hopelessly ill" (but not necessarily terminally ill). No mention is made of pain or suffering—instead the Bill introduces the concept of an intolerable "quality of life". The full definition is:

"Hopelessly ill"—a person is hopelessly ill if the person has an injury or illness—

(a) that will result, or has resulted, in serious mental impairment or permanent deprivation of consciousness; or

(b) that seriously and irreversibly impairs the person's quality of life so that life has become intolerable to that person.

I view with concern this broadening of the definition of who can seek euthanasia. If we accept that an 'intolerable quality of life' is caused by an illness, then could it not be argued that an 'intolerable quality of life' may also be the result of poverty or social isolation? If so, are we to extend euthanasia to the homeless, chronic unemployed, isolated and lonely old people, a parent who loses their children and partner in a car crash, failed business tycoons?—all of whom might claim that their life has become intolerable. It may be instructive for the SA Parliament to look more closely at this concept of an intolerable quality of life as it relates to disability.

I refer to an AMA communication on the euthanasia debate in the *SA Medical Review* of March this year. The final paragraph of this article (page 18), which succinctly summarises my view, states:

Could euthanasia become a real option for people who simply 'don't want to be a burden'?

I believe the answer to that is yes. I turn briefly to the bill itself. The detailed assessment and criticism of the bill is useful, but obviously the main thrust of the debate in this place must involve the philosophical concept and the legal decision based on the debate and our own personal views as to what, if any, change to the current legislation should be made. However, I think that there are various observations to make. I refer to clause 5 (headed 'Who may request voluntary euthanasia), which provides:

An adult person who is of sound mind may make a formal request for voluntary euthanasia.

It is difficult to see how someone who believes that they are hopelessly ill will necessarily be of sound mind. Another phrase which I think is inappropriate is in the definition of 'voluntary euthanasia'. The bill provides:

'Voluntary euthanasia' means the administration of medical procedures, in accordance with this act, to assist the death of a hopelessly ill person in a humane way.

It is difficult to understand how the word 'humane' would be interpreted. Under clause 7(1)(c), if the proposed request is an advance request, information on the feasible voluntary euthanasia procedures and the risks associated with each of them must be given to the applicant. I ask: what are these risks and how are they are identified? Clause 7(2) provides:

If a medical practitioner providing a person with information in accordance with subsection (1)(a)iii) is not a palliative care specialist, the medical practitioner must, if reasonably practicable, consult a palliative care specialist about the person's illness and the extent to which its effects would be mitigated by appropriate palliative care before giving the person this information.

I ask: who can objectively assess this confusing data? It is difficult to be precise in interpreting the wording of the bill. There is a requirement to have witnesses. Where the person is unable to write, the request may be made orally. There is the requirement for witnesses but no definition as to who the witnesses may be and what qualifications they must have.

There is the qualification that the person applying 'appeared to be of sound mind', 'appeared to understand the nature and implications of the request', and did not appear to be acting under duress, all of which are subjective judgments. Without going through all the points, there are in the wording of the bill numerous areas that are vague and difficult to define, so that it leaves the application and use of voluntary euthanasia open in ways that I do not believe many of the members who are supporting the bill are actually advocating in their promotion of it.

Clause 21, dealing with offences, does reflect back on one of my concerns. Subclause (1) provides:

A person who makes a false or misleading representation in a formal request for voluntary euthanasia or other document under this act, knowing it to be false or misleading, is guilty of an offence.

Subclause (2) provides:

A person who, by dishonesty or undue influence, induces another to make a formal request for voluntary euthanasia is guilty of an offence.

I argue that it is impossible to assess the undue influence. It is that which makes this measure so dangerous in my view for undesirable and unforeseen pressures on people who otherwise would not be choosing to have it. In schedule 1 there is the form, and one of the statements to be signed reads as follows:

1. I make a request for voluntary euthanasia.

2. I believe that I am presently hopelessly ill and intend the request to be carried out in accordance with the directions given below.
3. I am not acting under duress.

It is not likely that anyone will say, 'Yes, I am acting under duress.' It seems as though there is very little point in having that in that form in schedule 1. As I said before, there does not seem to be any specification for witnesses.

Finally, I indicate my opposition to the bill. I believe it has been already said by other members, but I respect the views of all those of this place who either agree with my position or oppose it. We are all acting from unselfish motives that are aimed to create the best and most compassionate situation in our society. Just to conclude, I emphasise that I believe that those of us who oppose the bill are duty-bound to campaign for and continue to press for widely available and more comprehensive palliative care, both in the home situation, in hospices and in hospitals so that those who are suffering intolerable degrees of pain can be given the very best of the treatment that is available in our society. With those positions put forward, I indicate my opposition to the bill.

The Hon. P. HOLLOWAY: This bill is similar in intent to a bill that came before this parliament just before the last election. I opposed that bill. My contribution to that bill in which I indicated that I would oppose it was on 9 July 1997 and as recorded at page 1 779 of *Hansard*. I will not go through that speech again, and I simply indicate on this occasion that nothing has occurred or changed in the last four years to change my views, so I will continue to oppose this bill.

The Hon. L.H. DAVIS secured the adjournment of the debate.

CONSTITUTION (PARLIAMENTARY TERMS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 May. Page 1479.)

The Hon. K.T. GRIFFIN (Attorney-General): The government has determined to support the principle of this bill. The current situation, where we have effectively a three year fixed term or minimum term and thereafter a flexible period which can be up to almost 1½ years after the three year period has expired, was the result of a deadlock conference on a constitutional amendment in the early 1980s introduced by the then Labor government, which initially had proposed a fixed four year term.

The debate at that time was quite interesting. It ended up that the then Liberal opposition was able to persuade the then Attorney-General that the current position was appropriate rather than there be a fixed four year term. Fixed terms have only relatively recently become acceptable in some quarters. In the Westminster system, traditionally fixed terms have not been appropriate because of the restrictions they place upon an incumbent government. More and more we are seeing in places such as New South Wales a model very much based upon an American style of parliamentary term fixed for a period that takes no or little account of some of the exigencies that may require an early election.

However, in the current system—which, as I say, is the result of a compromise in the 1980s where there is a fixed three year term as the minimum period of office of a government—there are some circumstances in which an early election may be called. For example, if a government loses the confidence of the House of Assembly or if a bill declared by the House of Assembly as a bill of special importance fails to pass the Legislative Council within two months of being transmitted to the Legislative Council, an election may be held. Those sorts of provisions have been retained in the present bill. The drafters of the present bill have covered a number of the possibilities which might arise in the context of a fixed term but have not attended to all the possible contingencies which might apply if this bill becomes law.

For the purpose of the Hon. Paul Holloway's giving consideration to these issues and how they might be resolved, I want to raise a number of matters. The first relates to the issue of the writs. The bill provides that the Governor must dissolve the House of Assembly and issue writs for a general election on the fourth Sunday preceding the day appointed under new section 28 (1)(a) or (b) as the case requires. New section 28 (1)(a) and (b) provides:

(1) A general election of members of the House of Assembly must be held—

(a) On the third Saturday in March in the fourth calendar year after the calendar year in which the last general election was held; or

(b) If an election of members of the Parliament of the Commonwealth is to be held during that same month—on the fourth Saturday after the day of the Commonwealth election.

Currently under the Electoral Act there is a level of flexibility in relation to the issuing of writs and the closing dates for various aspects of the process. For example, the date fixed for the closing of the rolls is set as a date falling not less than seven days nor more than 10 days after the issuing of the writs. Similarly, flexibility applies to the date fixed for nomination and the date fixed for polling. An election can thus be held between 24 and 54 days after the issuing of the writs. The bill sets a period of 27 days by requiring the writ to be issued on the fourth Sunday before the fixed election date. A question then arises as to the application of section 48 of the Electoral Act. Section 48 provides:

(3) The date fixed for the close of the rolls must be a date falling not less than 7 days nor more than 10 days after the date of the issue of the writ.

(4) A date fixed for the nomination must be a date falling not less than 3 days nor more than 14 days after the date fixed for the close of the rolls.

(5) The date fixed for the polling must be a Saturday falling not less than 14 days nor more than 30 days after the date fixed for the nomination.

Because the time frame currently set in the bill is so short, it would be necessary to set the dates at the current minimum, that is, seven days to close of rolls, three days to nomination and 14 days to polling.

However, if the dates for the issuing of the writ and the election were fixed, it would be possible to close enrolment on the day of the writ as there would be a set date by which people needed to have enrolled or change their enrolment details and the commissioner could conduct a publicity campaign to that effect. This would provide some scope for the number of days between nomination and polling to be extended, which would be of assistance to the Electoral Commissioner. In the 1999 New South Wales election there were 16 days between the close of nominations and election day.

New South Wales has an election period of just under four weeks, similar to what is currently proposed in the bill. It would seem desirable to retain the existing flexibility in relation to other elections, that is, by-elections or elections held on early dissolution, since there is usually little notice

that such elections will need to be held. One possibility that I raise for consideration by the Hon. Mr Holloway is an amendment to the bill to provide that the writs must be issued no later than four weeks before the final election date, and that would retain the existing flexibility.

I will briefly deal with the issue of bills of major importance. The Constitution Act currently provides a mechanism whereby the House of Assembly can be dissolved early if a bill of special importance passed by the House of Assembly is rejected by the Legislative Council. This applies in relation to the current three year fixed term of the House of Assembly. The bill provides that this section applies in the same way to the proposed four year fixed term, that is, the Governor can dissolve the House at any time during the four year term if any of those circumstances upon which such authority is based actually occur.

These provisions will operate where the House of Assembly has passed the relevant bill. That may not be a complete solution to the problem, however. If the government does not have a majority in the House of Assembly it is possible that a bill which the government considers to be of special importance may not be able to be passed by the House of Assembly either, for example, where the government wishes to make a significant policy change midway through its term. It could also be that the bill would be passed by the House of Assembly but a resolution that it be a bill of special importance, even though moved by the government, may not be able to be carried by the House of Assembly. It is possible that in these circumstances a government could nevertheless retain the confidence of the House, so there is a stalemate in relation to what would otherwise be a bill of major importance.

I think it is unlikely that a government in this situation would wish to vote against itself in a no confidence motion. The government would then be left in a position of ostensibly being the government but unable to get a fundamental aspect of its policy through either house and unable to precipitate the conditions for an early election. One possible solution to this issue would be to provide that, if the government moves a motion to declare a bill a bill of special importance and it is not passed by the House of Assembly, this will be a trigger for an early election, but that is an issue to which again I would like the Hon. Mr Holloway to give consideration.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: You would need to look at that, too. The next issue I turn to is the postponement of elections due to natural disasters or crises. Another relevant issue is the need for a mechanism for the postponement of the election in the event of a crisis or natural disaster. Currently the Electoral Act contains a mechanism for the postponement of elections once the writs have been issued. Section 49 provides:

> (1) Despite any other provision of this Act, a person who issued a writ for an election may, in order to meet a difficulty that has arisen in relation to the conduct of the election, by notice published in a newspaper circulating generally through throughout the State, defer—
>
> (a) the date and time for the close of the rolls;
>
> (b) the date for—
>
> (i) the nomination; or
>
> (ii) the polling; or
>
> (iii) the return of the writ.
>
> (2) A date or time fixed by notice under subsection (1) will be taken to have been validly fixed by the writ.
>
> (3) A deferment will not be granted under subsection (1) if the effect of the deferment would be to postpone polling by more than 21 days from the date originally fixed by the writ.

The bill would appear to exclude the operation of this provision by requiring the election to be held on the third Saturday in March of the relevant year. I would suggest that consideration must be given to the inclusion of a provision related to the postponement of elections in the bill. The provision to which I have referred applies only to the elections for which the writs have been issued. Situations may well arise before the issuing of the writs which give rise to a need to delay the election. The recent foot and mouth disease crisis in the UK was an obvious example, where the Prime Minister had indicated that an election would be held I think on 5 June. As the foot and mouth disease crisis developed and spread throughout the country he made a public statement which indicated postponement of the election.

He could do that in those circumstances because the UK does not have a fixed election date, but presently the bill does not allow for that sort of situation to be addressed, although the Electoral Act does contain a mechanism, and I have already referred to that. Consideration needs to be given to the circumstances in which an election should be able to be postponed. If the general principle of fixed term parliaments is accepted, it is arguable that only serious circumstances would warrant the postponement of the election. Further, some form of objective measure is required to prevent an incumbent government from manipulating any postponement provisions.

Under the State Disaster Act, the Governor can declare a state of disaster where the Governor is satisfied that a disaster has occurred, is occurring or is about to occur, and 'disaster' is defined in the State Disaster Act. This declaration lasts for 96 hours but can be extended by resolution of both houses of parliament. 'Disaster' is defined in the act as follows:

> . . . any occurrence (including fire, floods, storm, tempest, earthquake, eruption, epidemic of human, animal or plant disease, hostilities directed by an enemy against Australia and accident) that—
>
> (a) causes or threatens to cause loss of life or injury to persons or animals or damage to property; and
>
> (b) is of such a nature or magnitude that extraordinary measures are required in order to protect human or animal life or property.

This definition would seem to encompass the possible events that may warrant the postponement of an election. The bill could be amended to provide that an election may be postponed where a state of disaster has been declared and the Governor considers that, as a result of that disaster, it would be impractical or inappropriate to hold an election on the relevant date. Consideration would need to be given to the permissible length of any postponement. One possibility would be to provide that, where an election is postponed under the relevant section, the election may be postponed until up to eight weeks after the declaration of the state of disaster ceases to operate.

There is a difficulty with that because if the writs had been issued and the House has been dissolved, the state of disaster can be declared a state of disaster only by the Governor for 96 hours, and it then ceases. There is no House of Assembly to recall to extend that. So, if this bill goes through in amended form, even though we might address the issue of postponement of the election, I will certainly consider the provisions of a State Disaster Act, particularly when a house of parliament is dissolved, but I do raise the issues before the honourable member.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: I have not looked at the provisions in the US but, between now and the next time

when we consider this bill, I will ensure that that is given consideration. But, of course, even in the United States with an election in November, there might well be disasters in particular localities. My recollection is that the US does have some capacity—particularly with a national election—to postpone the polling dates in those localities where there has been a natural disaster, for example, earthquake or, particularly in the southern states, cyclones or tornadoes. I think it is an issue that needs to be addressed. This is quite a radical change from what is in the current constitution and—

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: No, what I have indicated—section 49 of the Electoral Act covers that. That is up to four weeks' suspension by the Governor. The member was getting the volume of the state statutes while I was relating that point. So, there is already precedent for that. What I am drawing attention to is that that will be overridden by the amendment to the Constitution Act, which would suggest inflexibility.

The Hon. T.G. Roberts interjecting:

The Hon. K.T. GRIFFIN: I am not sure what the honourable member is getting at. In certain electorates, or states, I think, there were postponements. I will undertake to obtain that information. The only other issue about the timing is that the third Saturday in March, as the specific focal point, is certainly agreed. But, again, in the same context to which I have referred in relation to natural disasters, there is a question whether there should be some flexibility even in that date in certain circumstances. I have looked at the issue of Easter. I can say that the chances of the third Saturday in March falling during Easter are exceedingly low. The only way this will ever happen, I am told, is if 21 March is a Saturday and there is a full moon on that day. This coincidence has not happened in the last 50 years, nor will it happen for the next 50. However, it is a theoretical possibility.

Occurring more often, however, is Easter falling on the fourth weekend in March. In the next 50 years, this will happen in 2005, 2008, 2016, 2027, 2032, 2035 and 2046. Of these, only 2046 would be an election year, if the timetable as set by the bill is followed. Should there be an early dissolution, however, this timetable will be compromised, and it would be possible for an election to fall in any one of these years. So, there is that issue of Easter not necessarily just falling on that date but falling on, say, the fourth Saturday in March, and it is a question of whether it is necessary to address that issue, particularly in relation to the counting of postal votes and the declaration of the poll. That may not be such a problem: if Easter follows the election, everyone might be quite content to not work over the Easter break and have postal votes, or absentee votes, finally counted 10 or 12 days after the election. But it is an issue that might need to be addressed.

The New South Wales Constitution Act provides for a measure of flexibility if it is clear well in advance of the fixed election date that that date will be a problem. I refer to section 24B(4) of that act, which provides:

> The Legislative Assembly may be dissolved within two months before the assembly is due to expire if the general election would otherwise be required to be held during the same period as a commonwealth election, during a holiday period or at any other inconvenient time.

I think that, if we adopted a similar approach to that, it could assist with some of the difficulties with timing.

In that same context it may be desirable not only to consider bringing it forward but, as with natural disasters, allowing for the postponement of an election which occurs in those circumstances so that there is some marginal flexibility in specified circumstances where these sorts of difficulties arise.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: Yes, I have just read it into *Hansard*.

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: No, they allow the election to be brought forward, but—

The Hon. P. Holloway interjecting:

The Hon. K.T. GRIFFIN: No, the provision in the New South Wales Constitution Act is that it allows it to be brought forward two months. I am suggesting that it may be worth considering a before and after fixed date so that there is more flexibility. If the general election would otherwise be required to be held during the same period as a commonwealth election—that issue, to a very large extent, has been dealt with in the bill—during a holiday period or at any other inconvenient time. In relation to a state disaster, the Electoral Act in South Australia addresses that. I am not sure whether the New South Wales act addresses it as comprehensively as our electoral act does. Again, I will get some information about that: it would be worth looking at.

They are the issues that need to be considered, if the enactment of this is not ultimately to cause any other unforeseen difficulties. I am floating the difficulties which I can foresee and which I think need to be addressed and, if there are others which come to mind in the next few weeks, I will raise them by correspondence with the Hon. Paul Holloway.

The Hon. IAN GILFILLAN: I would like to speak very briefly. I understand that my colleague the Hon. Mike Elliott will speak afterwards. The Hon. Paul Holloway may have explained this, but clause 2(b) provides:

> by striking out from subsection (1) 'Provided that this section shall not authorise the Governor to dissolve the Legislative Council'.

I am not able by my own resources to calculate what is the significance of that. Why has that been included in the bill?

The Hon. K.T. Griffin interjecting:

The Hon. IAN GILFILLAN: No, I realise that and that is my contribution, but I assume the mover will sum up and I am sure he will comprehensively deal with my question.

The Hon. M.J. ELLIOTT: I rise on behalf of the Democrats to support the second reading of this bill. In fact, fixed terms are something for which the Democrats have called for some time. I think the last occasion when we did it formally in this chamber was on 4 August 1993, when my colleague the Hon. Ian Gilfillan moved a private member's bill. As I recall, I think the date that he had suggested was 27 November (or something similar), but basically that bill referred to a late November election. The essential point I am making is that we have called for this for a long time and, in the past, there has been resistance. However, the nice thing about being in this place long enough is that the things you have been pushing for over many years eventually start to emerge, and this is another case of that happening. Fixed terms—

The Hon. P. Holloway interjecting:

The Hon. M.J. ELLIOTT: Where was it back in 1993—

An honourable member interjecting:

The Hon. M.J. ELLIOTT: When you were in power last and the private member's bill was introduced, I do not recall the Labor Party rushing to embrace it at that time. I am not

critical of the fact that the Labor Party has changed its position—indeed, I welcome it. We wish that it had happened earlier. Nevertheless, we are grateful that it has now happened. To not have a fixed term is unsatisfactory. With the current situation, where an election could happen three years after the previous election, one tends to find that we are in an election mode about a year before the earliest possible date.

So, the government is two years into its term and you find yourself in election mode. The way that current legislation stands, the election could be held up to four years after the parliament first sat. So, the real term of the government is potentially as long as four years and three or four months. That means—and it is starting to look like this time, although I will believe it when I see it—that the election campaign started two years after the government was elected and continues for about two years and three months. That is not satisfactory in terms of good government or parliamentary process. If the government knows the election date, it is, if you like, in a position to switch into election mode at a certain period before then. But they will not be switching on and off election mode as they change their mind as to the most appropriate date; nor will the opposition parties be tempted to do the same thing.

If we go to fixed four-year terms, it is a reasonable assumption that a government will be doing some semblance of governing for about three years rather than two years before going into election mode for perhaps another two years. That has to be good for the state. I certainly think that a fixed four-year term has an advantage over a fixed three-year term because there will be three years of governing rather than two. There is always a question mark as to how long before democracy is undermined. I note fixed terms in some countries stand at five years. It is my view that that is too long, because there are times when governments become very unaccountable and the next election is taking forever to come—and we are in one of those cycles at the moment.

It is always a question of balance as to how frequently you go to the people to give them a chance to judge the government's performance as against how much time the government is given to perform or not perform, as the case may be. While I have indicated my support for the second reading, I certainly reserve comments on individual clauses of the bill during the committee stage.

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

WEST BEACH RECREATION RESERVE (REVIEW) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a bill for an act to amend the West Beach Recreation Reserve Act 1987. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this bill be now read a second time.

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

Leave granted.

The West Beach Recreation Reserve, administered and managed by the West Beach Trust, is a key metropolitan wide recreation and tourism facility which:

(a) provides metropolitan-wide sporting facilities and is an important venue for State and national competitions; and

(b) forms part of the Coastal Park and the Metropolitan Open Space System; and

(c) provides caravan and village tourist accommodation which is of metropolitan importance, as well as being important to coastal centres like Glenelg.

This wide variety of services makes the West Beach Recreation Reserve a sporting, cultural, recreational and tourism facility of State and regional significance.

The West Beach Trust is a body corporate established under the *West Beach Recreation Reserve Act 1987*. It was established by the State Government in 1954 to maintain and administer the West Beach Recreation Reserve. While the existing Act has provided good guidance to the Trust, it is considered that the Act needs to be amended to provide for the best ongoing development and maintenance of this vital State asset.

As part of the State Government's National Competition Policy obligations, the West Beach Trust was subject to legislative review in 1998.

As a result of this review, a steering committee was established in May 1999 to examine the means by which the recommendations of the review could be implemented. The committee was chaired by the then Chief Executive of the Department for Transport, Urban Planning and the Arts, Mr Rod Payze, and consisted of representatives of—

- the West Beach Trust;
- Department of Treasury and Finance;
- Crown Solicitor's Office;
- the Office for Government Enterprises; and
- Planning SA.

This committee concluded that the prime role of the Trust was to deliver sporting, recreation, tourist and cultural services in an efficient manner but in a public reserve environment. This Bill has been drafted as a result of the recommendations of the committee and sets out a legislative framework for the efficient operations of the Trust, ensuring that the West Beach Recreation Reserve continues its role as a publicly accessible sporting, recreation, tourism and cultural facility.

The benefits of the proposed rationalised legislation include the following:

- A clear statement of the role of the West Beach Trust with emphasis on the sporting, recreation, tourism and cultural role of the Reserve.
- A clear statement of the services to be delivered by the Trust through a Charter and Performance Statement.
- A requirement for the board of the Trust to prepare a Strategic Plan and a Business Plan to enable the Trust to plan with confidence for the future (to be approved by the Minister).
- A board consisting of people with experience pertinent to the roles, functions and performance agreements set out in the Bill.
- The general updating the Act.

The major provisions of the Bill are discussed below.

Functions

While the Trust's existing functions of the administration and maintenance of the West Beach Recreation Reserve are preserved in the updated legislation, it is proposed that the State-wide significance of the Reserve as a sporting, cultural, tourism and cultural facility for the benefit of all South Australians be emphasised.

While the existing Act specifies that the designated area of the Reserve cannot be sold, the Bill contains safeguards if a leasing out of the Reserve is proposed which would significantly change the way in which part of the Reserve is to be managed. The Bill contains a clause requiring the Minister to:

- publish a gazette and newspaper notice of a proposal to sell any part of the Reserve, or grant a lease or licence over the Reserve, or a part of the Reserve which would result in the Trust transferring its responsibility to administer the Reserve;
- publish such notices at least two months before the proposed transaction is entered into; and
- provide a written report on the proposed transaction to the Economic and Finance Committee of the Parliament.

Financial Accountability Provisions

The Bill does not make the Trust subject to the provisions of the *Public Corporations Act 1993*.

However, the Bill contains provisions which require the Trust to prepare a Charter and Performance Agreement, to be approved by the Minister. This provides an accountability framework for the board where both commercial efficiency and community service requirements are clearly set out.

The Bill also contains the requirement to prepare a Strategic Plan and Business Plan, also to be approved by the Minister responsible for the Act.

Certain other provisions of the *Public Corporations Act 1993* have also been adapted and specifically applied to the Trust.

Board Membership

While the current Trust has progressively improved sporting and tourism facilities and upgraded the environmental management of the sand dunes, it is recognised that the management of this vital asset will need to be steered by a Board that has financial, tourism and recreational as well as local government expertise.

Therefore, the Bill contains board membership provisions which provide for appropriate relevant professional experience on the board of the Trust. Required experience/expertise on the board is—

- One member with business/management experience;
- One with accounting and financial skills;
- One with tourism experience
- One with local government experience;
- One with experience in the provision or operation of regional recreation facilities; and
- One with Government management experience (other than local government).

Other membership provisions of the Bill to note are—

- all members will be appointed by the Minister;
- the nominee with Local Government experience will be selected from a panel of 3 names provided by the Local Government Association;
- all appointments will be for a period of up to 4 years;
- the Board will include at least 2 women and 2 men;
- the Bill includes transitional provisions allowing for the disbanding of the existing membership and the formation of a new board.

Advisory and other Committees

The Bill contains a requirement for the Trust to establish an Advisory Committee to advise the Trust on matters pertaining to the functions of the Trust. The Advisory Committee will be constituted by not more than 12 people and will be representative of local councils with areas adjoining the Reserve, and sporting and community groups. A member of the Trust will also be appointed to this committee.

Given the contribution of local councillors to the Board, their representation on the Advisory Committee will ensure that Metropolitan-wide interests and local interests are taken into account for the best good of this vital asset.

Conclusion

I commend the Bill to all Members and ask that it receive their prompt attention. I reiterate that this is not a Bill to replace the *West Beach Recreation Reserve Act 1987* but a refinement to sections of the Act to best prepare for the action needed to ensure that the reserve remains a jewel in Adelaide recreation, sporting and tourism crown.

I commend this bill to honourable members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Substitution of s. 4

It is appropriate to enact a new set of definitions in view of the contents of this measure. It is intended to make it clear that a reference to 'land' may be taken to include land which is covered (or may be covered from time to time) by water. The definitions of the 'Reserve' and the 'Trust' are also to be updated.

Clause 4: Substitution of s. 7

The Trust is to continue to have seven members appointed by the Minister. However, the composition of the Trust is to be altered.

Clause 5: Amendment of s. 8—Conditions of membership

A member of the Trust will now be appointed for a term of office not exceeding four years. Other consequential amendments are to be made.

Clause 6: Amendment of s. 10—Disclosure of interest

The amount of the penalty that may be imposed for a breach of section 10(1) is to be updated.

Clause 7: Amendment of s. 11—Procedure at meetings of the Trust

It is proposed that the Trust be able to conduct telephone and other forms of electronic conferences. Resolutions will also be able to be made by written response, facsimile transmission or other electronically transmitted written communication.

Clause 8: Amendment of s. 13—General functions and powers of the Trust

The Reserve is to be administered and developed in accordance with the strategic and business plans of the Trust. It will also be recognised that the Reserve is of State-wide significance. The land that the Trust is not to be able to sell will be the land bounded in black in the map contained in the Schedule. In addition, if the Trust proposes to sell other real property, or to enter into a lease or licence that effectively means that the Trust is no longer to administer the Reserve, or to enter into a partnership, joint venture or other profit sharing arrangement, the Trust must gain the approval of the Minister and two months notice of the proposed transaction must be given in the *Gazette* and a newspaper, and a written report provided to the Economic and Finance Committee.

Clause 9: Insertion of s. 14A

The Trust will be required to establish an Advisory Committee to advise the Trust on matters pertaining to the functions of the Trust. The Advisory Committee will comprise not more than 12 persons, one being a member of the Trust and the remainder being persons who together will, in the Trust's opinion, be representative of local councils with areas adjoining the Reserve, and sporting and community groups with an interest in the Reserve. The Trust will be able to establish other committees, as the Trust thinks fit.

Clause 10: Insertion of new Division

The Trust is to perform its commercial operations in accordance with prudent commercial principles and use its best endeavours to achieve a level of return consistent with its functions. Non-commercial operations are to be performed in an efficient and effective manner consistent with the requirements of the Trust's charter.

The Trust is to have a charter prepared by the Minister after consultation with the Trust. The Charter will be reviewed on an annual basis.

The Minister will also, after consultation with the Trust, prepare a performance agreement for the Trust. This will also be reviewed on an annual basis.

The Trust must also prepare a long-term strategic plan and a business plan.

Clause 11: Amendment of s. 16—Dealings with money and borrowings

The Trust will not be able to borrow money without consulting the Minister and obtaining the approval of the Treasurer.

Clause 12: Amendment of s. 18—Power to advance money, to act as guarantor, etc.

A proposal of the Trust to lend or advance money or securities will require the approval of the Treasurer.

Clause 13: Substitution of ss. 20 to 23

Sections 20, 21, 22 and 23 are to be revised.

New section 20 will deal with approvals given by the Minister or the Treasurer under the Act.

New section 21 will relate to the imposition of rates, duties, taxes and other imposts, and tax equivalence requirements.

New section 22 will relate to the issue of whether the Trust should pay a dividend (or interim dividend) in any financial year.

New section 23 will require the Trust to keep a register of leases and licences granted by the Trust over the land bounded in black in the map in the Schedule.

New section 23A will revise the penalty for damaging property of the Trust. It will also be possible to impose an expiation fee in an appropriate case.

Clause 14: Amendment of s. 25—Regulations

It will be possible, by regulation, to regulate, restrict or prohibit the launching or movement of boats on or within any part of the Reserve covered by water. The penalty for a breach of the regulations, and the amount of any expiation fee, are to be revised.

Clause 15: Amendment of Schedule 1

Schedule 1 is to be revised.

Clause 16: Further amendments of principal Act

It is proposed to make certain statute law revisions.

Clause 17: Transitional provision

Current members of the Trust are to vacate their offices.

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

SOUTHERN STATE SUPERANNUATION (INVALIDITY/DEATH INSURANCE) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General), on behalf of the Hon. R.I. Lucas, obtained leave and introduced a bill

for an act to amend the Southern State Superannuation Act 1994. 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 seeks to make a number of important amendments to the *Southern State Superannuation Act 1994*, which establishes and continues the Triple S scheme for government employees. The Triple S scheme provides benefits based on the accumulation of contributions paid into the scheme.

The amendments fall into two main categories. The first category of amendments deal with the changes required to provide for the restructuring and introduction of simplified insurance arrangements. The second category of amendments are of a technical nature which deal with several administrative procedures which are being changed under the bill.

The current provisions of the Act provide that members of the scheme (excluding a few exceptions) are automatically provided with a basic amount of death and invalidity insurance cover. The amount of cover is calculated at any point in time by multiplying a set percentage of the member's annual salary by the potential years of membership to age 60. Members also have the option to purchase "supplementary" death and invalidity insurance cover to provide additional or higher amounts of insurance cover. The supplementary death and invalidity insurance is also calculated at any point in time by multiplying a set percentage of the member's annual salary by the potential years of membership to age 60. At the present time less than 2 per cent of the members of Triple S have taken out supplementary death and invalidity insurance. That is, very few members have elected for a level of insurance over and above the basic level provided. The reasons given by members for the low take up rate of the supplementary death and invalidity insurance is that it is difficult to have a clear understanding of the prevailing level of basic insurance cover. As a guide, the "average employee" currently has cover for invalidity and death at the basic level, varying from about $48 000 at age 20, to around $26 000 at age 45. With supplementary insurance, the maximum cover available for the average 20 year old is about $168 000, and for the 45 year old, $91 000. As the current arrangements are related to salary, those employees on higher salaries have higher levels of basic insurance.

It is therefore proposed to restructure the insurance arrangements to provide for a simplified and more attractive arrangement which is also more easily understood by members. The proposed insurance arrangements will enable employees to purchase multiples of fixed amounts of insurance cover at specified ages, with the cover not limited by a member's salary. The package under consideration will enable all members up to age 35 to have a basic level of death and invalidity cover of $50 000. If a member takes up additional insurance, the cover will be able to be increased to $500 000. The $500 000 cover will be available for a full time employee at any age. The arrangements are more akin to those found in industry funds. As a result of the restructuring it is expected that the percentage of members taking out additional insurance will substantially increase.

Whilst the number of members taking out voluntary additional insurance is expected to substantially increase, members themselves will be meeting the costs of satisfying the increased liabilities. The premiums to be payable by members will be actuarially determined and set by the South Australian Superannuation Board. It is expected that the premiums will also be more attractive than the current rates.

To enable the restructuring of the insurance arrangements, the bill proposes a series of amendments which replace references to the specific concepts of the current arrangement, with the more general terminology that will support the new arrangement. The bill also proposes that the invalidity insurance be available until age 60 rather than age 55 as at present. This is possible because the scheme has a fully funded insurance pool fully financed by the members themselves. As members pay the required insurance premiums for basic and additional invalidity/death insurance, it is also proposed to remove the current restriction which denies an insurance benefit to a person who becomes entitled to a workers compensation payment on cessation of service. The current provisions in the Act which require police officers to have the highest level of insurance prescribed by the regulations is also proposed to be amended to provide that police officers shall have additional insurance at a level as prescribed. This amendment is proposed because it will no longer be appropriate to require police to have cover at the highest level available because this could result in these members being compelled to have a level of insurance that is far in excess of their needs.

In respect to the provisions dealing with insurance, certain transitional provisions are also incorporated into the bill. These transitional provisions ensure that no person will be disadvantaged in relation to the amount of basic and additional invalidity/death insurance they are provided with as a consequence of moving to the new arrangements.

The actual details of the levels of insurance to be available at specific ages, and the cost of the insurance will be prescribed in regulations under the Act. As I have already stated, the proposed insurance arrangements will have no impact on Government costs.

The second category of changes are of a technical nature and deal with administrative issues. The Act currently provides that members who contribute to the scheme from cash salary may make one-off lump sum contributions "over the counter" rather than through salary deduction to increase retirement savings. The Superannuation Board believes it is discriminatory to restrict this option to only those persons who contribute from salary. Accordingly, the Board has requested that the option be made available to all members of the scheme, including those who make no contribution from salary and only accrue the Superannuation Guarantee benefit.

The second of the administrative issues which is being changed in the bill deals with the time in which employers must pay the employer contributions to the Treasurer. The amendment will provide for the Superannuation Board to determine the period within which employers must pay the employer contributions. This will enable the Board to fix a time for payment which is more appropriate with the new e-commerce business systems being introduced to interface agencies with Super SA.

The Public Service Association, Australian Education Union (SA Branch), Police Association, South Australian Government Superannuation Federation, and the South Australian Superannuation Board have been fully consulted in relation to these amendments, and have indicated they have no concerns in respect to the superannuation provisions proposed in the bill.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause amends the definition section of the principal Act to provide new terminology for the new insurance provisions in the Act.

Clause 4: Amendment of s. 9—The Southern State Superannuation (Employers) Fund

This clause makes a consequential change to terminology in section 9.

Clause 5: Amendment of s. 10—Accounts and audit

This clause inserts a requirement for the financial statements to include information on insurance premiums. This will assist the reporting process under Part 2 Division 5.

Clause 6: Amendment of s. 12—Payment of benefits

Clause 7: Amendment of s. 13A—Report as to cost of invalidity/death insurance benefits

Clause 8: Substitution of heading

Clause 9: Substitution of heading

These clauses make consequential changes.

Clause 10: Insertion of s. 21

This clause inserts new section 21 into the principal Act. This section sets out the right of each member to basic invalidity/death insurance regardless of the member's state of health.

Clause 11: Amendment of s. 22—Application for additional invalidity/death insurance

This clause amends section 22 of the principal Act. Most of these amendments are consequential changes to terminology. Subsection (3) provides for the compulsory level of insurance for members of the police force to be set out by regulation.

Clause 12: Substitution of s. 23

This clause inserts new section 23 which allows a member to increase or decrease the level of his or her insurance. This section covers the subject matter of existing sections 23 and 24.

Clause 13: Substitution of s. 24

This clause inserts new sections 24 and 24A.

Section 24 provides for the fixing of premiums for insurance. Premiums will be debited against each member's employer contribution account. If the balance in a member's account is in debit both basic and additional insurance are suspended.

New section 24A enables a member to voluntarily suspend (and reinstate later) his or her insurance.

Clause 14: Amendment of s. 25A—Other Contributions
This clause makes an amendment that will enable a member whose employment has not terminated to make contributions under section 25A even though he or she is not making contributions from salary.

Clause 15: Amendment of s. 26—Payments by employers
This clause makes an amendment that will enable the timing of payments by employers to the Treasurer under section 26 to be more flexible.

Clause 16: Amendment of s. 27—Employer contribution accounts
Clause 17: Amendment of s. 30—Interpretation
Clause 18: Amendment of s. 33A—Disability pension
These clauses make consequential amendments.

Clause 19: Amendment of s. 34—Termination of employment on invalidity
This clause makes amendments to section 34 of the principal Act that are consequential on the introduction of the new insurance system.

Clause 20: Amendment of s. 35—Death of member
This clause makes amendments to section 35 of the principal Act that are consequential on the introduction of the new insurance system. New subsection (4) provides that insurance benefits are not payable in relation to a person who takes his or her own life within 12 months after commencement of membership of the scheme.

Clause 21: Amendment of s. 36—Information to be given to certain members
This clause makes consequential changes to section 36 of the principal Act.

Clause 22: Amendment of Schedule 3—Repeal and Transitional Provisions
This clause provides transitional provisions in respect of the new insurance scheme.

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

STATUTES AMENDMENT (INDEXATION OF SUPERANNUATION PENSIONS) BILL

The Hon. K.T. GRIFFIN (Attorney-General), on behalf of the Hon. R.I. Lucas, obtained leave and introduced a bill to amend the Governors' Pensions Act 1976, the Judges' Pensions Act 1971, the Parliamentary Superannuation Act 1974, the Police Superannuation Act 1990 and the Superannuation Act 1988. 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 seeks to amend the *Governors' Pensions Act 1976*, the *Judges' Pensions Act 1971*, the *Parliamentary Superannuation Act 1974*, the *Police Superannuation Act 1990*, and the *Superannuation Act 1988*, so that twice yearly indexation of pensions can be implemented.

The Government announced in May that it proposed to introduce legislation to the Parliament so that people in receipt of a State Government superannuation pension could have their pensions adjusted twice a year in accordance with the movement in the Consumer Price Index. Twice yearly adjustments will ameliorate the current indexation lag for those persons in receipt of a superannuation pension. Under the proposed legislation, the first adjustment of pensions reflecting movement in prices over a six month period will occur with the first pension payable on or after 1 April 2002.

The current indexation provisions applicable to persons in receipt of a superannuation pension provide for pensions to be adjusted once a year in October. The adjustment in October reflects the movement in the Consumer Price Index over the twelve months to the previous 30 June.

The Bill provides for the twice a year adjustments to be made in October and April each year. Under the new arrangements, the adjustment in October will reflect the movement in the Consumer Price Index over the six months to the previous 30 June, and the adjustment in April will reflect the movement in the Consumer Price Index over the six months to the previous 31 December.

The current arrangements that enable the Treasurer to prevent pensions from being reduced as a result of a negative movement of the Consumer Price Index are appropriately amended by the Bill to reflect the fact that pensions will be subject to adjustment twice a year as from April 2002.

The adjustment to apply to pensions in October this year will still be based on the movement in the Consumer Price Index over the twelve months to 30 June 2001, as there has been no adjustment to pensions since October 2000.

The proposals contained in this Bill will bring South Australia into line with the States of Victoria, Tasmania, and Western Australia, who already provide twice a year adjustments for superannuation pensions. The Commonwealth Government has also recently announced its intentions to introduce similar changes.

Explanation of clauses

Clause 1: Short title
Clause 2: Commencement
These clauses are formal.

Clause 3: Interpretation
Clause 3 is an interpretative provision.

Clause 4: Amendment of s. 4—Amount of pension
Clause 4 makes amendments to section 4 of the *Governors' Pensions Act 1976* that are consequential on new section 5A inserted by clause 5.

Clause 5: Insertion of s. 5A
Clause 5 inserts new section 5A into the *Governors' Pensions Act 1976*. This section provides for twice yearly adjustment of pensions under the Act in terms similar to the terms (after amendment by this Act) of adjustment provisions in the other superannuation Acts.

Clause 6: Amendment of s. 14A—Adjustment of pensions
Clause 6 amends the adjustment provision of the *Judges' Pensions Act 1971* to provide for twice yearly adjustment of pensions in line with changes in the Consumer Price Index.

Clause 7: Amendment of s. 35—Adjustment of pensions
Clause 8: Amendment of s. 42—Adjustment of pensions
Clause 9: Amendment of s. 47—Adjustment of pensions
These clauses amend the *Parliamentary Superannuation Act 1974*, the *Police Superannuation Act 1990* and the *Superannuation Act 1988* in a similar manner.

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

WATER RESOURCES (RESERVATION OF WATER) AMENDMENT BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

The *Water Resources (Reservation of Water) Amendment Bill 2001* addresses a very significant reform for water resources management in South Australia. At the heart of the reform is the capacity for the Government to reserve unallocated water in those prescribed areas where it is thought appropriate to do so for strategically important economic development or environmental purposes.

It will do so in a framework established through the proposed amendments that ensures the integrity of sustainable levels of resource allocation and protection of existing users' rights.

It is intended that the Government will release water held in reserve under limited circumstances, the requirements for which will be set out by Regulation. It is intended that the guiding principle for any water released by the Government from the reserve is that it will be leased at prevailing market rates.

Each quarter, a notice in the *Gazette* will be published to detail any allocations made from the reserve. This, together with the publication in the notice of the requirements for access to an allocation from the reserve and the lease of that water at prevailing market rates, will ensure transparency and accountability for the allocation process without affecting the water trading market.

The proposed amendments will enable the Government to reserve water, if it is considered appropriate to do so, in any of the State's prescribed water resources. However, most of the currently prescribed resources are already either fully allocated or are close to fully allocated and the opportunity to reserve water in those resources either does not exist or is limited.

The prescribed water resources of the South East are an exception and it is intended to immediately apply the provisions of this amendment to hold in reserve the remaining unallocated water of those management zones in the five prescribed wells areas in the South East.

This will assist in meeting several objectives at the same time.

Firstly, the proposed amendments are significant in their own right, in that they enable the Government to exercise strategic control over the appropriate use of a proportion of the State's water resources that are available for use on a sustainable basis.

At the same time, it establishes an opportunity for a prudent and precautionary approach to resolving some of the outstanding and very complex water allocation issues currently being faced in the South East without exacerbating the potential problem through the further allocation of the remaining unallocated water under the terms of the water allocation plan.

In particular it will allow further time to address the complex matter of the impact of land use change on recharge and water availability.

Members will be aware that this is a critical issue in the South East and is currently being considered by the *Select Committee on Groundwater Resources in the South East*.

On 30 November last year the Minister for Water Resources foreshadowed legislation to address this issue. He informed the House of Assembly that he would firstly consult with the community in the South East and other stakeholders. He did this. During January he held consultations with the various industry groups, local government and the general community in Mount Gambier, Penola and here in Adelaide. This exhaustive consultation built upon discussions he had already held with groups and local Members of Parliament from the South East.

On 27 February this year the Minister for Water Resources then provided the House of Assembly with a report on the outcomes of those discussions. He indicated then that there are some further issues that need to be looked into, in response to the stakeholder and community concerns. In particular the forestry industry will be confirming its strategic plans for development in the South East and some further scientific investigation and technical work will be undertaken.

To better understand both this bill and future Government strategy it is worthwhile recording some further remarks concerning the consultation process.

While, as has previously been said, there remains some areas of disagreement, areas of consensus are no less important.

There was unanimous agreement that water should be managed in a sustainable way recognising that there are a range of bona fide interests in water including urban use, environment flows, and agricultural and industry use.

A number of other points were also generally agreed:

(a) that the rights of existing users should be preserved so long as they are accountable for the use in volumetric terms and that 'best practice' is being progressively adopted;

(b) that it is desirable to stimulate economic development by encouraging efficient water use and making available unallocated water as either share entitlements or extraction entitlements based on an approved development plan;

(c) that the Government should ensure that the cost of holding unused water allocations is significant enough to encourage use. On this matter various views were put, and there is now consensus that there should be payment of a levy equivalent to 50% of the levy applying to taking allocations. An exception to this is where it can be demonstrated that a genuine attempt has been made to sell, or lease, the holding allocation and there is no water market for that allocation;

(d) that as a matter of urgency all scientific data as it relates to local ground water systems needs review, an identification made and an investigation undertaken of all data gaps. The Government has acted on this view and on the 27th of February 2001 a commitment of $300 000 was announced to ensure that this matter is brought to a satisfactory conclusion;

(e) that a forestry strategy must be developed as a matter of highest priority so that the change of land use issues as they impact on the water cycle might then be brought to a satisfactory conclusion. I understand that the industry strategy is soon to be delivered to the government.

Water resources available for allocation in many of the at-risk management areas in the South East have not yet been fully allocated. It is therefore prudent to reserve the remaining unallocated water to assist in any subsequent adjustment to the volume of water available for use from the aquifer, should that become necessary as a result of land use change, in particular forestry. This would minimise the likelihood of further land use changes affecting existing users.

At the same time it would be imprudent not to provide the Government with some flexibility to allocate this water to bona fide purposes where the consequence of not providing access to water might jeopardise the government's economic development objectives for regional South Australia.

Importantly too, reservation of water by the Government will stimulate the market for water in the South East. By holding water in reserve the water available for allocation will have been effectively allocated, either to existing licensees or to the Government through the reserve.

Currently proponents seeking access to water can be granted an allocation free of charge provided that the requirements of the water allocation plan are met. Where a management area, through the proposed mechanism of reserving water, becomes fully allocated, proponents seeking access to water would now be required to either obtain an allocation through the market from existing licensees or from the government's reserve. In either case, the proponents would be paying the appropriate market rate.

It is intended that the strategic water reserve would be available for allocation to proponents only after they have first made serious efforts to obtain their required allocation through the market and can demonstrate that the market has failed to meet their needs.

The Government acknowledges that the bill as now presented may not provide a final solution to the two difficulties as identified by the conference of Houses last year. The Government has been unable to come up with a solution as quickly as previously expected and members will be aware that the *Select Committee on Groundwater Resources in the South East has been established to look into these matters*. The Government will continue to work as expeditiously as possible for a solution to those two problems and will present any necessary legislative amendments following the Select Committee's inquiry and submission of its report.

This bill, as presented however is important in that it ensures that the resource is not allowed to decline further while these investigations and the Select Committee inquiry proceeds.

The proposed amendments are therefore significant and timely.

The bill also includes amendments dealing with some administrative issues. The first of these is required to provide legal certainty for penalty charges already declared for 1997-98, 1999-2000 and 2000-01. These penalty charges apply to taking water in excess of the licensed allocation or for taking water without authorisation. The rates to apply for those years were declared after the commencement of the financial year to which they apply, a practice, which at that time was understood to be legally valid. Recent advice raises some doubt about this and the amendments now proposed will have the effect of retrospectively validating those previous notices.

The amendment also provides for a landholder to seek assistance from the Ombudsman for relief regarding outstanding penalties, with respect of any financial year up to 30 June 2001. In this event the Ombudsman must call the parties before him or her to resolve the matter. If they cannot agree the Ombudsman must determine the amount payable by way of penalty. If a complainant can show hardship and the penalty has not been paid, the Ombudsman must direct the Minister not to recover the penalty until the amount of the penalty has been resolved.

The second minor amendment seeks to clear up any confusion associated with 'ownership', and 'occupancy' of contiguous land for the purposes of determining responsibility for payment of catchment management levies to be contributed by constituent councils pursuant to Division 2 of Part 8 of the Water Resources Act.

The Act was amended in 2000 to make provision for farming enterprises to pay only one levy under certain circumstances. However, the amendment also had the unintended consequence of potentially reducing the number of properties in towns, which are required to pay the fixed levy. Properties such as shopping centres, flats, units or houses in common ownership but different occupancy could be eligible for one fixed levy per contiguous group of properties. This was never intended and could have significant impact on the quantum of fixed levies.

I commend the bill to the Chamber.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Insertion of Part 5A

This clause inserts new Part 5A into the principal Act. New section 44B will enable the Minister to reserve the excess water in a water resource from further allocation either at all or subject to restrictions. The restrictions will be set out in regulations by the Governor and further restrictions can be included by the Minister in the notice reserving the water (*see* section 44B(2)*(c)*). Section 44C sets out provisions that apply to the allocation of reserved water that do not apply to the allocation of water generally. Section 44D provides that restrictions on the allocation of water will be set out in regulations by the Governor. Section 44E requires the Minister to keep the public informed of allocations of reserved water by quarterly notices published in the *Gazette*.

Clause 4: Amendment of s. 132—Declaration of penalty in relation to the unauthorised taking of water

This clause amends section 132 of the principal Act. The effect of this amendment together with clause 2(2) is to retrospectively validate notices under section 132 of the Act. However new subsection (2c) provides that in respect of financial years up to 30 June 2001 a person liable for a penalty can complain to the Ombudsman. In this event the parties must agree on the amount of the penalty or it must be determined by the Ombudsman.

Clause 5: Amendment of s. 138—Imposition of levy by constituent councils

This clause amends section 138 of the principal Act to remove the benefit of the provision where contiguous land is owned, but not occupied, by the same person.

Clause 6: Amendment of s. 142—Right of appeal

This clause amends section 142 of the principal Act. The new paragraph inserted by this clause specifically provides for an appeal to the Environment, Resources and Development Court where the Minister refuses an application for a water allocation. However an appeal in respect of the refusal of an allocation of reserved water is excluded.

The Hon. T.G. ROBERTS: I rise to indicate that the opposition supports the bill before us. A number of amendments have been drafted by the government and the opposition in another place. From my reading of the events that took place there, although some confusion must have reigned and the amendments put forward by the opposition were probably not agreed to by all members, the government and the opposition had enough numbers to pass the bill that is now before us.

This issue has had a long history of development. I guess that the word 'evolution' is the best way to describe the development of this bill to cover the management and use of water resources, particularly in the South-East. As I have indicated in other contributions in this Council on other occasions, I sympathise with the minister in being able to produce a bill that covers all the contingencies related to a resource such as water which has various forms of collection and storage, particularly in the South-East, given its cavernous nature and the way in which the South-East of the state has evolved. Some people have indicated to me that, had the South-East not been drained, it would have looked something like Kakadu National Park now, but that is not the case—

The Hon. Ian Gilfillan: With crocodiles?

The Hon. T.G. ROBERTS: If they had been introduced, we would probably have had crocodiles down there. If cane toads can be drawn across two-thirds of the planet to Australia and escape into nearly every known waterway on the east coast of Australia, I cannot see why crocodiles—they might have needed overcoats—could not have lived in the South-East during that period when almost the whole of the geographical area was covered by immense expanses of fresh water.

All that has gone. Drainage has ensured that the whole of the South-East can be exploited for agriculture, horticulture and other industries. The current landscape is far different from what it was when the first settlers arrived. We have now reached the point where, in terms of this valuable resource, the South-East is probably the only area of the state—perhaps with the exception of the southern Eyre Peninsula and to some extent the Riverland, although the water there is artificially allocated—where the natural rainfall is replenishing the ground water resource at a reasonable rate, that is, there are still some areas of underground water that have not been allocated.

This bill goes part of the way to overcoming some of the problems associated with unallocated reserves in some of the hundreds. The select committee's position on the last bill that we had before us left unanswered some of the issues that were being discussed by certain stakeholders, in particular, the difficulties involving sections of the investment strategies being addressed in connection with forests and the rapidly growing blue gum industry. Subsequent to the finalisation of the last bill, it did not take long for problems to emerge. I am not saying that the bill before us will address all the problems—

An honourable member: There's another one coming.

The Hon. T.G. ROBERTS: There's another one coming, is there? This bill alone will not address some of the problems that will be outstanding. Some of the stakeholders will still be dissatisfied with the outcomes from this bill. The objectives of the bill—the social, environmental and economic objectives—perhaps will not be met. I note in another place that, although the local member for Mount Gambier did not make large contributions regarding how he saw a formula being set to cover all contingencies in relation to preservation, environmental and economic use, he was certainly loud in his criticism of the amendments put forward both by the government and by the opposition. He may well be right in his points of view on behalf of the stakeholders he is representing. However, regarding the government and the opposition's trying to address the problems of equity in regard to access, costs and protecting the environment, I suspect that we will have to revisit the bill so that it covers those areas correctly.

At this point, the opposition and the government have a bill to enable for the first time the allocation of unallocated waters in reserve for special purposes. It provides some of the flexibility that I spoke about in the first bill. It was my view that the allocation of water in the South-East could not be addressed in the way that irrigators can address problems associated with water delivery in the Riverland area. This could not happen because of the vagaries of the ways in which water is sited in the South-East. It also could not happen because of the problems governments would have over time due to competition for water use.

There are also the issues of the best possible use of that resource, what price you set for the market, whether you allow for leasehold transfer and whether you allow for a market price to be set so that the market determines outcomes in relation to water. When the first bill was introduced, because of the vagaries of agriculture and horticulture, I had the view that it was very difficult to set a market price because of the lead times for which agriculturalists and horticulturists have to plan.

As a result of the vagaries of the marketplace, prices for various commodities change and, if members take a snapshot out of a particular period—and if members used a period from the early 1950s—then they would certainly say that the people who were growing wool and running beef cattle were

those to whom you would allocate the water; or, in the case of some areas within the South-East, they would make sure that water was drained off those properties to prevent sheep from getting footrot. Wool at that stage was a pound a pound, as the farmers will remind you. In those days, certainly the winners were wool growers and beef and cattle growers.

The Hon. R.K. Sneath interjecting:

The Hon. T.G. ROBERTS: It was a struggle for the shearers, as the honourable member reminds me, to get their share of what was coming off the sheep's back at a pound a pound. Shearers had to struggle for every cent they got in relation to their just rewards in that difficult arena. If you take a snapshot out of best land use and best use for agriculture and horticulture in the South-East, you could argue that vines and horticultural products, that is, apples, cherries and pears—all the commodities that for various reasons have been moved out of the Adelaide Hills to the South-East—and dairy would be the winners now in relation to the allocation of water resources.

With the new kids on the block in relation to hardwood, the softwood industry has been well managed and well planned and provides a lot of employment in the South-East—and has done for the past 100 years. The softwood industry has had a long history in the South-East and has provided employment opportunities for growth for three waves of migration into this state. The softwood industry has a long planned history by both government and the private sector, and one would hope that the water allocations and the definitions of any descriptions for prescribing water allocations for the softwood industry would be taken into account by governments.

Similarly, with the new kids on the block, as I mentioned earlier, the blue gum industry is now starting to flex its muscles in relation to new land use. In relation to the bill before us, some changes are being made by way of amendment to allow for forests and forest reserves to have allocations. I suspect that, although governments have not got a lot of control over the way in which investors via taxation breaks are encouraged to participate in the blue gum industry, I would think that, as they have not yet got allocated customers, in relation to a lot of these blue gum reserves there is a question mark in people's minds over the future value of that blue gum industry.

I am not going to select winners and define a formula for a bill to allocate water on agriculture or horticultural winners because at the start of my contribution I recognised how difficult it was to try to do that; and for governments to allocate water to winners in those industries would probably end up with a lot of bad decisions. The government has taken the view—and the opposition shares that view—that the current landowners and the current users have to be looked after and there has to be a plan for allocations of water for future use.

It could be land use, industrial use, social use or environmental use. That is why it was my view, when the first bill was being drafted, that there had to be a certain amount of flexibility in whatever plan was put forward by the government. I suspect that, like me, members on the other side of the Council who are close to the subject matter and who live in the area have to listen to a lot of complaints that are made when governments intervene in marketplaces connected with the management of natural resources. We receive complaints ad nauseam about winners and losers. It is certainly accurate when criticisms are made of government policy where there are winners in relation to allocations because, inevitably, there are people who feel as if they are going to be losers.

If you were taking a snapshot of the marketplace in the 1950s, the farmers and graziers would certainly be those that you would look after with the allocations to ensure that the land use programs and the water allocation were suitable for their needs and requirements. If you talked to farmers and graziers some two years ago, you would have thought that there was not one farmer and grazier who was going to survive another 12 months or 18 months given the current market circumstances that they faced during that period. There has been a complete turnaround within those industries and, although they are not too—

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The Hon. Mr Redford, who has contacts and family whom I know very well in the South-East, says they are not going that well. I understand the point that he is making, but it has certainly picked up from the point where people were walking off properties with little or no compensation—people who were third generation and fourth generation farmers and graziers who could not survive, not because they were not efficient farmers but because of the conditions in the marketplace: they could not get the prices right. There still is some debate over the United States market and the uncertainties of the Japanese, the Middle Eastern and European markets. So, all of the vagaries of not only the weather but also the water allocations and the way markets work made it very difficult for farmers and graziers. But, as I said, it is turning around. Some of the debt that has been incurred over the past 15 years by many of the people in farming and grazing is now starting to be returned. Bank managers are now starting to lift their heads when they meet farmers and graziers in the main street. I think a certain amount of confidence is being brought back—

The Hon. Ian Gilfillan: Are any new utes being bought?

The Hon. T.G. ROBERTS: A few new utes are being bought, but most of them are being bought by under 21 year olds who generally have nothing to do with the land. They are the new breed of young people who generally work in places other than on properties—although there are some who do that.

The point I am making is that governments have a difficulty taking snapshots out and playing winners in relation to these allocations, so a fair and equitable system has to be brought into play. But, because of the nature of the resource and the uncertainties about the way in which the resource is held, both in the confined and unconfined aquifer, and the changing nature of particularly the dairy industry where intensive dairying now is putting pressure on our underground resources, many of these allocations have to be monitored and a resource management cost has to be recouped by governments to ensure that the resource is managed and shared equitably amongst those who compete for it.

The opposition's position was that we have a land management plan running in conjunction with a water management plan, and to some extent this amendment takes that into consideration, although the first bill did not recognise land management plans at all. They certainly do now. There is acknowledgment that land management plans and water management plans must be associated with that. Hopefully, the marketplace will allow for those people who have allocations associated with traditional land uses and for those that will be introduced for economic benefits to the state and for the region over the next decade at least.

There may be further changes to the bill, as indicated by way of interjection, to take into account the power that the minister has in relation to the allocation of the reserves of unallocated water. The amendments put in place in another place try to prevent favourites being played and allowing too much power to be left in the hands of the minister; ensure that the parliament does play a role in monitoring the unallocated reserves; and that the appeal processes being put in place will hopefully operate fairly and freely.

The minister's description of the amending bill when introduced was only three pages. The debate that occurred in another place in the second reading and committee stages was quite detailed. For those people who would like a full explanation on what the government outlined after the exhaustive consultations it went through in the period after the passing of the last bill and the introduction of this bill, the minister stated that a number of points were agreed, but he did not indicate the points on which people had strong disagreement. I certainly indicate that the government's position was:

(a) that the rights of existing users should be preserved so as long as they are accountable for the use in volumetric terms and that best practice is being progressively adopted;

(b) that it is desirable to stimulate economic development by encouraging efficient water use and making available unallocated water either at the share entitlements or extraction entitlements based on an approved development plan;

(c) that the Government should ensure that the cost of holding unused water allocations is significant enough to encourage use. On this matter various views were put and, while there was a consensus that there should be a level of payment, the appropriate level is disputed;

That is one area still to be set by the marketplace. It continues:

(d) that as a matter of urgency all scientific data as it relates to local ground water systems needs review, an identification made and an investigation undertaken of all data gaps. The government has acted on this view and on 27 February 2001 the commitment of $300 000 was announced to ensure that this matter is brought to a satisfactory conclusion;

They are all points that the opposition raised during debate on the last bill. Regarding point (d) in relation to the data gap, we still think—and it is my view—that on the replenishment rates and water use rates data gaps still exist.

I will not say that water is still being taken without being volumetrically measured, but I understand that people would be of the view that some practices are still being used in the South-East that are wasteful and inefficient; that the government should be tightening up on some of those practices; and that land based aquaculture is one industry that should be looked at in relation to some more stringent controls in relation to water use. The way in which blue gums and softwoods use the underground resource is still an argument for land owners in the South-East that not only the land that the trees are grown on but also the land that surrounds the forest is affected by the run-off and also the way in which the trees use water for growth. The minister stated that it was also agreed:

(e) that a forestry strategy must be developed as a matter of highest priority so that the change of land use issues as they impact on the water cycle might then be brought to a satisfactory conclusion.

The opposition agrees with the government in relation to the way in which agreement has been reached in those discussions. The government cooperated in reconvening the select committee to try to get a consensus around those important points, but I think that some work is still to be done by the government in relation to the databases for measurement and control. I think there are gaps in the best scientific evidence in relation to replenishment. The general view and opinion of the growth of blue gum investment in the South-East is that it will slow; in fact, I am told that it has almost stopped for a number of reasons. One is the marketplace—

The Hon. Diana Laidlaw: And a tax ruling.

The Hon. T.G. ROBERTS: —and a tax ruling that has taken away the benefits that are associated with the planting. The Hon. Diana Laidlaw is nodding her head in agreement with that because, just as a lot of environmental damage was done in the South-East through tax concessions and tax breaks for clearance which did untold damage—particularly in the Upper South-East—and brought about a whole range of salinity problems, we now have another intervention program of the federal government to offer tax incentives to people to grow a product in a way that has not been taken up by the marketplace. Whereas softwoods are all allocated and forward markets are not hard to find, with hardwoods it appears there are more benefits to speculators, who are running programs for investors interstate and overseas. There are more benefits for the proponents of those programs than perhaps there will be long-term benefits in jobs or product development value adding at a later date.

I suspect that, unless a pulp mill is built in the near future that will need a water allocation to take up the excess blue gums that will come on stream in the next five to 10 years, most of the blue gum resource will be shipped overseas in logs or chips. There is little value in that. If they are competing with traditional agricultural and horticultural pursuits and taking up land that could be used in a way that is much more profitable for value adding and for the environment, we could be two-time losers if the land management programs are not coordinated with water management programs.

The Hon. M.J. Elliott: Once the tax loops go they'll put a stop to that.

The Hon. T.G. ROBERTS: I am told that they have been stopped in their tracks; that no more land is being bought up. In fact, one anecdote told to me—I think that it might have been in the Somerset (which the leader would probably acknowledge is one of the best places to pick up good stories)—is that one property was bought for $5 million, which included the grey soil and the hills that they require and, because the program is now almost complete, an offer was made by a company to sell it back to the original owner for $2.5 million. I have not been able to speak to the bank manager or to the individual concerned, but I am told that that is a true anecdote which, sort of, indicates the burn or bust story, particularly with respect to blue gums.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: It is an anecdote told to me which I believe is true. If any member wants to check out that story, they are quite welcome. I will wait for the committee stages to see whether any other amendments come forward from another place to which we will give due consideration. The shadow minister in another place has done a very good job in working with the government to get to a position where we can put another step of the saga to bed. We will then wait for stakeholders to—

The Hon. M.J. Elliott: Which bits have you put to bed?

The Hon. T.G. ROBERTS: There are three aspects of it. We will then wait for the stakeholders to get back to local members and to ministers to voice their opinions in relation to the new amendments and the new drafting of the bill when that occurs. I guess, then, that it will be up to us, when we are in government, to look at the final bedding down of the bill and to make the necessary adjustments.

The Hon. M.J. ELLIOTT: The Democrats are not opposed to the bill because there is nothing in it to oppose. It is an almost 'do nothing' bill, which is really what the government has done, at least in substance, for the best part of 1½ years. I was approached by government representatives early last year—I think, probably, initially in January—wanting to discuss proposals in relation to the allocation of water in the South-East. I met, in the first instance, with the minister's advisers and then, some time in February I think it was, I met with the minister himself and said, 'Look, I think that we have some problems here with the direction in which you are currently heading. Your current proposal of simply granting water licences and transferable water licences will not work if you do not take into account the fact that changes in land use could impact on the amount of available water, and you just cannot ignore it.'

The bill, nevertheless, emerged in the parliament—it must have been at the very end of April or in early May. Certainly, I spoke to the second reading of the bill on 2 May 2000 in this place and expressed concern that, at that point, that issue had not been addressed. I continued to express concern as we moved into the committee stage; and I moved amendments which empowered the minister to take into account the potential impact of trees.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: The bill that came into this place was a government bill—the government of which the honourable member is a member.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Will the honourable member just wait until I have finished? The honourable member makes an interjection, I set about answering it but he has his next interjection going because he does not really want to hear the answer.

The bill that came into this place last year, as I said, contained one fatal flaw, and that fatal flaw was the notion that the government was going to grant water licences, that they would be transferable, and it simply ignored the fact that the amount of available water could be altered by changes of land use in areas not holding water licences. I was not arguing last year, and I am not arguing now, about whether or not you should have a transferable licence or whether or not landowners should be able to do whatever they like on the land. What I am saying is that the two notions have a serious compatibility problem.

The Hon. R.K. Sneath: The Independent will fix it up.

The Hon. M.J. ELLIOTT: The new Independent for MacKillop?

The Hon. R.K. Sneath: Yes.

The Hon. M.J. ELLIOTT: The current Independent turned Liberal and threatening to be Independent again member (but it will not make much difference what he is) has certainly failed. But there was a fatal flaw in what the government introduced—the government to which the interjecting member belongs. If the member was concerned about whether or not farmers should have absolute right over rainfall that falls on their land, the government should have got it right then and not introduced the concept of transferable licences—and not only that: they were going to allocate 90 per cent of the water that was available at that time. That was the proposal before us.

It did not take a significant change in land use for the equation to break down, and that was a problem. The mathematics of what the government brought in last year did not work. As I said, regardless of which view you take about transferable licences or the right to use the water that falls on your land, you cannot take them both, unless you are mathematically stupid, because the equation will not work. What you will have, the way things were and the way things are, but to a slightly lesser extent, is that—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: The back bench interjects again, blindly supporting government policies that have been an absolute and dismal failure, the biggest catastrophe that this state has seen—it has to be comparable with the State Bank. It really stuffed up big time, and the member still has the nerve to even dare to interject. He should just slink away: he has been a total waste of space and time. What we needed to do—

The Hon. A.J. Redford: Are you saying that the allocation of South-East water is up there with the State Bank?

The Hon. M.J. ELLIOTT: Moron.

The Hon. R.R. Roberts: That just proves you were right.

The Hon. M.J. ELLIOTT: That he is a moron? Yes—he does not listen. Having expressed concern about that last year, after there was a conference of the two houses the minister gave a clear undertaking to this parliament that, by the end of the year, he would have addressed the issue. The parliament acceded to the legislation going through, but the minister gave a clear undertaking that the issue would be addressed by the end of the year. In fact, he did not resolve it by the end of the year, and he still has not resolved it. On my advice, he has now been to the cabinet on 12 occasions and he has been rolled on almost every occasion. I understand that he got to the party room on one occasion, that he got past the cabinet, and then was rolled in the party room. But we should give him some credit: he at least had the brains to work out that there was a problem that needed fixing—and, unfortunately, too many members of the government have not worked out what the real problem is at this stage.

We have before us a bill which masquerades as addressing the issue and which does very little. The minister, in introducing the bill, said that the government would be reserving an amount of water in prescribed areas, where it is thought appropriate to do so for a strategically important economic development or for environmental purposes. The notion of reserving water is a good one. Initially, as I said, last year the government was proposing that it would seek to reserve 10 per cent. The figure now proposed is 20 per cent—although, in fact, the legislation has no figures in it at all; it is just the minister saying that he will seek to reserve 20 per cent. It would be true that for a significant number of hundreds the allocation of water is already such that nothing like 20 per cent could be reserved. Indeed, there is a danger in some hundreds that there may be an over allocation.

On my recollection, last year the minister did not—and still has not—indicated exactly what environmental purposes means, whether he means that Eight Mile Creek will continue to flow or whether he means something more than that, I really do not know. He has not given any explanation as to what it means. We do not have an indication at this stage, but with 20 per cent being reserved, is the minister thinking that half of that is for future economic development and half for environmental purposes, or is it some other ratio? How exactly does he derive that environmental purposes figure?

Clearly, it only takes a marginal change of recharge rate to have a significant impact on the available resource and a change in land use is not the only threat to recharge rate: a change in climate has that capacity as well. Certainly over the last couple of years my parents have indicated to me that they

feel, on average, the winters are a little drier than they were in earlier years. Certainly, climate change models that are—

The Hon. R.K. Sneath interjecting:

The Hon. M.J. ELLIOTT: No, they do not have a vested interest in this issue at this stage. The predictions of future climate change suggest that the climatic zones will tend to spread further away from the equator, so the consequences of that would be that the climate of Mount Gambier would become a little more like that of places further north, so a bit more like the climate of Naracoorte—

The Hon. R.K. Sneath: But Mount Gambier's going to get as cold as Clare.

The Hon. M.J. ELLIOTT: I am not sure about that. I think it is more likely that Mount Gambier's climate will become increasingly a bit more like that of Naracoorte's and Naracoorte's a bit more like that of Keith. That has significant implications in terms of the amount of rainfall that actually arrives, to start off with, but it also means that the place is slightly warmer, which increases the evaporation rate. Of course, winter rains will tend to penetrate and be absorbed, whereas rain at other times of the year tends to be less likely to be. Any climate change—and I think the overwhelming majority of climatologists indicate that that is likely to happen—is likely to be detrimental to the water resources of the South-East. The reserve amount that has been set of 20 per cent needs to also anticipate the potential for change, which could happen within the lifetime of some investments currently being made.

I note that the minister in his speech says that he wants to have further time to address the complex matter of the impact of land use change on recharge of water availability, and there is an indication that scientific research will be carried out. The question I ask of the minister is: considering this issue was raised with him early last year, why has he waited almost 18 months before starting to address the issue of scientific evidence? Frankly, I think that there is already a great deal of scientific evidence available to groups such as the CSIRO that have done work on evapo-transpiration on various species over many decades. I think that, more than anything else, this is buying time to get the issue off the agenda until after the next election, which we are seeing happening with a number of issues.

While speaking of scientific evidence, I met with representatives of the timber industry from the South-East from the regional development board. They asked to meet with me so that they could discuss their viewpoint, and we had a very free and frank exchange on the issue of land use and so on. Some of them were trying to argue that in fact there would be no impact on recharge and that, indeed, expansion of forestry was not a threat to available water.

I put it to them that, if that was the case, I would even accept a back-of-an-envelope calculation to demonstrate it in relation to a couple of hundreds where there is already a high level of allocation of the available resource, and the area around Coonawarra is one example. I gave them two hundreds that I thought were good illustrations. I told them to come back later and show me that, with the current irrigation practices and forestry expanded in those hundreds, the water would still be available and, if they did that, I would be convinced. They said, 'Okay. No worries; we will go away and do it.' I have not seen them since.

The Hon. R.K. Sneath interjecting:

The Hon. M.J. ELLIOTT: I don't know; the envelope was not big enough, or something. My response to them was to say, 'Let's take the most extreme example of those areas that are most heavily used already and demonstrate that your claim will work.' It seems that they simply could not do that. The minister is now saying that he will do more scientific assessment.

Some people are trying to turn the current debate into a philosophical one and trying to ignore the science of what is happening in the South-East. As I indicated, I do not mind having a philosophical debate. I suppose the Liberal Party could put up a position that says, 'You can only use the rainfall that falls on your land' and an irrigator who wants to operate should buy land with sufficient rainfall to irrigate. That is another way to go and it would be scientifically defensible in terms of saying that the water balance will remain.

I suppose there are other ways of getting a mix of the two. You might say that a certain amount of land is available for forestry use or whatever, and a certain amount of the total allocation of water always remains attached to particular properties and remains on the property. That would not be a problem at all. If the government wants to pick winners—including forestry—it can actually designate that a certain percentage of water is allocated only for forestry purposes.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: It shows again that you have taken no notice of the debate. In relation to the competitive use of water, my argument is that if forestry is the best economic use of water—and it has to compete with water, as with every other industry—the best economic use should prevail. That is the sort of philosophy that the Liberal Party has argued in relation to a lot of things over many years. In fact, that is the precise argument that this government has used in relation to the transferability of water licences in the Murray-Darling Basin. The government's argument is that we will get the best economic return by having transferability of water licences. It seems to be a matter of convenience because it quite happily uses it in relation to the Murray-Darling, but some members of the government say that they do not like that elsewhere. I am not trying to pick forestry as a winner by bringing it into the equation.

I have a view that, with water in the equation, there would still be substantial expansion of forestry. For instance, there are areas in the South-East that are not suitable for irrigation but are suitable for forestry for a range of reasons, such as the groundwater is highly saline in some areas. In fact, the more forestry that goes into those areas the better.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I invite the Hon. Angus Redford, who has been happily chirping away, to address the core issue that I have raised, and which I have never heard him address either in this place or in any of the utterances he has made outside this place.

The Hon. Diana Laidlaw: We have.

The Hon. M.J. ELLIOTT: You would have heard a lot of him, but I do not think you would have heard a justification for both transferable licences and, at the same time, saying that land use should not be impacted on in any way. With the minister now reserving 20 per cent of water, where that is available, I cannot find anything in this bill that addresses the question as to what will happen in the meantime in terms of forestry.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: If you want to talk about a capital strike, there is a real danger of a capital strike in

relation to dairy farming and horticulture because there have been investors, and some investors were in Mount Gambier for quite some time looking to expand dairying, for instance.

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: The fact is—

Members interjecting:

The Hon. A.J. Redford: You're an absolute idiot.

The Hon. M.J. ELLIOTT: The pot is calling the kettle black again. The investors who were wanting to invest in dairying had come from New Zealand where the costs of production, land, and so on, were significantly higher than those in Australia. They were highly capitalised and in a position to take advantage of the situation in South Australia. They were, indeed, becoming somewhat reluctant at the point of deregulation, but the major impediment they have at this stage is the question not only if they can get a water licence in the short term but, indeed, how secure they are in the long-term. That is quite a different question from that about existing dairy farmers who have been there for many generations and who are not, in many cases, highly capitalised as are these investors who have come in from overseas and are finding themselves in a very different position. So, the member's interjection of 'idiot' is, as usual, just inane.

There was a clear justification for expressing a concern that investors were looking to go into the industry. It is the same as we saw in horticulture for many years in the Riverland. Some people were doing very nicely. The people who were highly capitalised were in a position to take advantage of opportunities, even when things were bad. People were investing in almonds, etc., and people who had plenty of capital did not have a problem. But the existing growers up there who were not highly capitalised were in desperate trouble.

That is situation with dairying. There are people coming into the industry who, with sufficient capital, were making a go of it, even with the low prices. But many other people were trapped, as I said, undercapitalised as they were for the rapidly changing situation. I think that justifies both concerns: a concern that many people are hurting and that other people who want to invest have so far been precluded.

As I said, I will wait for the committee stage to consider individual clauses but, for the most part, the bill does not really change an awful lot. The only thing that superficially that is attractive is that the minister proposes 20 per cent of water being reserved but, in fact, that figure is not actually found within the bill at all.

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

FOOD BILL

Second reading.

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

That this bill be now read a second time.

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

Leave granted.

All States and Territories are participating in a comprehensive national reform of food safety.

The purpose of food law is to protect public health and provide information enabling consumers to make informed choices. Legislation provides a framework aimed at ensuring that food, as one of the important potential means of transmitting illness, is correctly labelled, safe and wholesome.

Australian food law generally comprises three regulatory elements:

- an Act which establishes principles, framework, administrative structures, offences and penalties,
- food standards which set down compositional, microbiological, chemical, labelling and quality criteria which food is required to meet,
- food hygiene regulations which relate to ensuring the production, processing, storage and handling of food does not result in microbiological or chemical contamination.

To promote greater national uniformity of food standards in Australia, the Food Standards Code (FSC, the Code) was adopted by States and Territories. The FSC prescribes compositional, chemical, microbiological and labelling standards for food offered for sale in Australia.

Each Australian State and Territory has been responsible for developing its own regulations for food hygiene, resulting in significant variation across Australia. The Australia New Zealand Food Authority (ANZFA) is developing a national uniform food safety standard. The aim of the ANZFA reform process is to attain national uniformity with respect to food hygiene, similar to that achieved with food standards, so that food businesses trading nationally only have to comply with one food standard. It will also ensure that Australian food is identified with a single hygiene standard which promotes a safe food supply and thereby has advantages for promotion of Australian food overseas.

A Model Food Bill has been drafted which aims to protect public health and safety by enabling the effective and uniform adoption and implementation of the national Food Safety Standard, facilitate uniform interpretation of the Food Standards Code and rectify past deficiencies which have been identified through the many years of operation of current Food Acts.

The reviews relating to the Model Food Bill and the Food Safety Standards are part of a comprehensive overhaul of the way the food industry is regulated in Australia. This has included the Food Regulatory Review ("Blair Review"), under the auspices of the Council of Australian Governments (COAG), with a view to reducing the regulatory burden on businesses.

ANZFA's proposed Standards include a requirement for a food business to have a food safety program based on Hazard Analysis Critical Control Point (HACCP) concepts. This is a common practice for many food businesses already, particularly the larger manufacturing companies. This requirement will be phased in based on risk. Exceptions are proposed for some charitable and community organisations.

The Standards propose a requirement for the independent auditing of food safety programs. In South Australia, the inspection of food businesses for compliance with food hygiene requirements is presently the responsibility of local government. Under the Food Safety Standards, third party auditing would be an alternative.

In August 2000 a draft SA Food Bill and draft Food Safety Standards were released for public consultation.

Public consultation on the SA food safety reform proposals included meetings with key stakeholders including local government and 31 public consultation meetings at 22 metropolitan and regional centres throughout the State attended by approximately 1150 people. 95 written submissions were received.

The package comprised

- A draft Food Bill based on the national model.
- Food Safety Standards related to
  - Food Safety Practices and General Requirements (3.2.2)
  - Food Premises and Equipment (3.2.3)
  - Food Safety Programs [3.2.1]
  - Interpretation and Application [3.1.1]

In July 2000, the Australian New Zealand Food Standards Council (ANZFSC), comprising Health Ministers from all jurisdictions, approved the incorporation of Standards 3.2.2 (Food Safety Practices) and 3.2.3 (Food Premises and Equipment) into the Food Standards Code. The Code is adopted into SA law by regulation. However, as with some other jurisdictions, implementation of these Standards will be deferred until after the commencement of the new Act as the current SA Food Act does not create the necessary offences to make the Standards enforceable.

On 3rd November 2000, the Prime Minister, Premiers, Chief Ministers and the President of the Australian Local Government Association signed the Food Regulation Agreement (at COAG). The Agreement commits jurisdictions to using their best endeavours to introduce legislation into their Parliament based on the Model Food Bill within 12 months. Provisions in Annex A of the Model relating to definitions, application of the Act, offences, penalties, defences, and emergency powers are to be introduced in the same terms as the Model (ie using the same wording). The administrative provisions in Annex B, if included in the legislation, do not need to be in the same terms, but are to be consistent with the Model.

Much of the comment on the SA consultation draft was directed towards the draft Food Safety Program Standard. There was generally strong industry support for Food Safety Programs as important in securing a safe food supply. The need for the requirement to be nationally consistent and sufficiently planned and resourced was highlighted.

As work is progressing on a national standard and there is strong support for South Australia to implement a requirement for food safety programs on a nationally consistent basis, it is not proposed to implement these requirements until the national standard is adopted. The proposed national standard provides for a lead in time for the requirement based on the risk classification of the business. For high risk food businesses there is a proposed 2 year period for implementation after the operation of the new Standard, a 4 year period for medium risk businesses and a 6 year period for low risk businesses.

Turning to the main features of the Bill—

Administrative Structure

The Bill provides for a two-tiered administrative system similar to that under the current *Food Act 1985*. Under the Bill, the—

- Relevant authority is the Minister.
- Enforcement Agency includes the relevant authority and other persons or bodies prescribed by regulation; it is intended to prescribe local councils.

The administrative provisions are set out in Part 9; although the functions of the authority and agency are identified in specific clauses throughout the Bill.

Adoption of Food Standards

The definitions of "Food Safety Standards" and "Food Standards Code" are in line with the requirements of the Food Regulation Agreement. They provide for the Code to be adopted or incorporated by regulation.

Food Businesses

The Act will apply widely, including charitable and community bodies, and one-off events—in other words, they will be obliged to produce safe food. However, it is intended to use the power of exemption so that fundraising events for community or charitable purposes or micro-businesses are not required to have a Food Safety Program based on the national draft. It is also intended that flexibility will be applied in relation to businesses in ares outside local government boundaries so that they are not required to comply with onerous requirements.

Application to Primary Food Production

Clause 7 defines primary food production, in particular for the purposes of Clause 10. The Bill provides a broad obligation on all persons involved in the food supply system from source to consumption to produce safe food.

The provisions of the Bill in relation to notices, auditing and notification do not apply to primary food production and there are limits on the exercise of the inspection and sampling powers in relation to primary food producers.

Requirements in the Bill applying to food businesses do not apply to primary food production.

It is intended to prescribe the *Meat Hygiene Act* and *Dairy Industry Act* under Clause 7(1)*(e)*.

Offences

The offence provisions follow the Model Food Bill. The penalties are significantly higher than those that currently apply, especially in cases where a person knows that he or she is acting in breach of the requirements of the Act.

Defences are provided if the person took all reasonable precautions and exercised all due diligence to prevent the commission of the offence. Defences are also provided for non-compliance with a provision of the Food Standards Code if the food is to be exported and complies with the laws of the country to which it is to be exported.

Emergency Powers

These powers are exercisable if there is a serious danger to public health and are vested in the Minister. They provide for publication of warnings; prohibition of cultivation, harvesting, advertising or sale of food; recalls; destruction of food.

There is a right of review of such orders to seek compensation.

Inspection and Seizure Powers

Authorised officers are appointed by enforcement agencies (Division 3 of Part 9). Clause 37 sets out the usual powers of such officers to inspect premises, take samples, examine records etc. It also enables an officer to seize and retain or issue a seizure order for things which may be used as evidence. Provisions relating to seizure orders, and compensation for seized goods are set out in Division 2.

Improvement Notices and Prohibition Orders

Authorised officers can issue improvement notices to remedy unclean or insanitary conditions and require compliance with the Code. The relevant authority or head of an enforcement agency may issue a prohibition order if an improvement order is not complied with or there is a serious danger to public health. There are provisions for reviewing such orders.

Auditing

There is provision for approval of food safety auditors, in particular for the purpose of ensuring proprietors of food businesses prepare, implement and maintain a food safety program.

The requirement for businesses to have a food safety program will be a new legislative requirement. Many businesses, particularly larger manufacturers already have such programs. However for the majority of food businesses, this will require them to develop a program, document it and ensure it is audited. A food safety program involves a systematic analysis of all food handling operations, identification of potential hazards which could be reasonably anticipated, documentation and implementation of the program, maintaining records and regular auditing.

A proposed national standard is being developed. In October 1999, it was agreed by a majority at the ANZ Food Standards Council to defer implementation for 2 years.

However, as mentioned previously, in South Australia it is intended to use the power of exemption so that fundraising events for community or charitable purposes and micro-businesses are not required to have a Food Safety Plan based on the National draft. It is also intended that flexibility will be applied in relation to businesses in areas outside local government boundaries so that they are not required to comply with onerous requirements.

The provision in the Bill provide for food businesses to ensure that their food safety program is audited as required by the enforcement agency. This permits food businesses to select third party auditors.

As work is progressing on a national standard and there is strong support for South Australia to implement a requirement for food safety programs on a nationally consistent basis, it is not proposed to implement these requirements until the national standard is adopted. The proposed national standard provides for a lead in time for the requirement based on the risk classification of the business.

Notification of Food Businesses

This provision requires a food business to provide a "one off" notification to the enforcement agency. It includes a requirement to notify changes of ownership, name or address.

Administrative Arrangements

The Bill spells out the role of the relevant authority and the enforcement agency. It is intended to work closely with local government to further define roles, responsibilities and procedures in working towards implementation. The Bill also provides for the appropriate enforcement agency to be notified of the existence of a food business, to determine the risk classification and frequency of auditing, and to receive audit reports. The specification of the appropriate agency is to be done by regulation. It may be appropriate, for instance, for the Minister as the State agency to be responsible as enforcement agency for businesses with multiple sites to ensure consistency. Also the Minister may need to act in particular circumstances eg where substantial problems exist which while emanating locally are of wide significance, localised problems of particular State policy significance or requiring DHS expertise or to deal with long standing complaints not acted upon by the local council.

Miscellaneous

A general power of Ministerial exemption is included.

The provisions relating to confidentiality are much more limited than those in the current Act. They relate only to information relating to manufacturing secrets, commercial secrets or working processes. They do not extend to include inspection reports generally, reports

to councils recommending prosecution or the issue of an order, or similar which are not disclosed under the current Act.

The regulation making power includes provision for the adoption of codes or standards with or without modification.

I commend this bill to honourable members.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Objects of Act

The objects of the measure include—

(a) to ensure food for sale is both safe and suitable for human consumption;

(b) to prevent misleading conduct in connection with the sale of food;

(c) to provide for the application of the Food Standards Code.

Clause 4: Definitions

This clause sets out the defined terms for the purposes of the measure.

Clause 5: Meaning of 'food'

For the purposes of the measure, food is to include any substance or thing used, or represented as being for use, for human consumption (whether it is live, raw, prepared or partly prepared), ingredients or additives, any substances used in the preparation of food, chewing gum, and other prescribed material (the presumption being made on he basis to a declaration under the *Australian New Zealand Food Authority Act 1991* of the Commonwealth). However, food will not include a therapeutic good. Food may include live animals and plants.

Clause 6: Meaning of 'food business'

For the purposes of the measure, a food business is a business, enterprise or activity, other than primary food production, that involves the handling of food intended for sale, or the sale of food, regardless of whether the activity is of a commercial, charitable or community nature, or whether the handling or sale occurs on one occasion only.

Clause 7: Meaning of 'primary food production'

For the purposes of the measure, primary food production is the growing, raising, cultivation, picking, harvesting, collection or catching of food, and specifically includes certain activities, including any activity regulated by or under an Act prescribed by the regulations for the purposes of the provision. However, primary food production will not include a process that involves the substantial transformation of food, the sale or service of food directly to the public, or an activity prescribed by the regulations.

Clause 8: Meaning of 'unsafe' food

For the purposes of the measure, food will be taken to be unsafe if it would be likely to cause physical harm to a person who might consume it, assuming it was subjected to any process relevant to its intended use, not affected by anything that would prevent it being used for its reasonable intended use, and consumed according to its reasonable intended use. Special provision is made for food that may cause adverse reactions only in persons with certain allergies or sensitivities that are not common to the majority of persons.

Clause 9: Meaning of 'unsuitable' food

For the purposes of the measure, food will be taken to be unsuitable if it is damaged, deteriorated or perished to an extent that affects its reasonable intended use, contains any damaged, deteriorated or perished substance that affects its reasonable intended use, is the product of a diseased animal or an animal that has died otherwise than by slaughter and is not declared under another Act to be suitable for human consumption, or contains some agent foreign to the nature of the food.

Clause 10: Application of Act to primary food production

Certain Parts of the Act will not apply to or in respect of primary food production.

Clause 11: Application of Act to water suppliers

Special arrangements are to apply with respect to the application of the Act to the supply of water for human consumption through a reticulated water system by a water supplier.

Clause 12: Act binds Crown

This clause expressly provides that the Act is to bind the Crown. No criminal liability will attach to the Crown itself (as distinct from its agencies, instrumentalities, officers and employees) under the Act.

Clause 13: Handling of food in unsafe manner

It will be an offence for a person to handle food intended for sale in a manner that the person knows will render, or is likely to render, the food unsafe. It will also be an offence for a person to handle food intended for sale in a manner that the person ought reasonably to know is likely to render the food unsafe.

Clause 14: Sale of unsafe food

It will be an offence for a person to sell food that the person knows is unsafe. It will also be an offence for a person to sell food that the person ought reasonably to know is unsafe.

Clause 15: False description of food

Various offences will apply to circumstances where food intended for sale is falsely described where a consumer who relies on the description may suffer physical harm.

Clause 16: Handling and sale of unsafe food

It will also be an offence to handle food in a manner that will render, or is likely to render, the food unsafe. It will also be an offence to sell unsafe food.

Clause 17: Handling and sale of unsuitable food

It will also be an offence to handle food intended for sale in a manner that will render, or is likely to render, the food unsuitable. It will also be an offence to sell unsuitable food.

Clause 18: Misleading conduct relating to sale of food

It will be an offence, in the course of carrying on a food business, to engage in misleading or deceptive conduct in relation to the advertising, packaging or labelling of food. It will also be an offence to falsely describe food (via an advertisement, package or label) in connection with carrying on a food business.

Clause 19: Sale of food not complying with purchaser's demand

It will be an offence under this measure to supply, in the course of carrying on a food business, food by way of sale that is not of the nature or substance demanded by the purchaser.

Clause 20: Sale of unfit equipment or packaging or labelling material

It will be an offence to sell equipment that, if used for the purposes for which it was designed or installed, would render, or be likely to render, food unsafe. It will also be an offence to sell packaging or labelling material that, if used for the purposes for which it was designed or intended to be used, would render, or be likely to render, food unsafe.

Clause 21: Compliance with Food Standards Code

A person will be required to comply with the Food Standards Code in relation to the conduct of a food business or food intended for sale. A person must also comply with any relevant requirement of the Food Standards Code in relation to the sale or advertisement of food.

Clause 22: False descriptions of food

This clause sets out various circumstances where food will be taken to have been falsely described.

Clause 23: Application of provisions outside jurisdiction

These provisions will extend to food sold, or intended for sale, outside the State (subject to a specific defence for food intended for export).

Clause 24: Defence relating to publication of advertisements

It will, in relation to the publication of an advertisement, be a defence for a person to prove that the person published the advertisement in the ordinary course of carrying on an advertising business. However, this defence will not apply if the person should reasonably have known that the publication of the advertisement would constitute an offence, or the person had been warned that publication would constitute an offence, or the person published the advertisement as the proprietor of a food business or in connection with the conduct of a food business by the person.

Clause 25: Defence in respect of food for export

It will be a defence in connection with a breach of the Food Standards Code to prove that the food in question is to be exported to another country and complies with corresponding laws of that other country.

Clause 26: Defence of due diligence

It will be a defence to proceedings for an offence to prove that the person took all reasonable precautions and exercised all due diligence to prevent the commission of the relevant offence by the person or by another person under the person's control. This defence may be satisfied by proving compliance with a relevant food safety program that complies with the requirements of the regulations.

Clause 27: Defence in respect of handling food

It will be a defence to prove, in relation to an offence concerning the handling of food, that the food was destroyed or otherwise disposed of immediately after the food was handled in the unlawful manner.

Clause 28: Defence in respect of sale of unfit equipment or packaging or labelling material

It will be a defence to prove, in relation to an offence involving the sale of equipment or material, that the equipment or material was not intended for use in connection with the handling of food.

Clause 29: Nature of offences

Generally speaking, offences under Part 2 of the measure are to be classified as minor indictable offences. However, the prosecution may elect to charge a person who has allegedly committed an offence against Division 2 with a summary offence. An offence against Division 2 will be an expiable offence. The defence of mistaken but reasonable belief as to the facts constituting an offence will not apply with respect to a summary offence. The maximum penalty for an offence dealt with as a summary offence will be $10 000.

Clause 30: Alternative verdicts for serious food offences

It will be possible in certain cases to find a person not guilty of an offence, as charged, but guilty of an alternative (and lesser) offence.

Clause 31: Making of order

It will be possible for the relevant authority to issue an order under Part 3 if the relevant authority has reasonable grounds to believe that the making of the order is necessary to prevent or reduce the possibility of a serious danger to public health or to mitigate the adverse consequences of such a danger.

Clause 32: Nature of order

An order may, for example, require the publication of warnings, prohibit the harvesting of particular food located in a specified area, prohibit the sale of particular food, or direct that food be recalled.

Clause 33: Special provisions relating to recall orders

A recall order may require the publication of certain information to the public.

Clause 34: Manner of making orders

A recall order may be addressed to a particular person, to several persons, to a class of persons, or to all persons. An order will expire after 90 days, unless sooner revoked. However, it is possible to make a further order in an appropriate case.

Clause 35: Review of order

A person who has suffered loss as the result of the making of an order may apply to the relevant authority for compensation if the person considers that there were insufficient grounds for the making of the order. A determination of the relevant authority on such an application will be capable of being reviewed on application to the Administrative and Disciplinary Division of the District Court.

Clause 36: Failure to comply with emergency order

It will be an offence to act, without reasonable excuse, in contravention of an order under this Part.

Clause 37: Powers of authorised officers

This clause sets out the powers of an authorised officer to carry out inspections and to undertake other activities for the purposes of the Act. The powers will include the ability to seize anything that the authorised officer reasonably believes has been used in, or may be used as evidence of, a contravention of the Act or the regulations. An authorised officer will also be able to require a person to answer questions or to produce a record, document or other thing.

Clause 38: Search warrants

A search warrant will be required to enter any part of premised being used solely for residential purposes (unless the entry is with the consent of the occupier of the premises or the relevant part of the premises is being used for the preparation of meals provided with paid accommodation), to break into premises, or to undertake an inspection that is not authorised under clause 37.

Clause 39: Failure to comply with requirements of authorised officers

It will be an offence to fail to comply, without reasonable excuse, with the requirement of an authorised officer.

Clause 40: False information

It will be an offence for a person to provide any information or to produce a document that the person knows is false or misleading in a material particular.

Clause 41: Obstructing or impersonating authorised officers

It will be an offence for a person, without reasonable excuse, to resist or obstruct an authorised officer, or to impersonate an authorised officer.

Clause 42: Seizure

This clause provides for the operation of seizure orders.

Clause 43: Unclean or unfit premises, vehicles or equipment

If an authorised officer believes, on reasonable grounds, that premises, equipment or a food transport vehicle used by a food business in connection with the handling of food is unclean or unfit, or is not in compliance with the Food Safety Standards, a food safety program or the Food Standards Code, the authorised officer may issue an improvement notice.

Clause 44: Improvement notice

An improvement notice will require certain action to be taken within a specified period of at least 24 hours (which period may be subsequently extended).

Clause 45: Compliance with improvement notice

Compliance with an improvement notice will be noted (by an authorised officer) on a copy of the notice.

Clause 46: Prohibition order

If a relevant authority or the head of an enforcement agency believes, on reasonable grounds, that circumstances justifying the issue of an improvement notice exist and that an improvement notice has not been complied with, or action must be taken to prevent or mitigate a serious danger to public health, then the relevant authority or the head of the enforcement agency may issue a prohibition order under this clause.

Clause 47: Scope of notices and orders

An improvement notice or prohibition order may be expressed in various terms.

Clause 48: Notices and orders to contain certain information

An improvement notice or prohibition order must specify any provision of the Food Standards Code to which it relates, and may specify particular action to ensure compliance with the Food Standards Code.

Clause 49: Request for re-inspection

The proprietor of a food business affected by a prohibition order may request that an authorised officer conduct an inspection of the relevant premises, vehicle or equipment.

Clause 50: Contravention of improvement notice or prohibition order

It will be an offence for a person, without reasonable excuse, to contravene or to fail to comply with an improvement notice or a prohibition order.

Clause 51: Review of decision to refuse certificate of clearance

A person aggrieved by a decision to refuse to issue a certificate of clearance may apply for a review of that decision.

Clause 52: Review of order

A person who has suffered loss as the result of the making of a prohibition order may apply to the authority or person who made the order for compensation if the person believes that there were no grounds for the making of the order. A Determination on such an application is capable of being reviewed on application to the Administrative and Disciplinary Division of the District Court.

Clause 53: Proprietor to be informed

An authorised officer who obtains a sample of food for the purposes of analysis must inform the proprietor of the relevant business (or another person in the proprietor's absence) of the intention to have the sample analysed.

Clause 54: Payment for sample

An authorised officer must tender an appropriate amount when obtaining a sample of food.

Clause 55: Samples from vending machines

Clauses 53 and 54 do not apply to samples obtained from vending machines where the officer makes a proper payment and no-one appears to be in charge of the machine.

Clause 56: Packaged food

An authorised officer who takes a sample of packaged food must take the whole package unless the relevant package contains two or more smaller packages of the same food.

Clause 57: Procedure to be followed

This clause sets out the procedure for the taking of samples for the purposes of the Act (to the extent that the Food Standards Code does not otherwise apply). Basically, an authorised officer will divide the food into three parts, one for the proprietor of the business, one for analysis, and one for future comparison.

Clause 58: Samples to be submitted for analysis

The authorised officer will submit a sample for analysis, unless analysis is no longer required.

Clause 59: Compliance with Food Standards Code

An analysis must be carried out in accordance with any relevant requirement of the Food Standards Code.

Clause 60: Certificate of analysis

A certificate of analysis will be prepared in accordance with the requirements of the Act and the Food Standards Code.

Clause 61: Approval of laboratories

The relevant authority will approve laboratories for the purposes of carrying out analyses under the Act. An approval may be granted on conditions.

Clause 62: Term of approval

Unless suspended, an approval will remain in force until cancelled.

Clause 63: Approved laboratory to give notice of certain interests

The relevant authority must be notified if a person involved in the management of an approved laboratory, or an employee, has an interest in a food business.

Clause 64: Variation of conditions or suspension or cancellation of approval of laboratory

This clause sets out procedures relating to the variation of conditions of an approval, or the suspension or cancellation of an approval.

Clause 65: Review of decisions relating to approval

Various decisions of the relevant authority relating to the approval of a laboratory (or to the rejection of an application for approval) will be reviewable by the Administrative and Disciplinary Division of the District Court.

Clause 66: List of approved laboratories to be maintained

The relevant authority will keep a list of approved laboratories, which will be open to the public.

Clause 67: Approval of persons to carry out analyses

The relevant authority may approve natural persons for the purposes of carrying out analyses under the Act.

Clause 68: Term of approval

Unless suspended, an approval will remain in force until cancelled.

Clause 69: Approved analyst to give notice of certain interests

The relevant authority must be notified if an approved analyst has an interest in a food business.

Clause 70: Variation of conditions or suspension or cancellation of approval of analyst

This clause sets out procedures relating to the variation of conditions of an approval, or the suspension or cancellation of an approval.

Clause 71: Review of decisions relating to approval

Various decisions of the relevant authority relating to the approval of an analyst (or to the rejection of an application for approval) will be reviewable by the Administrative and Disciplinary Division of the District Court.

Clause 72: List of approved analysts to be maintained

The relevant authority will keep a list of approved analysts, which will be open to the public.

Clause 73: Approval of food safety auditors

The relevant authority may approve natural persons as food safety auditors under this Act. An approval will be given if the authority is satisfied that the person is competent to carry out functions of a food safety auditor having regard to the person's technical skills and experience and any guidelines relating to competency criteria approved by the relevant authority.

Clause 74: Term of approval

Unless suspended or cancelled, an approval will remain in force for the period specified in the approval.

Clause 75: Food safety auditor to give notice of certain interests

The relevant authority must be notified if a food safety auditor has an interest in a food business.

Clause 76: Variation of conditions or suspension or cancellation of approval of auditor

This clause sets out procedures relating to the variation of conditions of an approval, or the suspension or cancellation of an approval.

Clause 77: Review of decisions relating to approvals

Various decisions of the relevant authority relating to the approval of a food safety auditor (or to the rejection of an application for approval) will be reviewable by the Administrative and Disciplinary Division of the District Court.

Clause 78: Food safety programs and auditing requirements

The proprietor of a food business must ensure compliance with any prescribed requirements relating to the preparation, implementation, maintenance or monitoring of a food safety program for the business. The proprietor of a food business must ensure that a food safety program is audited in accordance with the scheme under the Act.

Clause 79: Priority classification system and frequency of auditing

The appropriate enforcement agency will determine the priority classification of individual food businesses for the application of the requirements of the regulations relating to food safety programs, and the frequency of program auditing.

Clause 80: Duties of food safety auditors

An audit of a food safety program must be carried out having regard to the requirements in the regulations. It may be necessary for an auditor to conduct follow-up audits. Auditors will be required to assess compliance with the Food Safety Standards, and to undertake any reporting required by the regulations.

Clause 81: Reporting requirements

A report on the results of any audit or assessment carried out by a food safety auditor must be furnished to the appropriate enforcement agency. The report may recommend that the priority classification of a food business be changed. A copy of a report will be give to the proprietor of the relevant business.

Clause 82: Redetermination of frequency of auditing

A food safety auditor may determine that the audit frequency of a food safety program be changed.

Clause 83: Certificates of authority of food safety auditors

A food safety auditor will be issued with a certificate of authority.

Clause 84: List of food safety auditors to be maintained

The relevant auditor will keep a list of approved auditors, which will be open to the public.

Clause 85: Obstructing or impersonating food safety auditors

It will be an offence for a person, without reasonable excuse, to resist or obstruct a food safety auditor in the exercise of a function under the Act, or to impersonate a food safety auditor.

Clause 86: Notification of food businesses

The proprietor of a food business will not be able to conduct the business without first giving notice to the appropriate enforcement agency in accordance with any requirements of the Food Safety Standards. The proprietor of a food business in operation when the notification requirements commence will have 3 months to give the notice. A notification will also need to be given if a food business is transferred to another person, or if there is a change in the name or the address of a food business. These requirements will not apply to a food business that is not required to give a notification under the Food Safety Standards.

Clause 87: Provision relating to functions

The relevant authority will have the functions in relation to the administration of the Act that are conferred or imposed by or under the Act. The relevant authority may take such measures as the authority considers appropriate to ensure the effective administration and enforcement of the Act.

Clause 88: Delegations by relevant authority

The relevant authority will be able to delegate a power or function vested or conferred under the Act. The relevant authority will not be able to delegate a power to an enforcement agency or the head of an enforcement agency without the consent of the agency or the head of the agency (as the case may require).

Clause 89: Functions of enforcement agencies in relation to this Act

An enforcement agency will have the functions in relation to the administration of the Act that are conferred or imposed by or under the Act, or as are delegated to it under the Act.

Clause 90: Conditions on exercise of functions by enforcement agencies

The relevant authority may, after consultation with an enforcement agency, impose conditions or limitations on the exercise of functions under this Act by the enforcement agency.

Clause 91: Delegations by enforcement agency

An enforcement agency, or the head of an enforcement agency, will be able to delegate powers and functions vested or conferred under the Act.

Clause 92: Exercise of functions by enforcement agencies

It will be possible to adopt national guidelines prepared by ANZFA for the purposes of the Act.

Clause 93: Reports by enforcement agencies

The head of an enforcement agency will be required to furnish periodic reports to the relevant authority on the performance of functions under the Act.

Clause 94: Appointment of authorised officers

An enforcement agency will be able to appoint authorised officers for the purposes of the Act.

Clause 95: Certificates of authority

Each authorised officer will be issued with a certificate of authority, which must be produced on request.

Clause 96: Agreement and consultation with local government sector

Consultation will occur between the Minister and the LGA in relation to various matters associated with the administration and enforcement of the Act. The Minister will report to Parliament on the Minister's interaction with the LGA.

Clause 97: Offences by employers

An employer will be responsible for a contravention of the Act by an employee. It will be a defence to prove that the employer could not, by taking all reasonable precautions and exercising all due diligence, have prevented the contravention.

Clause 98: Offences by bodies corporate

A member of the governing body of a body corporate, or concerned in the management of a body corporate, will be taken to have

contravened any provision contravened by the body corporate if the person knowingly authorised or permitted the contravention.

Clause 99: Liability of employees and agents

It will not be a defence in proceedings for an offence to claim that the defendant was acting as an employee or agent of another person. However, it is a defence for person to prove that he or she was acting under the personal supervision of the proprietor of a food business.

Clause 100: No defence to allege deterioration of sample

In proceedings for an offence it is not a defence to allege that a sample of food retained for future comparison has, from natural causes, deteriorated, perished or undergone any material change in constitution.

Clause 101: Onus to prove certain matters on defendant

If it is alleged that a statement on a package or in an advertisement relating to the composition or properties of food has caused the food to be falsely described, the onus on proving the correctness of the statement will be on the defendant.

Clause 102: Presumptions

Various presumptions will apply for the purposes of proceedings under the Act.

Clause 103: Certificate evidence and evidence of analysts

This clause deals with the status of certificates of the results of an analysis carried out under the Act.

Clause 104: Power of court to order further analysis

A court may order that a sample retained under the Act be analysed by an independent analyst.

Clause 105: Court may order costs and expenses

A court will be able to make orders in respect of the costs and expenses of an incidental to the examination, seizure, storage, analysis or disposal of any thing the subject of proceedings for an offence under the Act or regulations.

Clause 106: Court may order forfeiture

A court by which a person is convicted of an offence under the Act or regulations may order the forfeiture to the Crown of anything used in the commission of the offence.

Clause 107: Court may order corrective advertising

A court may order a person convicted of an offence under Part 2 to disclose specified information to specified persons or classes of persons, or to pay for advertisements containing material specified by the court.

Clause 108: Special power of exemption

The Minister will be able, by notice in the *Gazette*, to confer exemptions from the Act or specified provisions of the Act. An exemption may be granted on conditions, and may be varied or revoked by further notice in the *Gazette*.

Clause 109: Annual report

The Minister will prepare an annual report on the operation of the Act.

Clause 110: Protection from liability

This clause provides protection from liability for bodies and persons engaged in the administration of the Act with respect to an honest act or omission in the exercise or discharge, or purported exercise or discharge, of a power, function or duty under the Act.

Clause 111: Disclosure of certain confidential information

This clause provides for the protection of information relating to manufacturing secrets, commercial secrets or working processes.

Clause 112: Disclosure of certain information

Multiple-site food businesses will have to make certain information available to members of the public in accordance with the regulations.

Clause 113: Regulations

The Governor may make regulations for the purposes of the Act.

Clause 114: Repeal of Food Act 1985

The *Food Act 1985* is repealed.

Clause 115: Savings and transitional regulations

The Governor will be able to make saving or transitional provision by regulation.

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

APPROPRIATION BILL

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

ADELAIDE CEMETERIES AUTHORITY BILL

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

No. 1. New clause, page 4, after line 10—Insert:

Application of Public Corporations Act 1993

5. The Authority is a statutory corporation to which the provisions of the Public Corporations Act 1993 apply.

No. 2. Clause 22, page 11, line 36—Leave out 'or the Treasurer'.

No. 3. Clause 22, page 12, line 3—Leave out 'or the Treasurer'.

No. 4. Clause 22, page 12, line 4—Leave out 'or the Treasurer (as the case may be)'.

MEDICAL PRACTICE BILL

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

JOINT COMMITTEE ON TRANSPORT SAFETY

The House of Assembly agreed to the resolution contained in message No. 73 from the Legislative Council without any amendment.

ADJOURNMENT

At 12.13 a.m. the Council adjourned until Thursday 5 July at 11 a.m.