

## LEGISLATIVE COUNCIL

Tuesday 23 October 2001

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

## ASSENT TO BILLS

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

Constitution (Parliamentary Terms) Amendment,  
Free Presbyterian Church (Vesting of Property),  
Graffiti Control,  
Statutes Amendment (Consumer Affairs),  
Statutes Amendment (Governor's Remuneration),  
Survival of Causes of Action (Dust-Related Conditions) Amendment,  
Trade Measurement (Miscellaneous) Amendment.

## PAPERS TABLED

The following papers were laid on the table:

By the President—

Report of Mr. Dean Clayton, Q.C., into the Evidence given to the First Software Centre Inquiry ('The Cramond Inquiry') which was ordered to be published on 19 October 2001  
Report of Joint Parliamentary Service, 2000-2001

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2000-2001—  
Gaming Supervisory Authority  
Office for the Commissioner for Public Employment  
Technical Regulator, Electricity  
The Planning Strategy for South Australia  
Transmission Lessor Corporation  
Regulations under the following Acts—  
Education Act 1972—Teachers' Registration  
Renmark Irrigation Trust Act 1936—Capital Recoveries  
Motor Accident Commission Charter

By the Attorney-General (Hon. K.T. Griffin)—

Reports, 2000-2001—  
Listening Devices Act 1972  
Lotteries Commission of South Australia  
Primary Industries and Resources South Australia  
South Australian Soil Conservation Council  
Veterinary Surgeons Board of South Australia  
Regulation under the following Act—  
Legal Practitioners Act 1981—Fees and Levies  
Rules of Court—Supreme Court—Supreme Court Act—  
Admission Rules—Sub-rule

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulations under the following Acts—  
Building Work Contractors Act 1995—Licence Fees  
Liquor Licensing Act 1997—Dry Areas—Adelaide

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

Reports, 2000-2001—  
Local Government Finance Authority of South Australia  
South Australian Community Housing Authority  
West Beach Trust

Regulations under the following Acts—  
Development Act 1993—Railway Operations  
Environment Protection Act 1993—Railway Operations  
Harbors and Navigation Act 1993—Port  
Local Government Act 1999—Rates Notices

Motor Vehicles Act 1959—P Plates  
Road Traffic Act 1961—  
Alcohol Interlock  
Emergency Step

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

Reports, 2000-2001—  
President, Industrial Relations Commission and Senior Judge, Industrial Relations Court  
State Supply Board.

## ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The **Hon. J.S.L. DAWKINS** brought up the report of the committee for the financial year ended 2000-2001.

## CROWN SOLICITOR AND SOLICITOR-GENERAL

The **Hon. K.T. GRIFFIN (Attorney-General)**: I seek leave to make a ministerial statement on the role of the Crown Solicitor and the Solicitor-General.

Leave granted.

The **Hon. K.T. GRIFFIN**: I see from yesterday's and today's press that the opposition intends to raise questions about the role of the Solicitor-General and the Crown Solicitor in relation, in particular, to the matters raised in the Cramond and Clayton inquiries. Today's *Advertiser* quotes Mr Conlon MP saying, among other things:

What is he [and I am not sure to whom he is referring] going to do about the abuse of the Office of the Solicitor-General and the Crown Solicitor?

That is an offensive and defamatory statement which is rejected. I am appalled that Mr Conlon should be so ignorant of the roles of the Solicitor-General and the Crown Solicitor as to suggest that they have in some way been partisan in the exercise of their professional responsibilities. They have not. To help educate Mr Conlon and those who may believe the false view he is promoting—

*Members interjecting:*

The **PRESIDENT**: Order!

The **Hon. K.T. GRIFFIN**:—it is appropriate for me to provide some information about their roles and responsibilities. The Crown Solicitor is a public servant employed in the Attorney-General's Department. His role, and the role of the legal practitioners employed in the Crown Solicitor's office, is to act as solicitor to the government and public sector agencies. Like other legal practitioners, the Crown Solicitor can only act on instructions from those persons who have authority to give him instructions. As a matter of constitutional responsibility, it is for the Attorney-General to instruct the Crown Solicitor. As a matter of practical reality, day-to-day instructions are usually provided by ministers, agencies or departments under the authority, usually implied, of the Attorney-General. This has always been the position with attorneys-general and governments of all political persuasions. The Crown Solicitor does not have an independent role. He cannot create his own instructions. The Solicitor-General is not a public servant: he is a statutory officer appointed by the Governor under the Solicitor-General's Act 1972.

Section 6 of the act provides that, at the request of the Attorney-General, the Solicitor-General shall act as Her Majesty's counsel and perform such other duties as are ordinarily performed by counsel. The Solicitor-General is the Crown's barrister. The Solicitor-General acts on the instruc-

tions of the Attorney-General and those members of the government whom the Attorney-General has authorised to give instructions to the Solicitor-General.

While the roles of the Solicitor-General and the Crown Solicitor are different, neither of them has an independent function. This is to be contrasted with the independent role which parliament has given to the Director of Public Prosecutions. While both the Crown Solicitor and the Solicitor-General act on instructions, they are not instructed as to what advice they give. The advice is independent.

With respect to the Motorola issues, both the Crown Solicitor and the Solicitor-General gave advice based upon instructions they had been given. There is no suggestion in the report by Mr Clayton that the advice did not represent their honest opinion on the basis of those instructions. Both the Crown Solicitor and the Solicitor-General said that those opinions would need to be revisited in the light of the newly discovered Heng letter of 14 June 1994.

There is no criticism of either of them in this. Some may read an implication into the report that neither the Crown Solicitor nor the Solicitor-General should have advised on these matters because their advice may be used for 'political purposes'. It is unlikely that Mr Clayton would make this criticism. After all, his inquiry and report was upon the instructions of the government and involved exactly the same 'political purpose', that is, to address issues which affect a government and in the course of public affairs. In any event, as I informed the Council several weeks ago, both the Crown Solicitor and the Solicitor-General act on instructions. The Premier had authority to instruct them, and the instructions he gave were lawful. It was their duty to give their independent advice: they did not have a choice about whether or not to give it.

Honourable members may recall that the Cramond inquiry commenced as the Selway inquiry. Mr Selway's instructions to carry out the inquiry were terminated after complaints from the opposition that he would not be independent. As I said at the time, that reflected a fundamental misunderstanding of the Solicitor-General's role.

There are two matters in the report that deal with the early conduct of the inquiry by Mr Selway. The first deals with the notes that Mr Selway gave to Mr Cramond at the handover. Those notes identified a number of issues where the documents that Mr Selway had seen seemed in conflict with the statements that have been made by the Premier. As Mr Clayton remarked:

The questions raised by Mr Selway were apposite and raised matters that needed to be pursued by Mr Cramond. . . His comments question the correctness of his own advice of 29 September 1998 [paragraphs 653-657].

Of course, those were early days. No witnesses had been interviewed at that time, and Mr Cramond, after interviewing the witnesses (including Mr Olsen), was satisfied as to their explanations of the issues that Mr Selway had raised. But those notes do confirm that Mr Selway was performing his duties independently and appropriately.

The second matter in the report dealing with Mr Selway's role is the discussion that he had with Mr Chapman, who was just finishing up working in the Premier's office. Some may infer from the report that Mr Clayton made a finding that the discussion was a partisan political discussion seeking to create a defence for Mr Olsen and that consequently Mr Clayton was critical of Mr Selway. In fact, there was no such finding and is no such finding. Nor could there be.

The discussion was not a formal interview. In the course of the discussion, Mr Chapman told the Solicitor-General about how clause 17 had been discovered. Obviously that information was important, and arrangements were immediately made for a statutory declaration to be sworn by Mr Chapman. He did declare it. It was the only signed statutory declaration at that time. Mr Clayton accepts the importance of that information and puts considerable weight on it. Again, that is consistent with Mr Selway acting independently and properly. I have a more detailed analysis of potential criticisms of Mr Selway, and I seek leave to table them.

Leave granted.

**The Hon. K.T. GRIFFIN:** All of this indicates quite clearly that the Solicitor-General and the Crown Solicitor have acted in accordance with their professional obligations. In my dealings with them I should say I have found them to be fearless in their advice and to act with the highest ethical and professional standards.

## QUESTION TIME

### ATTORNEY-GENERAL, INDEPENDENCE

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** I seek leave to make a brief explanation before asking the Attorney-General a question about the independence of the Attorney-General.

Leave granted.

**The Hon. CAROLYN PICKLES:** We have just heard the Attorney put in a spirited defence, I suppose, for events of the past few days, but I want to put a different perspective upon it. The Clayton inquiry report released on Friday has found that it was misleading for the former Premier to use opinions of the Crown Solicitor and the Solicitor-General—

*Members interjecting:*

**The Hon. CAROLYN PICKLES:** It was misleading.

*The Hon. A.J. Redford interjecting:*

**The Hon. CAROLYN PICKLES:** I am just about to quote it, if you would just shut up.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. CAROLYN PICKLES:** It found that it was misleading for the former Premier to use opinions of the Crown Solicitor and the Solicitor-General in the way that he did. Mr Clayton's report says:

Both opinions were based upon incorrect and limited instructions and did not address the true relationship between Motorola and the government. The opinions had been obtained by Mr Olsen's staff for the purpose of backing up the clause 17 defence. Both the Crown Solicitor and the Solicitor-General acknowledge that the opinions were obtained for a political purpose rather than the purpose of ascertaining the rights of the parties and they both wish to reconsider their opinions on the basis that their instructions were not complete or accurate.

In 1997 the Solicitor-General, Mr Brad Selway QC, authored and published a book called *The Constitution of South Australia*. In that book Mr Selway says:

The Attorney-General is legal adviser to the parliament. In giving such advice the Attorney-General is expected and required to act independently in the best traditions of the profession. The parliamentary counsel and, upon specific instructions of the Attorney-General, the Crown Solicitor and the Solicitor General are the officers responsible to the Attorney-General for the day-to-day provision of such advice.

My questions are:

1. Did the Attorney-General instruct the Crown Solicitor and the Solicitor-General to give the opinions that were released publicly by the former Premier to defend his position against opposition questions about the Motorola affair and, if not, who did instruct the Crown Solicitor and the Solicitor-General?

2. Was the Attorney-General present at any meetings with the Crown Solicitor and the Solicitor-General when they were discussing their legal opinions with the former Premier's staff?

3. Does the Attorney-General condone the giving of incorrect instructions to the Crown Solicitor and the Solicitor-General to provide opinions for political purposes?

4. What action will the Attorney-General take to ensure the integrity of the independence of the offices of the Crown Solicitor and the Solicitor-General in the future?

**The Hon. A.J. Redford:** You weren't listening.

**The Hon. CAROLYN PICKLES:** I was listening very carefully and I read it.

**The PRESIDENT:** Order! The honourable member has asked her question.

**The Hon. K.T. GRIFFIN (Attorney-General):** Obviously, the Leader of the Opposition has not listened to one word in relation to what I said about the role of the Solicitor-General and the Crown Solicitor. I identified quite clearly the way in which they acted. Mr Clayton does not find that they acted improperly. And, in any event, he could not find that they had acted improperly. They acted on instructions and, as I have indicated, when advice is sought for premiers or other ministers, the Crown Solicitor and the Solicitor-General are entitled to give that advice.

If members look at the opinions which are referred to in the annexure, volume 2, they will see that they actually endeavour to set out the instructions which they had been given and the basis upon which they gave their advice. The Solicitor-General, in particular, does indicate in his advice—this is the advice of 29 September—if you look at the first page, 'on the information available to me. The background to the matter is as follows: on the information which is available to me. . . ' He is not required to go out and act as an investigator to test the instructions which he has been given. He is entitled, as is any lawyer, to rely on the instructions and to give advice on the basis of those instructions. And then he sets out in his advice what the information is that has been provided to him upon which he has been asked to provide advice.

How many times a year, in this chamber, do we have honourable members opposite seeking free legal advice, frequently on hypothetical situations? You ask me privately, on occasions, 'What is the situation here?'—frequently based on facts about which I have no knowledge and which I have to take at face value. That is what the Solicitor-General and the Crown Solicitor have to do. They are given instructions and they advise on those instructions. But if you look at Mr Selway's—

*The Hon. P. Holloway interjecting:*

**The Hon. K.T. GRIFFIN:** No, but Mr Clayton finds that they were used in a political context. What did Mr Selway do when he was Crown Solicitor and he gave advice to Mr Bannon? Do you say that he should not have given independent advice to Mr Bannon? No! You do not say that. Mr Bannon was in power when the Solicitor-General was appointed. There is no difference between him giving us advice and giving a Labor government advice, and Mr Selway acts independently without fear or favour.

*Members interjecting:*

**The Hon. K.T. GRIFFIN:** If someone wants to give advice—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** You've leaked Crown Solicitor's advice before. The opposition has leaked Crown Solicitor's advice before. Crown Solicitor's advice is given to select committees and parliamentary committees and that is released to the public. We ordinarily, as a matter of—

*Members interjecting:*

**The Hon. K.T. GRIFFIN:** Mr Selway's appointment was not—

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Paul Holloway!

**The Hon. K.T. GRIFFIN:** Mr Selway's appointment was not a political appointment. I was happy to take advice from him when he was acting for the Labor government and came down to see me privately to talk about the State Bank and the failure of the State Bank and what they had to do to put in place measures to prevent a run on the State Bank. You were happy enough to use him on that occasion; you are not happy enough to allow him to give independent advice now.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** I do not know what instructions he was given by Mr Bannon, and I have not inquired, because when Mr Selway came to see me—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** I believed it was acting professionally. He always has as far as I am aware, working with both a Labor government as well as a Liberal government.

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Paul Holloway!

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order, the Hon. Ron Roberts!

**The Hon. K.T. GRIFFIN:** Let us get back to his advice on 29 September.

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Paul Holloway! I will not tolerate it for much longer.

**The Hon. K.T. GRIFFIN:** The Hon. Paul Holloway is off the planet.

**The Hon. T.G. Cameron:** He was hoping for an early election.

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** Well, we hope we can disappoint him on that, and I know Mr Rann is a bit uptight about that, too. Mr Rann is a bit uptight because he can see it slipping away from him.

*Members interjecting:*

**The Hon. K.T. GRIFFIN:** Why did you not move a vote of no confidence in the House of Assembly? Why did you not move a vote of no confidence? Because you knew you were going to lose it.

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** So, back to Mr Selway's advice of 29 September 1998. I have already given you an indication of the instructions which he was given and the information on which he provided that advice. The last paragraph states:

This advice is given on the basis of the material forwarded to me by the CEO, Department of Premier and Cabinet. I understand that similar material has been provided to the Auditor-General—

There is no secret about it. Are you going to say that the Auditor-General, acting on that information, may have been wrong in some of his findings?

*Members interjecting:*

**The Hon. K.T. GRIFFIN:** It continues:

... and a copy of a letter from the then Premier to Motorola dated 9 July 1996 provided to me by the Auditor-General. If any further—

**The Hon. L.H. Davis:** Listen to this, Paul.

**The Hon. K.T. GRIFFIN:** I will spell it out word by word.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. K.T. GRIFFIN:** It continues:

If any further information becomes available which qualifies any of this material I would be happy to reconsider this advice.

I cannot say it any more clearly. What do you think Mr Selway is meant to do? He is not an investigator. He takes instructions, he gives advice and he says—

**The Hon. Carolyn Pickles:** You gave him wrong instructions.

**The Hon. K.T. GRIFFIN:** I didn't give him wrong advice.

**The PRESIDENT:** Order, the Hon. Paul Holloway! I am very close to warning you. The question has been asked of the Attorney-General.

**The Hon. K.T. GRIFFIN:** If you read the material, you will see quite clearly that there can be no adverse reflection upon the Solicitor-General or the Crown Solicitor, and if you pursue the course which Mr Conlon pursued in the press today I would think that the Solicitor-General and the Crown Solicitor, if they wished to take legal action to acquire an extra room to their house or cottage, they would be very likely to do so, because the statement made by Mr Conlon today, outside parliamentary privilege, is quite obviously defamatory. It is also offensive. He talked about abuse of office.

*An honourable member interjecting:*

**The Hon. K.T. GRIFFIN:** He was not talking about me and, if he was talking about me, I tell you, there would be a writ out there by now.

**The Hon. P. HOLLOWAY:** My supplementary question is: does the Attorney accept any responsibility for the fact that the Solicitor-General was given incorrect and inadequate instructions, given that Mr Clayton states:

If Mr Cramond had heard evidence about the limited and incorrect instructions that had been given, he may not have attached the same significance to the opinions of the Crown Solicitor and Solicitor-General.

What responsibility is yours, Attorney?

*An honourable member interjecting:*

**The PRESIDENT:** Order! The question has been asked.

**The Hon. K.T. GRIFFIN:** I do not know how Mr Clayton could have made that statement, because he did not talk to Mr Cramond. If you look at the detailed analysis of potential criticisms of Mr Selway that I tabled when I made my ministerial statement, it is clear that there can be no reliance placed upon that. At page 3, it is stated:

However, it would also appear that Mr Clayton did not speak to Mr Cramond. Without talking to Mr Cramond there is simply no basis for Mr Clayton to suggest that Mr Cramond may have been misled about the issue.

It refers to paragraphs 1219 to 1220 and states:

There is nothing in the Cramond report which could lead to that conclusion. The only finding by Mr Cramond about the matter suggests that he found that the Premier did not read the contract at all when the contract was signed, but was simply told by Mr Cambridge that the contract 'drew a line in the sand' (see Cramond report at page 23). Mr Clayton is wrong when he says that 'Cramond's acceptance of the clause 17 defence was fundamental to his ultimate conclusions'.

It then refers to paragraph 685 and continues:

In fact, of course, Mr Cramond was well aware of Mr Chapman's evidence and what it meant. Contrast [803.2] [1220]. It is unfortunate that Mr Clayton did not clarify these matters with Mr Cramond. But, whatever one says of these issues, they do not impact directly upon Mr Selway.

As to whether or not I accept any responsibility for instructions which are given to the Solicitor-General and the Crown Solicitor, obviously they may report to me. I do not have the power to require them to change their advice; and so far as other ministers and agencies giving instructions frequently, I am not aware of them and therefore I cannot accept responsibility for matters about which I am not aware.

#### LEGAL ADVICE

**The Hon. R.R. ROBERTS:** I seek leave to make a brief explanation before asking the Attorney-General a question about legal advice.

Leave granted.

**The Hon. R.R. ROBERTS:** On 2 October this year I asked a question of the Treasurer along the lines of how much the government had spent on legal fees for ministers and selected backbenchers of the Crown, including the then Premier (John Olsen), the Hon. Rob Lucas, the Hon. Graham Ingerson and the Hon. Wayne Matthew, since December 1997 for a defamation case. I ask the Attorney-General to keep that question in mind when he answers my specific question about the subject with which I will now deal.

This morning some members of parliament, in their parliamentary pigeonholes, were provided with a full set of Liberal Party (SA Division) fundraising plans. I understand that the leaking of these extremely sensitive documents is the subject of a full police inquiry. However, having been supplied with these documents, it has come to my attention that one of the members of the fundraising executive of the Liberal Party is a Mr Tony Johnson, a partner of Johnson, Winter & Slattery.

As it is my intention to ask a number of questions on the subject of these documents and, so that the Council may be assured about what it is I refer to, I seek leave to table a copy of these documents.

**The Hon. K.T. Griffin:** What are they?

**The Hon. R.R. ROBERTS:** This is the Liberal Party fundraising plan—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.R. ROBERTS:** —which lays out the fundraising committee, who the donors were, who the people involved were, etc. It has been in almost every pigeonhole today.

*Members interjecting:*

**The PRESIDENT:** Order! The honourable member has sought leave to table the document. Is leave granted?

**Honourable members:** No.

**The Hon. R.R. ROBERTS:** I move formally that I have leave to lay these matters on the table.

**The PRESIDENT:** Order! I am advised that you should give a special notice of motion.

**The Hon. R.R. ROBERTS:** Mr President—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.R. ROBERTS:** I will provide that in due course.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.R. ROBERTS:** However, I do intend to ask the questions.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Roberts—

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Mr Roberts has asked for leave to make an explanation. He should get on with his explanation.

*Members interjecting:*

**The PRESIDENT:** Order! The time is running out.

**The Hon. R.R. ROBERTS:** I take your ruling on the requirement for a formal motion. I give notice now that that will occur. I note from the howls opposite that this is an indication of the new open, honest government—

**The PRESIDENT:** Order! The Hon. Ron Roberts is out of order! I will sit him down if he does not get on with his explanation.

**The Hon. R.R. ROBERTS:** I will put my question, if you do not mind, Mr President. My questions to the Attorney-General are:

1. Is the Mr Tony Johnson identified in the Liberal Party fundraising documents provided to all members of parliament this morning the same Mr Tony Johnson who has been providing taxpayer funded legal representation to the disgraced former Premier and his chief of staff, Ms Vicky Thompson, for the Clayton inquiry?

2. Can the Attorney-General now provide the Council with a full cost of legal fees accrued by both members of parliament and others who were provided with taxpayer funded legal representation before the Clayton inquiry?

**The Hon. K.T. GRIFFIN (Attorney-General):** I do not know whether they are one and the same person. It is none of my business.

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order! You have asked the question.

**The Hon. K.T. GRIFFIN:** Well, I do not know. This is the first I have heard about what you have been talking about. I have not seen the list, and I do not intend to let you put it in unless you justify what you want to do. But I have not seen the list you are talking about. So, how can I make a judgment about whether Mr Johnson who represented the Premier is the same person?

*Members interjecting:*

**The Hon. K.T. GRIFFIN:** Sorry?

*The Hon. R.R. Roberts interjecting:*

**The Hon. K.T. GRIFFIN:** You have actually.

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order, the Hon. Ron Roberts!

**The Hon. K.T. GRIFFIN:** I do not know what you want to table. Maybe it is defamatory. You may want the benefit of parliamentary privilege to protect some defamatory statements.

*The Hon. A.J. Redford interjecting:*

**The PRESIDENT:** Order, the Hon. Angus Redford!

*The Hon. A.J. Redford interjecting:*

**The PRESIDENT:** Order! We have one member on his feet.

*The Hon. A.J. Redford interjecting:*

**The PRESIDENT:** Order! I am close to warning the honourable member.

*The Hon. A.J. Redford interjecting:*

**The PRESIDENT:** If the member keeps defying the chair—

*The Hon. Carolyn Pickles interjecting:*

**The PRESIDENT:** —I will call him to order. The same applies to the Leader.

**The Hon. K.T. GRIFFIN:** I am not in a position to say yes or no. The fact is that I have not seen the documents to which the Hon. Mr Roberts is referring and I do not intend—

*The Hon. Carolyn Pickles interjecting:*

**The Hon. K.T. GRIFFIN:** That was one which could easily have been read into *Hansard*. If you want me to take up question time by reading it, I will do it. We try to be fair to let you have as much question time as you want. So far as legal costs are concerned, I have made no secret of the fact. I have answered questions in here before.

So far as this inquiry is concerned, indemnities were given to ministers. The Crown Solicitor, in accordance with the guidelines that have been in place for many years under governments of both political persuasions, made available funding for public servants and others who possibly would be the subject of some criticism. I do not mind bringing back the detail of the costs that have been incurred. I do not expect that we have all those accounts at the present time. All that has to happen is that they are certified by the Crown Solicitor and referred to the paying agency. The Crown Solicitor does not keep a running total of the bills that are required to be paid. They are payable at the usual government rates, which are much lower than those charged ordinarily by the private sector to private sector clients.

It is quite reasonable that there should be some legal representation for those who are likely to be the subject of criticism. My recollection is that in the Wiese inquiry Barbara Wiese had all her costs paid. I do not know whether that was at a reduced government rate. Her legal representation was paid for, as was the legal representation of other people who might have been the subject of criticism. I think probably Mr Jim Stitt had his fees paid as well. We tried to follow a consistent line, as followed by previous governments, but if you set up a government inquiry which will focus upon individuals—and potentially adversely—they are entitled to legal representation at the cost of the state. That is all that has happened.

So far as Mr Johnson is concerned, I come back to that point. I reaffirm that I am not able to answer whether it is one and the same person. I have not seen the document referred to and frankly I do not think it matters because the former Premier—

*Members interjecting:*

**The Hon. K.T. GRIFFIN:** It does not matter because the former Premier was entitled to take legal representation as he saw fit. That choice has been given to everybody who has been funded. It may be that some are contributors to other political parties—I do not know and I do not care. It is not a prerequisite for engaging legal representation that they should or should not be donors to a political party. If that was a prerequisite, in my view it would be wrong and inappropriate. Let us not have a double standard. Let us talk frankly about the principle that applies—and it applies across the board.

It does not matter what your political persuasion might be and, first, whether or not you vote for one party or another as to whether or not you are qualified to give legal advice and, secondly, to give it to a person who is funded by the government. We do not insist as a government that we check the bona fides and background of every lawyer engaged by government, whether for this or any other purpose. They are chosen, where the government has a say in it, on merit and according to the specialties required at the time for a particular job; and, where there are individuals funded by government for legal representation, they can make their own choice.

Let us face it: we fund for other public servants. Whether they be fire service employees or police employees, they are funded from time to time by government. We do not tell them which lawyer they should engage. We fund them and, as long as the fees charged are appropriate and according to the scale by which we judge those fees and they are certified by the Crown Solicitor, that is all we need to do.

**The Hon. R.R. ROBERTS:** I have a supplementary question. Was the former Premier represented by Mr Tony Johnson, partner in Johnson Winter & Slattery of 211 Victoria Square, Adelaide, South Australia; how was he commissioned; and did the Attorney-General have any say in who was to be commissioned to undertake these tasks for the former Premier and Ms Thompson?

**The Hon. K.T. GRIFFIN:** Obviously, the Hon. Ron Roberts did not take in one word of what I had to say.

*The Hon. R.R. Roberts interjecting:*

**The Hon. K.T. GRIFFIN:** If the Hon. Ron Roberts wants to spend question time going back over the ground that I have already covered, that is his business. But the fact of the matter is that the Attorney-General does not have a say in who might be engaged by someone else who might be funded under a government indemnity—

*The Hon. R.R. Roberts interjecting:*

**The Hon. K.T. GRIFFIN:** It does not matter whether it was the Premier or anyone else. I do not say to the Police Association—

*The Hon. R.R. Roberts interjecting:*

**The PRESIDENT:** Order! The Hon. Ron Roberts has asked a supplementary question.

**The Hon. K.T. GRIFFIN:** I do not say to the Police Association, 'You have to engage that lawyer for that police officer,' or, 'You cannot engage this lawyer for that police officer.' It does work according to the principle that, if we pick up the legal costs, provided that those costs are within the limits that are fixed by the government and they are certified by the Crown Solicitor under the Treasurer's instructions, in those circumstances, a person is entitled to make a choice as to whom he or she wishes to have represent them. It happened in relation to the Clayton inquiry, and it happened with the Auditor-General's inquiry.

*The Hon. R.R. Roberts interjecting:*

**The Hon. K.T. GRIFFIN:** Just let me finish. I do not get involved, as Attorney-General, nor does the Crown Solicitor, in making decisions about who someone should engage as his or her lawyer. The Crown Solicitor makes that decision where someone is representing the state: that is a different matter. In the De Rose Hill case, the state is represented. The Crown Solicitor makes the decision about who should or should not be engaged. But that is a totally different matter from who the Premier or anyone else should engage for the purposes of their own legal representation. It is a matter of choice for the

particular individual, as it was a matter of choice for the Premier.

## POLICE PROCEDURES

**The Hon. T.G. ROBERTS:** I seek leave to make a brief explanation before asking the Attorney-General a question about police training and procedures.

Leave granted.

*An honourable member interjecting:*

**The Hon. T.G. ROBERTS:** Yes, Legh thought he would get an early one in. According to a report in the *Advertiser* of 16 October, the city council demanded an explanation for the arrest of a young Aboriginal person, carried out in Victoria Square by, as I understand it, three, or perhaps four, policemen. The matter was reported to me by a number of sources, and I understand that a report has been made to the Attorney-General's office in relation to the arrest. It was an unfortunate circumstance where police were in the act of wrestling a young Aboriginal person to the ground, and a welfare worker, who was quite versed in the handling of such disputes in a non-confrontational way, attempted to intervene—

*The Hon. T. Crothers interjecting:*

**The Hon. T.G. ROBERTS:** No, the general way for the community to handle their problems is that, if the person knows the individual concerned, they make themselves known, and the respect that is felt between the community workers and the Aboriginal people generally is enough to allow for some sort of subdued attitude and atmosphere to prevail. But in the case where violent methods are being used to subdue individuals, unfortunately, that becomes much more difficult. This individual tried to intervene to prevent the altercation from getting out of hand, and he was forcibly detained and arrested and had to seek advice on the circumstances in which he found himself. So, in playing the good Samaritan role, the welfare worker was arrested, along with the person whom the police intended to arrest.

My questions (and I have asked them in this Council on a number of occasions) relate to police training procedures and methods in dealing with such problems. I think that we all, on both sides of the chamber, are aware of the sensitivities in trying to alter attitudes to handling difficult circumstances in relation to the square. To those of us who have been following the problems associated with the Victoria Square changed use, there has been a lot of cooperation across the board by all those who have an interest in the outcomes there. Events like this just make it difficult for all those stakeholders to stick to agreements and to arrangements that are being put in place. My questions are:

1. Has there been an investigation into this incident by the Attorney-General's office and the police? If so, will the Attorney provide details of the findings?
2. Is the Attorney-General aware of the community worker having been arrested by the police while attempting to assist the public?
3. What procedures have been put in place to provide specific training for police in relation to the Victoria Square dry zone?
4. If there have been changes, what role have Aboriginal community organisations played in the development and conduct of such training procedures and advice?
5. Is the Attorney-General aware of other incidents involving police using outmoded methods of engagement and intervention in other parts of the state? We on this side of the chamber were hoping that things were improving.

**The Hon. K.T. GRIFFIN (Attorney-General):** I do not want to comment about the specific case: I will take on notice the questions in relation to that. Quite obviously, the issue has already been raised. It may well be that there has been an inquiry by the Commissioner or a referral to the Police Complaints Authority, and I will need to take the question on notice to be able to bring back an appropriate response. In terms of police training, I will also take that on notice.

I do know that in relation to the prospective dry area in the city, particularly focused upon Victoria Square, there has been a significant amount of training of police in preparation for its implementation. That was specifically required by the government to ensure that all the players in relation to the dry area declaration understood what the law is, had some appropriate cultural sensitivity training and were properly equipped to deal with some of the people who might be breaking the law, whether indigenous people or not, once the new dry area came into operation. If I can take the questions on notice to bring back a more considered response, I will be pleased to do so.

### GOODS AND SERVICES TAX

**The Hon. L.H. DAVIS:** I seek leave to make a brief explanation before asking the Leader of the government (Hon. Rob Lucas) a question about the goods and services tax.

Leave granted.

**The Hon. L.H. DAVIS:** Members would well know that the significant tax reform of the federal government will see goods and services tax revenue flow to the states, and that is seen as a benefit to the states. Indeed, all the state Labor governments have had their hands out in great expectation of the largesse that will flow from the goods and services tax.

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order!

**The Hon. L.H. DAVIS:** However, on the weekend the leader of the federal Labor Party (Hon. Kim Beazley) and his shadow Treasurer (Simon Crean) at long last made public what they claimed was going to be the centrepiece of federal Labor Party policy for the current federal election, namely, a rollback of the goods and services tax. Obviously, any rollback of or reduction in the goods and services tax will wash back to the states, because it will reduce the revenue available to them.

It appears, from what Mr Kim Beazley said, that a Labor government, if elected, would abolish the goods and services tax on a number of items, including electricity, gas, funerals, tampons and caravan parks. There was nothing new in this; they had all been flagged before. So, there was no surprise at all in what was said. Nevertheless, any cutback in the goods and services tax, as flagged by Labor, will impact on the taxes that the state government will ultimately receive which are spent on a range of services, and goods as well. My question to the Leader of the government, who is also Treasurer of the state government, is: has the state government been in a position to do any sums on the impact of a rollback of the goods and services tax, as proposed by the federal Labor Party, given that it will reduce the revenue flowing to South Australia and, indeed, all the other states?

**The Hon. R.I. LUCAS (Treasurer):** I thank the honourable member for his question. We have commenced a genuine attempt to look at what the impact on funding available for schools, hospitals and other essential services in the state of South Australia would be should we ever be in the position

of a federal Labor government instituting its rollback policy. I would hope, perhaps by Thursday of this week, to have a better idea of what the impact will be. I think the critical thing is that, so far, we have not seen any sign, but we are still looking, of the guarantee to the states that the Leader of the Opposition in South Australia—the whingeing, whining Mr Rann—allegedly negotiated in his famous deal in Tasmania that the states would be compensated should there be changes to the GST.

As I said, we are checking all the available web sites and sources to find signs of this deal famously negotiated by the whingeing, whining Mr Rann. Thus far we have not been able to turn it up. We will keep looking over the next 48 hours. It will be a critical part of any analysis and, indeed, a critical part of any federal government projected budget surplus or deficit in relation to whether or not there is any impact of not having collected the GST, but also whether or not the states will be compensated, as Mr Rann promised would occur as a result of his famously negotiated Tasmanian declaration with Mr Beazley and other Labor leaders.

I can only conclude today's response by saying that I know that, when I raised this issue at the federal and state treasurers conference either late last year or early this year, the Labor treasurers generally, but in particular Labor Treasurer Michael Egan, went white—that is a kind way of describing it—when I asked the question about the claims that had been made by Mr Rann about compensation and whether Mr Egan was prepared to indicate, at that meeting, the commitments that Kim Beazley had given. We got no reply at all—it was something like, 'Well, you can trust us.'

**The Hon. Diana Laidlaw:** So, Labor premiers and treasurers have not endorsed Beazley's rollback?

**The Hon. R.I. LUCAS:** Well, we do not know. What we are trying to find out from Labor treasurers is whether the deal that they claim to have negotiated in Tasmania exists. When the question was put to the Labor treasurers at the federal and state treasurers' meeting, they were not prepared to provide any detail of this alleged deal that had been negotiated to protect the finances of the states.

It is a critical issue for the states and, over the remaining three weeks of this campaign—whilst, clearly, other issues will dominate public debate—this issue from South Australia's viewpoint can and must be a part of the public debate so that voters in South Australia will know whether the amount of money available for schools and hospitals is going to be reduced under a deal negotiated by Mr Rann with the federal Labor Party.

**The Hon. L.H. DAVIS:** Mr President, I have a supplementary question. Is the Treasurer aware of how the Labor Party will compensate the state government for any loss of revenue as a result of the roll back of the GST? Would it be by increasing taxation or reducing expenditure?

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order!

**The Hon. L.H. DAVIS:** I would have thought you would like to hear this, Paul. Would it be by increasing—

**The Hon. P. Holloway:** It's a federal issue.

**The Hon. L.H. DAVIS:** This is money coming to us, Paul.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. L.H. DAVIS:** My question, finally, is: would it be by increasing taxation or reducing expenditure, or a combination of both?

**The Hon. R.I. LUCAS:** I thank the honourable member for his question. We have just had an extraordinary response from the shadow minister for finance, who said that this is a federal issue. This is the man, the shadow minister for finance who is going to, hopefully he thinks, guide a Labor government, the finances of the state; with the shadow treasurer of the state saying that this is a federal issue. This is a state issue. This is the money that is coming to the state government and to the people of South Australia, and if you do not understand, if the shadow minister for finance does not understand that this is a state issue that is going to impact—

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Mr Holloway!

**The Hon. R.I. LUCAS:** Throw him out, Mr President. It will impact on the schools and hospitals and police services in this state. If he is not prepared to stand up for the people of South Australia, if he is prepared to let his leader, the Leader of the Opposition, the whingeing, whining Mike Rann in South Australia, sign away the future of the state, not negotiate a deal which looks after the schools and hospitals in South Australia, then he stands condemned for that particular position. But he should not come into this Council as he has done this afternoon and say that it is a federal issue, and the *Hansard* will record that that is what he indeed said. We know that last time he tried to squirm his way out of what he actually said in this chamber, but the *Hansard* records that he said, 'That's a federal issue.' He and the whingeing, whining Mr Rann stand condemned.

*The Hon. P. Holloway interjecting:*

**The PRESIDENT:** Order, the Hon. Paul Holloway!

**The Hon. R.I. LUCAS:** I ask the Deputy Leader of the Opposition to withdraw and apologise for the use of the unparliamentary term 'lies', and please do not pretend you did not say it this time.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Paul Holloway has been asked to withdraw the word 'lies'.

**The Hon. P. HOLLOWAY:** Yes, I will withdraw, Mr President, and insert the words 'misleading information'.

*Members interjecting:*

**The PRESIDENT:** Order! The honourable member has withdrawn.

**The Hon. R.I. LUCAS:** I thank the Deputy Leader for his apology for his unparliamentary language. This is a critical issue and, as I said, I hope by Thursday of this week we will be in a position to indicate how it does impact on states like South Australia, and it could potentially impact on the money available for schools, hospitals and other public services.

#### CLAYTON REPORT

**The Hon. IAN GILFILLAN:** I seek leave to make a brief explanation before asking the Attorney-General a question regarding Dean Clayton QC's Motorola report regarding government consultant Ms Alexandra Kennedy.

Leave granted.

**The Hon. IAN GILFILLAN:** From the report it is indicated in Ms Kennedy's 15 January 1999 statutory declaration, a statement she declared and signed as a true and correct record of events, that she states (in clause 8):

I have neither seen, nor had access to, the documents held at the State Administration Centre relating to Motorola or the Software Centre Inquiry. In fact, I was not aware that such documents were being held at the State Administration Centre at the time (I recall that the media had actually reported that they were in the Premier's office at Terrace Towers). Accordingly, I am not able to say whether or not

I was in the same room, or on the same floor, as the documents on this occasion.

Mr President, I draw attention to paragraph 1155 of the Clayton report, as follows:

On 5 July 2001, a letter was forwarded to Ms Kennedy by this inquiry drawing her attention to the evidence of Mr Nelson, Mr Chapman and Ms Stewart, Ms Matthews, Ms Chenoweth, Ms Brooks, Ms Cassetta, Ms Hook and Ms MacIntosh.

Ms Kennedy was advised that their evidence might lead to a finding that paragraph 8 of Ms Kennedy's statutory declaration contained evidence which was misleading, inaccurate or dishonest in material particulars. A transcript of the relevant evidence was made available to Ms Kennedy. She was invited to place before the inquiry evidence to counter the possible finding and to make submissions.

Dean Clayton QC, in his report on her declaration (paragraph 1206) entitled Summary of Ms Kennedy's Evidence, stated:

For the reasons set out above paragraph 8 of the statutory declaration of Ms Alex Kennedy made 15 January 1999 was misleading, inaccurate and dishonest evidence. Contrary to the statement in her statutory declaration on 30 November 1998 and 1 December 1998 Ms Kennedy saw and had access to documents held at the State Administration Centre relating to Motorola. She was in the same room as the documents on those days and must have known she was in the same room as the documents. It was misleading to say that she was not aware that such documents were held at the State Administration Centre at the time.

Statutory declarations lie under the purview of the Oaths Act, which states in part 3, Statutory Declarations, section 27(1):

Any person who wilfully makes any declaration by virtue of this part, knowing that declaration to be untrue in any material particular, shall be guilty of an offence, and shall be liable, upon conviction thereof, to be imprisoned for any term not exceeding four years, with hard labour.

It was reassuring to hear a little earlier today the Attorney-General spelling out the honourable duties and the independence of his office upon which action in these matters the public and this parliament rely. My questions to the Attorney are:

1. Is he aware of these statements contained in the Clayton report?
2. Will he alert the police and/or the Department of Public Prosecutions to the alleged offence by Ms Kennedy; if not, why not?
3. Can he inform the Council whether a concerned citizen could lodge a complaint which would result in further investigation of the alleged offence were such a citizen motivated to do so?

**The Hon. K.T. GRIFFIN (Attorney-General):** I am aware of the statements that the honourable member read out. They are statements to which I am giving consideration. In relation to the third question, anyone can do anything. The report is public, anyway. I think the point needs to be made that Mr Clayton has not made any finding of criminality.

*An honourable member interjecting:*

**The Hon. K.T. GRIFFIN:** He has not. It does not matter whether or not he was asked to. My experience with any inquiry is that, if there is evidence of criminality, that is always drawn to the attention of the person or party to whom the inquirer reports. You do not have to cover those sorts of things in your terms of reference. It is a bit bizarre to suggest that we must have specific terms of reference which say, 'You must identify whether there is any criminal misbehaviour.' He has not found anything and he has not suggested that there ought to be any further investigations or that anything further needs to be done about that. All I say is that I am aware of the reference to which the honourable member referred and I am certainly giving consideration to it.



**The Hon. IAN GILFILLAN:** As a supplementary question, does the Attorney agree that it is part of the responsibility of his role upon consideration to take action on his own motion to institute proceedings or further investigation of such allegation?

**The Hon. K.T. GRIFFIN:** Again, it is a fundamental misunderstanding of the role of the Attorney-General. The Attorney-General does not investigate breaches of the law, nor does the DPP. The DPP does not do that: it is the police.

**The Hon. P. Holloway:** Who does?

**The Hon. K.T. GRIFFIN:** It is the police. If you do not know that, there is something wrong with you.

*The Hon. P. Holloway interjecting:*

**The Hon. K.T. GRIFFIN:** I am not going to make any comment about what I may or may not have done in the past. The fact of the matter is that the DPP is not an investigating officer. The DPP determines whether or not there should be a prosecution generally in indictable matters and then takes action accordingly. Any investigations in our system are undertaken by the police or, if it is a fisheries offence, fisheries inspectors and so on.

It is all very well to start throwing around questions about the role of the Attorney-General. The Attorney-General has no role in relation to the institution of most prosecutions. If you do not know, you should know that the Director of Public Prosecutions Act actually makes the DPP independent. So, the DPP can be given directions in only very limited circumstances, and those circumstances are generally of a policy nature. My predecessor Chris Sumner gave some directions to the Director of Public Prosecutions, and those directions were given on policy issues and not on specific cases. From time to time information goes to the DPP or the police, as the case may be.

The other thing is that any citizen can refer any matter to the appropriate authorities if they wish to do so. I have already indicated that, so far as those issues raised by the Hon. Mr Gilfillan are concerned, I am giving consideration to what is an appropriate response. That is as far as I can take it.

**STATE BICYCLE FUND**

**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 the State Bicycle Fund.

Leave granted.

**The Hon. J.S.L. DAWKINS:** I understand that the recently released State Bicycle Fund will result in a total of \$2 million being invested in cycling projects across South Australia. This investment incorporates dollar for dollar expenditure by 30 local government bodies around the state. Will the minister inform the Council of the details of the projects that will benefit from the State Bicycle Fund?

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** This government has taken a very high profile on the promotion of cycling across this state, not only through Transport SA in conjunction with local councils but also through recreation and sport and the human services portfolio. The government recognises cycling as a legitimate form of transport as well as being most important for health and fitness, recreation and sometimes even fun. I seek leave to incorporate in *Hansard* a statistical table outlining the State Bicycle Fund 2001-2002 project allocations by local councils, project type and the allocation of funding.

*Members interjecting:*

**The PRESIDENT:** Order! Does the minister assure me that it is purely statistical?

**The Hon. DIANA LAIDLAW:** Yes, sir. It is a table. Leave granted.

2001-02 State Bicycle Fund Council summaries by project type		TSA Allocation	
Council	Project type		
Adelaide	Bicycle Lanes		
	Bicycle parking		
	Coordinator salary		
	Encouragement programs		
	River Torrens Linear Park signage upgrade		
	Shared use path—sealed	\$154 870	
	Alexandrina	Bike Ed	
		Shared use path—sealed	28 900
	Barossa	Implement LABP	\$10 000
	Barunga West	Develop LABP	\$4 000
Campbelltown	Shared use path—sealed including bridge	\$50 000	
	Bike ED		
Charles Sturt	BikeDirect network improvements	\$38 300	
	Shared use path—sealed	\$29 630	
Cleve	Shared use path—sealed	\$10 375	
Coorong	Implement LABP	\$16 475	
Copper Coast	Shared use path—sealed	\$19 525	
Franklin Harbour	Bicycle parking		
	Coordinator salary		
Holdfast Bay	Encouragement programs		
	Shared use path—sealed		
Implement LABP	Bike Ed	\$84 975	
	Shared use path—sealed	\$25 230	
Kingston	Bike Ed		
	Coordinator salary		
Marion	Encouragement programs		
	Review LABP		
Shared use path—sealed	Bike Ed	\$94 300	
	Shared use path—sealed	\$18 400	
Mitcham	Shared use path—sealed	\$18 400	
Mount Gambier	Transport SA road treatment	\$6 000	
	Implement LABP	\$40 000	
Murray Bridge	Bicycle parking		
	Bike Ed		
Onkaparinga	Bicycle lane		
	Coordinator salary		
Encouragement programs	Shared use path—sealed	\$123 930	
	Port Adelaide		
Enfield	Bicycle lane		
	Bicycle parking		
Encouragement programs	Bike Ed		
	Bikedirect network improvements		
Coordinator salary	Shared use path—sealed	\$34 050	
	Implement LABP	\$30 000	
Port Augusta	Shared use path—sealed	\$100 000	
Port Lincoln	(subject to successful community consultation)		
Prospect	Bicycle route		
	Bicycle lane	\$3 025	
Roxby Downs	Bike Ed	\$8 700	
	Bicycle lane		
Salisbury	Bike Ed		
	BikeDirect network improvements		
Encouragement programs	Shared use path—sealed		
	Bicycle lane	\$36 550	
Streaky Bay	Shared use path—sealed	\$17 620	
	Bicycle parking		
Tatiara	Bicycle lane		
	Bike Ed		
Coordinator salary	\$28 575		

Council	Project type	TSA Allocation
Tea Tree Gully	Shared use path—sealed River Torrens Line Park path improvements	\$33 000
Unley	Bicycle parking Bike Ed Bicycle route Coordinator salary	\$18 300
Wattle Range Council	Bicycle route Bicycle parking Coordinator salary Shared use path—sealed River Torrens Linear Park signage upgrade	\$10 000
West Torrens	Bike Ed Coordinator salary Encouragement programs Shared use path—sealed	\$104 300
Whyalla	Bike Ed	\$11 600
Total *30 councils		\$1 190 630

*The Hon. T.G. Roberts interjecting:*

**The Hon. DIANA LAIDLAW:** Actually, some of the Hon. Mr Roberts' energy might be better expended riding a bike rather than on some of the questions he is asking in this place. He might like to join me this Friday, which is designated as 'No Car Day'. What about travelling to the city with me on 'No Car Day'?

**The Hon. R.R. Roberts:** Take a tandem!

**The Hon. DIANA LAIDLAW:** As long as I am in control. I do not mind taking a tandem, but I do think—

*An honourable member interjecting:*

**The PRESIDENT:** Order, the Hon. Ron Roberts!

**The Hon. DIANA LAIDLAW:** —the Hon. Mr Roberts could do with a bit of fun and sense of humour, so perhaps a cycle ride could be recommended, and I will give him more—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. DIANA LAIDLAW:** We could get rid of some of that hot air on the bicycle. I will give you more information about Friday and about Velofest in general, which is the only Australian celebration expo of cycling in the country. It is an important program and I have to acknowledge that the government dollars provided for this state bicycle program are matched by council grants. A very large commitment is made to cycling by local councils across the state, city and metropolitan area and, further, to the education of primary school children through Bike Ed, which is undertaken by Bicycle SA. In terms of safe cycling for kids, both on the roads and the footpaths and for their long-term enjoyment of cycling, it is an important project and I thank the honourable member for his question. I am sure he is fit enough to cycle to work on Friday, even from Gawler (or he could bring his bike in by train free of charge and ride from the railway station to Parliament House). There are lots of avenues for cycling opportunities in this state and I hope more members will utilise those opportunities in future.

#### RAPE

In reply to **Hon. SANDRA KANCK** (26 September).

**The Hon. K.T. GRIFFIN:** I supply the following information in answering the supplementary question about the percentage of judges who attend educational courses available to the judiciary and attendances. The Chief Judge has informed me that the participation of Judges of both the District and Supreme Courts is extremely high. Formally recorded attendances for judges are however not available. In the Magistrates Court, 31 of the 36 Magistrates (86.1 per cent)

have attended at least one formal training session during the last 18 months, with some attending two or more.

Some programs are organised by the courts themselves and are designed specifically for judicial officers, while others are seminars organised by outside bodies for members of the judiciary and/or the legal profession as a whole.

Attendance by judges, masters and magistrates at seminars that are organised by the courts themselves is very high. However, the number who can attend seminars run by other organisations will depend on factors such as the cost of registration, the cost of travel and accommodation if it is interstate, and, depending on timing, how many judicial officers can be spared from court duties to attend.

There are many conferences and seminars and it is not practical to detail them all. Some of them are attended by individual judges, masters and magistrates of all courts. Occasionally, there are lectures and other presentations by visiting academics or notable speakers on matters connected with the law which judicial officers attend. In particular, the SA chapter of the Australian Institute of Judicial Administration (AIJA) organises sessions of that type which are very well attended.

The following list is not exhaustive but it does contain major conferences and seminars over the last 18 months. They are divided into those organised by the courts themselves and those organised by other bodies.

#### Programs organised by the courts

- Each year the District Court conducts a seminar for judges and masters. The last two were in April 2000 and March 2001. Topics at those seminars included:

- the Parole Board
- developments in the criminal law
  - multiple accuseds: severance of counts and separate trials
  - accused not giving evidence
  - relationship evidence
  - issues concerning identification evidence and directions to juries

- reform of criminal trial procedures

- Drug Court Pilot Program

- Courts Administration Authority issues

- Aboriginal Cultural Awareness Program.

As a follow up to the Law and Justice Conference at Umuwa in May 1998 when judges, masters, magistrates and some court staff visited the Pitjantjatjara Lands, there was a weekend seminar held in conjunction with the Aboriginal community in Port Augusta in June 2000.

- Courts Consulting the Community Conference.

In November 2000, representatives of the judiciary of all State courts and their staff met with community representatives in a 1½ day forum at the Festival Centre. In all, there were 105 present; 13 judges and magistrates, 17 court staff and 75 community representatives who included victims of crime, business (large and small), members of Parliament, media, local government, insurance industry, government departments, youth, migrant groups, Aboriginal people, radio talk back hosts, publicans, etc. There was considerable publicity about this.

- Each year there is a full day Judicial Education Seminar that involves all South Australian judges and magistrates. Topics at the seminar in November 2000 included:

- Operation of specialist courts:

- Drug Court
- Domestic Violence Court
- Mental Impairment Court
- Nunga Court

- functions of the Public Advocate

- reforms of the criminal justice system

The next joint seminar will be held in November 2001 and topics are:

- update on developments for a National Judicial College
- judicial scrutiny of language
- international criminal courts: limits and possibilities
- judicial accountability: models and procedures
- current Courts Administration Authority issues

Courts will not sit on this day to allow maximum attendance.

- The Magistrates Court has developed a program of professional development for the magistracy. This includes specifically developed programs and encouragement for magi-

strates to attend conferences and other training opportunities. New magistrates undergo an orientation program.

Examples of some of the conferences attended include the Australian Institute of Judicial Administration Magistrates Conference, the Australian Justice and Family Violence Conference, they have also attended seminars on Aboriginal cultural awareness, carried out mediation training through LEADR, taken part in a Domestic Violence Awareness program, and looked at new developments in DNA and regular updates on criminal law.

- Every two years there is a conference of the District and County Court Judges of Australia. The last one was held in Adelaide in June 2001 over four days. Topics at business sessions included:

- a study of alternative futures—the law and society
- what judges need to know about DNA
- developments in pre-trial procedures in the criminal courts
- the querulous litigant
- restorative justice, with reference to experiences in New Zealand and in North America
- directing juries on identification
- judicial ethics
- jurors—what do they say?
- judicial bias.

- Each year there is a conference of the Federal and Supreme Court Judges of Australia. The last one was held in Hobart in January 2001 over four days. Topics at business sessions included:

- Federation: political, economics, legal and social perspectives
- environment law and public law, with a focus on treaty issues in the Antarctic
- the role of a Chief Justice
- unconscious prejudice
- litigants in person
- criminal law and drugs
- East Timor

#### Conferences/Seminars Run By Other Organisations

- Each year there is a Judicial Orientation Program over a period of five days, which is run jointly by the AIJA and the Judicial Commission of NSW for newly appointed judges from courts around Australia and, in particular, the Federal, Supreme and District Court Judges of this State. The next seminar is to be conducted later this month. Topics include:

- court room issues
- judicial conduct
- time management
- psychological and physical health
- computers as research and management tools
- evidence
- assessing the credibility of witnesses
- dealing with unrepresented litigants
- social awareness: including migrants, interpreters, ethnicity and gender
- sentencing
- alternative dispute resolution
- decision making.

- The AIJA conducts an annual conference and topics at the conference in August 2001 included:

- UN Human Rights Treaties
- interpreters for indigenous people
- contemporary issues in the law of contempt

- Each year the Judicial Conference of Australia runs a Colloquium attended by Judges of the Federal, Supreme and District Courts and Magistrates. This year it was held in April and sessions included the following:

- address on current issues facing the judiciary by the Chief Justice of Australia
- discretion in sentencing
- judicial independence
- whether judges should speak out publicly on issues
- a half day meeting with an indigenous community at their township near Uluru

- In August 2001 there was a two day forum at Nhulunbuy on Indigenous Australians and the Criminal Justice System as part of the 3rd Annual Garma Festival of Traditional Culture organised by the Youthu Yindi Foundation. We were able to send two judicial representatives from South Australia.

- In September 2001 there was a two day seminar on DNA evidence organised by the South Australian Attorney-General's Department and the Director of Public Prosecutions, which a number of members of the judiciary attended.

Steps are being taken by SCAG and the Australian judiciary as a group to set up a National Judicial College which is designed to provide continuing education to all judicial officers and will supplement programs already provided by the courts, Federal, State and Territory. These plans have now advanced to the point where the Board of Management is in the process of being selected by the heads of jurisdictions.

There is regular contact between the courts of SA and representatives of various community groups such as the Victim Support Service, Yarrow Place and Aboriginal groups, in the course of which issues of mutual interest and concern are discussed.

### NAIRNE PRIMARY SCHOOL

**The Hon. T.G. CAMERON:** I seek leave to make a brief explanation before asking the Minister for Urban Planning a question about traffic congestion issues surrounding Nairne Primary School and Saleyard Road, Nairne.

Leave granted.

**The Hon. T.G. CAMERON:** A public meeting called by concerned residents was recently held in Nairne to discuss traffic congestion issues surrounding the Nairne Primary School and Saleyard Road, Nairne, where the school is situated. Nairne Primary School has a student enrolment quickly heading towards 450, and issues of traffic congestion surrounding the school have existed for many years. The issue concerns the fact that, during peak student drop and collection times at Nairne Primary School, extreme traffic congestion is experienced by parents and students for the following reasons. Saleyard Road is a no through road, so vehicles cannot drive through to a separate exit route after dropping off or picking up students. Vehicles must perform U-turns of various types under heavy traffic congestion, causing consistently dangerous situations to be experienced by students and other vehicles. Very few residents live close enough (due to rural living, travelling distances is normally encountered) for students to walk or ride bicycles to school.

The student and township population is still steadily growing, such that projected student numbers will be reached and perhaps overtaken in a relatively short period of time, causing further traffic congestion. There has been a proposal from a landowner adjacent to the school to develop land for domestic dwellings of as yet undetermined style, including an undertaking from the developer to provide a through road as part of the development. The development depends on a PAR being executed and approved by the minister. The district council of Mount Barker would then need to approve the development application under the guidelines provided in the council's 'Managing Sustainable Growth' report.

It would appear that a certain amount of buck-passing is going on with this issue, with the local council and residents concerned that the current deadlock may never be resolved. I am informed that the government has implied that because it is a secondary road it is under the council's jurisdiction. DETE cannot do anything because it does not build roads, and council cannot proceed with the road as it comes under a proposed residential development prohibited by DCMB's sustainable manageable growth guidelines and is also not approved under the current PAR for Nairne.

The meeting was informed that the traffic management studies have previously been completed but that nothing seems to have been done with the results.

**The Hon. Carolyn Pickles:** Time.

**The PRESIDENT:** The honourable member should ask his question as time has expired, unless the minister wishes to extend.

**The Hon. T.G. CAMERON:** I need only 15 seconds. Once again various government departments cannot seem to coordinate their collective interests—

*The Hon. Diana Laidlaw interjecting:*

**The Hon. T.G. CAMERON:** I have outlined those previously.

**The Hon. Diana Laidlaw:** Did you say ‘government departments’?

**The Hon. T.G. CAMERON:** Yes—and they are more interested in buck-passing and blaming each other than actually achieving an acceptable outcome for residents. State government appears to have pushed the responsibility for this on to local government, without actually giving it the power to resolve associated issues effectively. My questions to the minister are:

1. Considering the length of time this issue has been going, what actions are being taken to break the current logjam to ensure that the children of Nairne are able to safely access their school?

2. Will the proposal from the landowner adjacent to the Nairne school be given PAR approval by the minister so a through road can be built?

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I have agreed, but reluctantly, to involve myself and Planning SA in investigating a PAR for this area. That undertaking to council, the school and local residents does not necessarily imply that a private landowner will gain any advantage from that undertaking to investigate the PAR. I take high exception to the suggestion that the government—and by that means I suspect the honourable member means me—move that this matter be dealt with by local government.

*The Hon. T.G. Cameron interjecting:*

**The Hon. DIANA LAIDLAW:** I am not sure where else in government you were suggesting that the cap fits, but I can say that government is time and again dealing with issues that local government finds too hot to handle. Local government insists on planning rights and insists on saying that it is best to deal with local issues at a local level. Put it to the test, as with an issue about a local road, and it is too hot for it to handle.

It has come to my attention that this is the second time the council has asked me to get it out of hot water and undertake a ministerial PAR. I have said that I will investigate undertaking such a PAR. In the meantime I must admit that there is one government agency that does not exercise its full responsibilities in matters such as this and that is the Education and Children’s Services Department.

I have written to the minister indicating that one cannot go ahead and simply increase school sizes and do all the things adjacent to a school within a boundary of a school and have no regard for the impacts outside that school and then simply leave the local council or, in this instance, me, with the urban planning and transport portfolios, to pick up all the implications. Certainly the local people are stirred up and I am anxious about the safety of school children. I will investigate undertaking this PAR because I agree with the honourable member that it has reached a stalemate. I will try to get everybody out of it by undertaking this, but I strongly indicate that my undertaking does not necessarily imply that there will be any advantage to any landowner in terms of

residential development of adjacent land to the school. I make that quite clear. My undertaking to investigate the PAR is not to anybody’s particular advantage but based solely on the safety of the school children.

I also admit that this is the third issue in the local Mount Barker council area where, in my view, there has been a lack of clout and courage in planning by that council. That council has had an acting planning officer—

*The Hon. T.G. Cameron interjecting:*

**The Hon. DIANA LAIDLAW:** That is right, but that council has had an acting planning officer for too long, yet it is an important council with a big area of responsibility and a growing area. It has to put a priority on planning. I would urge very strongly—my recent letter to the council was more subtle than this, but I will say it to members of parliament—that the council put a priority on planning. Too many instances are arising, including organic waste, buffer zones around sites, this issue with Nairne and the industrial zone placed on the wrong side of the city and, therefore, people now want another road and they are trying to get it from the state government. The council has to understand its area and it has to start acting responsibly in planning its area and, as a matter of urgency, it has to appoint a most able planner and focus on planning issues across council.

Of course, it is the same council that had the foundry issues. Matters continue to arise in this council area, and I think that people living in the area deserve better. The councillors also deserve better than serving a council that does not have the best advice that it can obtain on planning issues that are—and I know this from experience—very difficult litigious issues to work through. Council residents deserve better than having an acting planning officer, as has been the case at Mount Barker for too long—

*The Hon. T.G. Cameron interjecting:*

**The Hon. DIANA LAIDLAW:** I would like to have a provision in the Development Act. A number of times councils ask the government to do their work, and we cannot even charge them for undertaking work that is their responsibility. They seek to pass the buck all the time—

*Members interjecting:*

**The PRESIDENT:** Order! This is a very extended question time.

**The Hon. DIANA LAIDLAW:** —and will not even contribute to the cost. In fact, I am so angry that I am very tempted to amend the Development Act.

**An honourable member:** I will support it.

**The Hon. DIANA LAIDLAW:** Thank you. It is a good way of doing business.

#### TOURIST BUSES

In reply to **Hon. IAN GILFILLAN** (3 October).

**The Hon. DIANA LAIDLAW:**

1. The Passenger Transport Board (PTB) has given approval for Adelaide Tour City Sightseeing (ATCS) to use the bus zone (VS7) in Victoria Square as a set down and pick up point while operating the city sightseeing service. Should Adelaide Explorer seek a similar approval then the PTB would give due consideration to any request received.

2. The PTB was not requested to endorse the sign ‘Official Tour of City of Adelaide’ which appears on the rear of ATCS vehicles. Approval of private bus livery is not an area within the PTB’s responsibilities. In regard to the question regarding misleading advertising this is an issue that should be raised with the Adelaide City Council.

3. The PTB has given approval for ATCS to display A5 size signage at some of its city bus stops indicating that those stops are pick up and set down points for the City Sightseeing service. Should

Adelaide Explorer seek a similar approval then the PTB would give due consideration to any request received.

#### URBAN CONSOLIDATION DEVELOPMENT

In reply to **Hon. T.G. CAMERON** (31 May).

**The Hon. DIANA LAIDLAW:** The matters you have raised have been investigated in so far as they are relevant to the City of Burnside's administration of the Development Act 1993. However, the majority of the matters appear to relate to a dispute among neighbours and not to activities that are within the ambit of the Development Act 1993.

Matters relating to damage to property and compensation need to be taken up with the courts and are civil matters between parties.

With respect to the pruning of the trees, I am advised that the City of Burnside refused the removal of the trees and the applicant, Ms Case's neighbour, appealed that decision. At the appeal there was some compromise reached and maintenance pruning was undertaken by Ms Case. Council's manager of Parks Administration undertook an assessment of the health of the Claret Ash trees at the centre of this dispute, and concluded 'that they had passed their useful life expectancy and contained borers, stress fractures and major dead wood'. Council subsequently approved an application by Ms Case's neighbour to prune those branches that were hanging over the property.

In relation to the fence between the properties and issues of swimming pool safety, I am advised that following discussions between Planning SA and the council a fence has now been erected.

While there is some argument about the level of cooperation from the developer and Ms Case, it would appear from the investigations undertaken by Planning SA that the Council has acted appropriately in its administration of the Development Act.

#### SCHWARZ, Mr C.

**The PRESIDENT:** Before calling the Treasurer, I inform honourable members that Chris Schwarz's wife has just given birth to a son whom they have named Connor. I am sure that all honourable members will join me in congratulating Chris and his wife. We hope to participate in the wetting of the baby's head at some stage.

**An honourable member:** Hear, hear!

#### SITTINGS AND BUSINESS

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

That standing orders be so far suspended as to enable question time to be extended by one hour to enable questions to be asked and replies given relating to the report of the Auditor-General 2000-01.

Motion carried.

#### STATE BUDGET

**The Hon. P. HOLLOWAY:** My question is directed to the Treasurer. The Auditor-General's Report (Part A, page 22) points that out that, if we adjust for abnormal one-off factors, the underlying budget for the four years 1997-98 to 2000-01 was a deficit of \$119 million, and that this has been funded by an increase in net debt. In addition, the Auditor-General points out as follows:

... in recent history projected budget outcomes have not been achieved and, in fact, persistent, higher than budgeted deficits have been incurred.

In light of these comments by the Auditor-General, what assurances can the Treasurer give that the 2001-02 budget is on track and that the underlying budget outcome will not result in higher deficits and further increases in net debt?

**The Hon. R.I. LUCAS (Treasurer):** As with most of these questions, I am happy to give an initial response and, if I feel that I can usefully add something more by way of written response, I will endeavour to do so. Is the member

referring to page 22, 'Persistent past deficits (before adjusting for abnormals)'?

**The Hon. P. Holloway:** That's right.

**The Hon. R.I. LUCAS:** It seems to be an unusual way, from the government's viewpoint, to be endeavouring to make a judgment about the budget's underlying position. It is certainly good budget practice to adjust for abnormals. There clearly has been a long history with respect to state and federal governments (I cannot attest to the fact in every one of them, but in a good number of others) where this practice of adjusting for abnormals is commonplace, because it gives one a good idea—for example, whether it be on the positive side or the negative side—as to how the underlying process of running the budget is going.

From my recollection of this particular analysis, I think the problem is that the Auditor-General looks at the analysis before adjusting for abnormals only in relation to those elements in the accounts that can add to the deficit during the particular financial year. My recollection is that there is a number of other examples where the government, using accepted accounting provisions, could have had abnormals that would have given a more positive element to the surplus deficit position; that is, to have given a stronger surplus position to the government accounts. We have not done so on a number of those occasions because we believe that there should be this adjustment for abnormals.

I think that, if the Labor Party is indicating that it will no longer adjust for abnormals in terms of its annual presentation of budget accounts, I would be interested to see that policy pronouncement from the opposition—or, indeed, the shadow treasurer. As I said, it is a generally accepted provision that one should look at the underlying provisions.

In relation to the 2001-02 budget, certainly, on the available evidence provided to me (and, admittedly, we are only three months or so into the financial year), the budget is on track. There are, obviously, some elements where we are seeing higher costs than might have been expected. In other areas, we have seen some higher revenues than might have been expected. The strong property market has seen some signs (we will have to wait and see whether it continues) of stamp duty collections from the residential conveyancing market; and there are certainly some signs that the projected level of gaming machine revenue might be slightly higher this year. That will, of course, depend in part on the success or otherwise of the tough new laws which were introduced by a majority of both houses of the parliament and which began operating from 1 October. Obviously, in the first three months those laws were not operating and, therefore, their potential impact in the long term on the revenue base of the state has not yet been able to be estimated. We will have to wait and see, obviously, until the latter part of the financial year before we can make that judgment.

With those usual acknowledgments that some budget expenditure items are either higher or lower and some revenue items are either higher or lower, overall, after three months, the budget is broadly on track. I will be able to bring down a budget result paper, I think, some time next month, which will provide the final wrap-up of the year 2000-01 in terms of deficit or surplus. It is, pleasingly, looking likely that, contrary to some of the promises made by the shadow treasurer last year that the 2000-01 budget would be a deficit budget, the government will bring down a small surplus budget which, again, demonstrates its capacity to balance its budget whilst, at the same time, significantly reducing its debt.

### HOLDFAST SHORES

**The Hon. M.J. ELLIOTT:** The questions I wish to ask relate to the Glenelg Holdfast Shores development. A number of concerns have been raised about that development in the past. One related to the impact on sand movement, which the government is now telling us is costing us \$1.7 million a year. Is the Minister for Transport going to handle this question?

**The Hon. Carolyn Pickles:** She's not here.

**The Hon. M.J. ELLIOTT:** I think it can happily be answered by the Treasurer: I am sure he will be happy to answer it. As I said, one issue related to sand movement, and that is now costing the state \$1.7 million. Looking at the Auditor-General's Report today, he has touched on matters that were the other concern; that is, whether or not the state is getting the best deal out of the Holdfast Shores development, without arguing about its actual form in terms of building on the beach, etc.

According to the Auditor-General's Report, the project master budget initially saw the government having a return of \$9.66 million. I understand now that the expectation is that the amount is \$3.7 million. In looking at this diminution the Auditor-General has raised a couple of issues, the first being around the major project variation. The Auditor-General appears to suggest that, as a consequence of the major project variation, should any land sale occur it can only happen to the developers who have been involved so far. The clear inference in what the Auditor-General is saying is that there could have been, and perhaps should have been, rather than being involved in the development as a co-developer, if you like, exploration of the idea that a simple land sale might give a better return.

Indeed, even the values of the land currently being ascribed have not been put before independent valuers for some years. Further, in relation to this development, the Auditor-General looked at questions of monitoring of costs. I note that in his concluding comments he said:

In my opinion it is imperative that enhanced contract management arrangements be implemented to monitor the ongoing project fees and expenses to minimise any further diminution in return to the government.

My questions are:

1. Can the minister explain how it is that the return to the government has diminished from \$9.66 million to \$3.7 million, despite the fact that the land values in that area significantly exceed that amount?

2. What has the government done in relation to contract management arrangements to ensure that the state does not suffer further loss?

**The Hon. R.I. LUCAS (Treasurer):** I will take that question on notice, refer it to the minister and bring back a reply.

### GAMBLING

**The Hon. NICK XENOPHON:** The Treasurer has made reference to the tough new gambling laws introduced early this year. I think that he had his tongue in his cheek at that time. In relation to the references he made that he was not sure what the impact would be on revenue from poker machines with respect to the new gambling legislation, can the Treasurer indicate whether there were estimates given to him or to his department as to the impact of the passage of the government's new gambling legislation and the various

initiatives contained therein on the government's gambling revenue?

**The Hon. R.I. LUCAS (Treasurer):** I think that 'estimates' is probably the wrong word to use. I think the simple answer, although I will check with Treasury, is that it did not really know and it does not believe that anyone knows. I think we did make a provision, but it was not on the basis of an estimate. Frankly, when you look at the tough new laws, I do not think that anyone is able to say about this particular change—as for example when ultimately the cashout provision from the ATM machines was introduced—that there is any way of accurately estimating what impact that might have on gambling behaviour in establishments.

So there is no estimate, professionally done or otherwise, of the impact, but we did make a modest provision in relation to it. At the time we were doing this—and the honourable member might help me—we were probably doing it prior to when we actually signed off.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** It might have been. At the time we were doing this, probably in nailing the final estimates, it would have been before we finally signed off on the bill in the parliament. So, probably at that stage we would have had a rough idea of what was going in the bill, what was being suggested, but not knowing final detail and the form of the final package. Even if we had, the answer would have been the same. It really is impossible when you look at that bill to work out what the impact might be.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** I can take advice on that, but it was a modest provision; it was some millions. I think we have collected close to \$200 million, above or below. It was some millions, but how many I would have to check. As I said, it was not an estimate, it was just that we needed to make some provision, because if the laws restrict the amount of gambling revenue then there will be that impact. The other issue, of course, is that we will never be able to know accurately what the impact of the laws will be.

What has the change of 11 September been on consumer behaviour in terms of retail spending generally? I talked the other day to people who sell spectacles and hearing aids, and they said that, for the few weeks after 11 September, sales dropped dramatically. There does not appear to be a logical reason.

*The Hon. Nick Xenophon interjecting:*

**The Hon. R.I. LUCAS:** You would think that more people would want to see the news, therefore they would want to get spectacles. Clearly, the dilemma will be that all these other things are now happening, and to be able to attribute either a decline or increase for these issues will be very hard. I will take advice as to what our provisioning was, to see whether or not I am in a position to share that information with the honourable member.

### GAS MARKET STUDY

**The Hon. P. HOLLOWAY:** My question is directed to the Treasurer, and I refer to the report Part B, Volume III, page 902. The Auditor-General's Report shows that \$782 000 was spent in 2000 for the preparation of a gas market study. This equates to a consultant being paid \$2 000 a day for around 1½ years to prepare the report. Could the Treasurer advise who prepared this report for government and could a copy of this three quarter of a million dollar report be tabled

in parliament, perhaps with, if necessary, any commercially sensitive information excluded?

**The Hon. R.I. LUCAS (Treasurer):** I will take advice on that, but I think from a quick reading that that might not be for this financial year but for 1999-2000. I do not recall a major gas study in this last financial year but, if I go back a couple of years, there was—

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** I will check. Certainly, about a couple of years ago a major gas study was conducted. This was the work that preceded the government's going out on its request for submissions process, which the honourable member will be aware of. We had a number of submissions, including Timor Sea, PNG Gas and Victoria Gas, and ultimately the government picked a preferred proponent, being what is now called the SEA Gas consortium that is bringing gas from Victoria through the South-East of South Australia into the state.

So, the major gas study that I am recalling was a study conducted by, in part, Allen Risk Consulting and someone else, but I will have to check. It pre-dated the work and basically informed the government that, first, we needed to get an additional element of competition into the gas market. Secondly, it informed the government (together with other information) about going down the path of a request for submission process, the results of which the honourable member is aware of.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** I will look at whether that is it and what if any information might be able to be made available.

#### EMERGENCY SERVICES ADMINISTRATIVE UNIT

**The Hon. IAN GILFILLAN:** I would like to ask the Attorney-General a question in relation to the Emergency Services Administrative Unit. In relation to 'Audit findings and comments commentary on general financial controls', the Auditor-General states in respect of the Emergency Services Administrative Unit:

Notwithstanding internal control, weaknesses persisted in many areas. It was audit's view that a significant causation factor for these was the absence of appropriate consideration and understanding of an internal control framework within the finance functions service level agreement.

In particular, audit formed the view that both ESAU and the emergency services agencies struggled to implement a sound internal control framework and that there was a general lack of coordination in implementing the same.

Audit considered that the responsibility for the breakdowns in internal control was shared between ESAU and the other entities and that a joint effort would be required to remedy this situation.

I am sure that the Attorney will recall that I have been an unrelenting critic of ESAU, believing it to be an unnecessary imposition on the administration of emergency services but, notwithstanding that, I ask him to indicate what steps, if any, are being made by the minister responsible—and I assume that the Attorney has some awareness of this—directly in conversation, or in direction or understanding, with ESAU to overcome these quite substantial criticisms levelled by the Auditor-General in his report.

**The Hon. K.T. GRIFFIN (Attorney-General):** A number of significant steps have been taken to overcome the issues raised previously by the Auditor-General and, as I understand it, raised also in relation to the 2000-2001

financial year. I do not have the detail of the progress which has been made. I undertake to obtain that detail and bring back a reply.

#### ELECTRICITY MARKET

**The Hon. P. HOLLOWAY:** My question is directed to the Treasurer, and I refer to Part A at page 105. The Auditor-General's Report points out that around \$287 million of competition payments are outstanding and that the National Competition Council in its assessment of South Australia's progress on competition reform pointed out that further progress was required to introduce full electricity retail competition by January 2003. My questions are:

1. Does the Treasurer fully support the introduction of full retail competition in the electricity industry by January 2003?
2. Has the South Australian government undertaken a cost benefit analysis to look at the impact on consumers?
3. Will South Australia be reviewing its commitment to full retail competition in light of the fact that Queensland has announced that it will not introduce full retail competition because electricity prices to some customers could triple?

**The Hon. R.I. LUCAS (Treasurer):** Premier Olsen announced some months ago that the government was reviewing its policy in relation to full retail contestability for domestic customers by January 2003. That process of review is continuing. It is not an issue about which I have had a discussion with Premier Kerin since his election yesterday, but it is obviously an issue that I will need to discuss with him in terms of his expectations. We are currently working on the basis of trying to bring to a conclusion some decision one way or another within the next four weeks or so.

The answer to that series of questions is yes, the government is considering its position. I am not in a position today to commit or not to that particular timetable. Clearly one of the issues that the government will need to take into consideration is its judgment about the potential for loss of competition payments and any attitude that the NCC or anybody else might want to express, in particular the federal government, which is the critical element in all of this. We will need to look at the possibility of losing competition payments and, clearly, should that be the case that would be a significant issue in any government decision to change from the current contestability timetable that was previously committed to.

#### PASSENGER TRANSPORT BOARD

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** My question is directed to the Minister for Transport, and I refer to page 829, Part B, Volume II of the Auditor-General's Report. The Auditor reports that, in relation to the Passenger Transport Board, metropolitan and public transport ticket sales revenue amounted to \$45 million for 2001, compared to \$47.6 million for the previous year. The report also highlights the need for improvement with respect to the PTB's management of these contracts and the identification and management of risk. My questions are:

1. If patronage has increased by some 3 per cent, as the minister has suggested in statements to parliament, I believe, and in public statements, why then is there a decrease in revenue from metro ticket sales for the year ending 2001?

2. Were contractors given additional payments by the PTB to reward increases in patronage and, if so, how much was paid?

3. Is the minister satisfied that the PTB has addressed the concerns of the Auditor-General in relation to the management of its contracts and the identification and management of risk?

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I will obtain the information for the honourable member regarding the payments to contractors in terms of increased patronage. Certainly all contracts provide for, first, an incentive payment for an increase in patronage (and I know that they have been paid) and, secondly, penalties for various performance criteria that are not realised. I recognise that the Auditor-General did make reference on page 830 of his report to the management of contracts, suggesting various improvements in regard to the following:

... the identification and management of the risks associated with the contracts, the use of checklists as a management tool in administering the contracts, the reporting on the performance of contract operators and the timely provision by contract operators of certain information required by the contracts.

In response the board [that is, the PTB] indicated that a comprehensive risk analysis would be undertaken, contract checklists would be developed, and expanded and improved reporting on contract performance would be implemented.

In addition, the Auditor-General reports that action has been taken to ensure that the provision of information from contract operators is received in a timely manner. I have been given assurances by the Passenger Transport Board that the advice given by the board to the Auditor-General that this comprehensive risk analysis would be undertaken is under way, and so are the contract check lists and the expanded and improved reporting provisions.

It is true that patronage has increased every month over the 16 months since the contracting of the bus services commenced in April last year. For the benefit of honourable members, I have information for the period September 2000 to the end of August 2001 in relation to the total network (bus, rail and tram) plus separate tables for bus, train and tram over the same period. I seek leave to have that statistical information incorporated in *Hansard* without my reading it.

Leave granted.

Total System	Initial boardings ('000s)		Percent Difference
	1999-2000	2000-01	
September	3 355	3 466	3.3
October	3 702	3 717	0.4
November	3 601	3 705	2.9
December	2 897	3 050	5.3
January	2 711	2 847	5.0
February	3 137	3 523	12.3

Total System	Initial boardings ('000s)		Percent Difference
	1999-2000	2000-01	
March	4 054	4 223	4.2
April	3 112	3 248	4.4
May	3 846	4 042	5.1
June	3 374	3 498	3.7
July	3 329	3 509	5.4
August	3 970	4 033	1.6
Total	41 088	42 861	4.3

	Initial boardings ('000s)		Percent Difference
	1999-2000	2000-01	
Bus	2 617	2 655	1.5
September	2 895	2 926	1.1
October	2 840	2 895	1.9
November	2 237	2 327	4.0
December	2 048	2 123	3.7
January	2 422	2 767	14.2
February		3 223	3 3323.4
March	2 412	2 514	4.3
April	3 044	3 201	5.2
May	2 669	2 770	3.8
June	2 592	2 733	5.4
July	3 156	3 207	1.6
August			
Total	32 155	33 450	4.0

	Initial boardings ('000s)		Percent Difference
	1999-2000	2000-01	
Train	610	674	10.5
September	662	665	0.4
October	627	664	5.8
November	531	578	9.0
December	521	590	13.2
January	590	627	6.4
February		685	7438.5
March	567	599	5.6
April	682	708	3.7
May	601	617	2.6
June	623	651	4.5
July	692	704	1.7
August			
Total	7 391	7 820	5.8

	Initial boardings ('000s)		Percent Difference
	1999-2000	2000-01	
Tram	109	110	1.1
July	115	122	6.0
August	128	137	7.0
September	145	127	-12.9
October	134	146	9.2
November	129	145	12.6
December	142	134	-5.8
January	125	129	2.9
February		145	1471.2
March	133	135	1.4
April	119	134	11.9
May	104	112	7.0
June	114	126	10.4
July	122	122	0.0
August			
Total	1 540	1 594	3.5

Patronage on Adelaide's public transport system—by mode  
Percentage by mode

	1992-93	1993-94	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-01
Bus	40 087 980	38 315 032	36 453 932	35 833 453	35 198 005	34 616 000	32 744 000	32 137 000	33 172 000
Train	7 537 604	8 717 935	8 399 896	8 275 613	8 164 515	7 983 000	7 397 000	7 439 000	7 860 000
Tram	1 468 673	1 617 467	1 522 203	1 523 533	1 514 594	1 497 000	1 469 000	1 534 000	1, 576 000
Total	49 094 257	48 650 434	46 376 031	45 632 599	44 877 114	44 096 000	41 610 000	41 110 000	42 609 000



	Patronage 1982-2001 Initial boardings	Percent change on previous year
1982-83	67 510 000	
1983-84	69 683 000	3.2
1984-85	64 784 000	-7.0
1985-86	67 127 000	3.6
1986-87	60 950 000	-9.2
1987-88	58 240 000	-4.4
1988-89	53 930 000	-7.4
1989-90	54 210 000	0.5
1990-91	56 860 000	4.9
1991-92	52 810 000	-7.1
1992-93	49 090 000	-7.0
1993-94	48 650 000	-0.9
1994-95	46 370 000	-4.7
1995-96	45 630 000	-1.6
1996-97	44 870 000	-1.7
1997-98	44 100 000	-1.7
1998-99	41 610 000	-5.6
1999-2000	41 110 000	-1.2
2000-01	42 610 000	3.5

**The Hon. DIANA LAIDLAW:** Members will see that, in terms of the total system, between September 2000 and August 2001—and I apologise for the fact that I do not yet have the September 2001 figures, but I have been advised that patronage increased again compared to the same period in the previous year—the increase overall has been 4.3 per cent.

It is on that basis that I asked the same question of the PTB that the honourable member has asked me on the revenue received by the PTB. I thought I had the answer with me, but I do not. It did not add up for me either. I have sought advice and I will bring that advice back tomorrow for the honourable member. I thought I had it to hand, but I do not, and I apologise for that.

### ELECTRICITY MARKET

**The Hon. SANDRA KANCK:** I seek leave to make a brief explanation before asking the Treasurer a question concerning the Auditor-General's report for the year ended 30 June 2001.

Leave granted.

**The Hon. SANDRA KANCK:** The Auditor-General's report states that the South Australian government will receive a total of \$287.4 million in competition payments from the federal government between 2001-2002 and 2005-2006. What is the total amount of competition payments received to date? How much of the total figure paid to date is related to the market reforms of the South Australian electricity industry? How much of the future payments of \$287.4 million are reliant upon the completion of the market reform of the electricity industry in South Australia?

**The Hon. R.I. LUCAS (Treasurer):** I think on average the government receives about \$55 million to \$60 million a year in competition payments. That is not divided up: you get \$5 million for this reform and \$2 million for that reform. So, it is not possible to answer the question, 'How much of the \$280-odd million is allocated for reform in a particular area?' Similarly, it is not possible to say that we received \$X million in the past because of electricity reform issues.

The way it generally operates as I understand it—and I will take advice just to confirm it—is that there is a lump or aggregate of money that is provided. There is no doubting that reform in the utilities industries were key elements in the original competition payments. So electricity and gas, and probably water as well, but I would need to check that, were key components of the competition principles agreements that Labor prime ministers and premiers originally agreed on.

So I think it would be fair to say that the commonwealth government and the NCC in terms of this issue—as opposed to a whole range of others, like dairy deregulation, barley, the number of casinos you have in your state, or shopping hours—the utilities industries would take on much greater significance than those other issues. The way it seems to operate is that the NCC, if in the end it feels strongly about a particular issue, recommends, in essence, a penalty. That is about the only stage, as I understand it, that we get to come down to, okay, because of the lack of reform of the dairy industry, for example, in New South Wales, or the rice industry—I cannot remember—recommending a penalty of \$10 million to \$15 million.

So the NCC looks at an issue and makes a judgment about what the extent of the penalty should be. I know in relation to the shopping hours debate Graham Samuel argued at that stage that if they were to recommend a penalty for the state it would be in relation to the loss of consumer benefit in some way, some sort of measure that might come about as a result of that. That is a difficult enough question in relation to shopping hours but, nevertheless, they believed that they could come to a calculation which they could then recommend to the federal government. That is the last stage in the equation. The NCC recommends to the federal government, the federal government then has to decide whether or not it will reduce the competition payments by that amount or, indeed, something different to that amount.

So it is not possible to answer the honourable member's questions in relation to what aspects relate to electricity. I can check what the total amount of competition payments over the last X years has been, but, as I said, I think it has averaged about \$55 million to \$60 million a year, and I am happy to bring that particular part of the answer back for the honourable member.

### ADELAIDE FESTIVAL CENTRE TRUST

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** My question is to the Minister for the Arts. I refer the minister to page 740, Part B, Volume II. In relation to the Adelaide Festival Centre Trust, the Auditor has noted that:

Since 1998-99 the audit of the Trust has found that there was scope for improvement in the internal controls.

He goes on to say:

An assessment of the control of the Trust's internal control structure in 2000-01 revealed that although improvement had been made there remained scope to enhance controls in a number of areas.

These areas are then listed: cash receipting, accounts payable, payroll, BASS operations, asset register maintenance and budgetary control. This is of particular concern given the recent discussions in parliament and outside of the trust's debts, which are in excess of \$10 million. I am not sure whether the Auditor wrote this report prior to the minister commissioning Mr Ian Kowalick to undertake a review of the trust's operations, so I am not sure whether there is still concern. So my question is: is the minister now satisfied with the general financial controls of the Adelaide Festival Centre Trust, and were the Auditor's comments done prior to Mr Kowalick's review or afterwards?

**The Hon. DIANA LAIDLAW (Minister for the Arts):** I acknowledge the basis for the honourable member's concern. She will appreciate that there have been new members to the board appointed in the last couple of years and also new management, led by Ms Kate Brennan, and

certainly, because of the events arising from the Adelaide Festival Centre Trust's investments in big musical events that produced very poor results for the investment by the Festival Centre Trust, a reality check and a thorough internal review has been undertaken of budgeting and assessment of risk, and a whole range of internal financial factors, and it did not surprise me to see, in terms of the Auditor-General's comments, that he had drawn attention to these matters. Fortunately they were matters that had been identified already by the Adelaide Festival Centre Trust and were being attended to.

The fact that I had undertakings from the trust that these matters were being addressed internally gave me heart to approach Mr Kowalick to do his report, looking at a whole range of factors that gave rise to the debts that the trust incurred in recent years and also to any financial package that would help restructure the trust's operations. Without an undertaking from the Festival Centre Trust board and management that they had their internal controls in place and had much better finance officers and processes there is no way that I would be even suggesting that the trust should have had access to further money from state taxpayers.

Mr Kowalick, for his own part, did indicate that these changes had been undertaken internally and that he was satisfied with the vast improvement within the Festival Centre Trust, and that, in turn, gave him confidence to recommend the one-off working capital of \$500 000 to the trust, the increase in operating costs per annum of \$1.4 million and the capital injection of \$200 000 to BASS. Those sums recommended by Mr Kowalick, as the honourable member has noted, were approved by the government. They were, however, taken to cabinet and announced by me after the end of the financial year and therefore could not be addressed specifically in the Auditor-General's comments to the end of June 2001.

### GOVERNMENT RADIO NETWORK

**The Hon. CARMEL ZOLLO:** My question is directed to the Minister for Administrative and Information Services and is on the South Australian Government Communications Network, StateNet. In Part A of the Audit Overview, starting on page 142, there is an examination of StateNet. The Auditor describes StateNet as:

...essentially an interconnection of government agency networks providing the means for agencies to communicate electronically with each other.

I understand that StateNet infrastructure services fall under the EDS outsourcing agreement. The audit has found that, as this combined network has evolved to include such functions as internet access, financial transactions, web services and web applications to the public, it has become business critical for agencies and government. The audit states:

Without adequate controls the government is exposed to the risk of loss of revenue, breaches of privacy and confidentiality, unauthorised disclosure of sensitive information, damage to public image, and loss of trust in government capabilities.

The audit identified a number of key findings, including the imperative need to have a single entity agency which has ownership control. That single entity would have responsibility and accountability for the network and would also be responsible for security and access control policy, funding, and planning of infrastructure. Current practice identified no formal responsibility and central ownership of StateNet or security of confidential government information. The audit

also identified inadequate protection against external interference and the risk that internet services may be shut down or otherwise compromised. In fact, the audit declares that there is a high risk that continued lack of capability with a shared central StateNet gateway exposes StateNet to the loss of service through failure of equipment.

I note that, whilst DAIS has responded to some of the Auditor's concerns, there remains a number of unresolved issues. Given the importance of ensuring the protection of government agency information and financial transaction systems, my questions are:

1. Will the minister implement the recommendations of the audit to reduce the risks associated with the changed information technology environment to safeguard government from security risks? In particular, will the minister ensure that one agency be given effective ownership/control of StateNet?

2. When will DAIS be establishing a whole-of-government information security manager?

3. Can the minister detail what the positions, roles and responsibilities will be?

4. What measures have been taken to ensure that confidential government information and the confidential personal information data of South Australian citizens is safeguarded from unauthorised access due to the deficiencies in the government network that have been identified by the audit?

**The Hon. R.D. LAWSON (Minister for Administrative and Information Services):** I thank the honourable member for her questions. She has outlined a number of issues, which I will endeavour to deal with. I regret that I am not able to do that in the same order in which she has asked her questions; however, if at the conclusion there is further information to provide, I will undertake to do so. The interest of the Auditor-General in StateNet is something that is long-standing. It is an entirely appropriate interest because of the importance of communications both between government agencies and also from government agencies to third parties. StateNet, for the benefit of some members who may not be familiar with its activities, is an interconnection of government agency networks and provides an important electronic communication opportunity for them. It includes a central gateway that provides access to the internet, external mail services and access to other external applications.

Work has already commenced to separate the management of StateNet into two components, first, the core network, which includes the central gateway and which will be managed by the Department for Administrative and Information Services through the government ICS section. Agency components will be owned and managed by relevant agencies. It is not considered practicable to have one 'owner', as it were, for a network of this kind which exists across government. Many agencies have particular needs that must be addressed. However, policies and standards to enable interconnection of the components is important. Of course, they should be compatible and they must be documented. So the government has taken the stand that, while it is appropriate that my department manage and control the gateway, other agencies will be able to operate their own networks and to specify their own requirements, provided they meet the standard that is laid down through the government Information Communication Service.

It is proposed that DAIS, in conjunction with external service providers, will review external connections at the core of StateNet. Some connections will remain the responsibility of individual agencies, to be operated in line with the South

Australian government network and information security policies, which will be adopted.

We are already undertaking a detailed review of the design of the shared central state net gateway. That is being included in an upgrade project, which is currently the subject of a business case that is being developed for its further funding. That upgrade project includes a number of components, and I will not go through each and every one of them today. However, I will provide members with a full description of the proposed project, which will meet the objectives laid down by the Auditor-General.

The South Australian government network, like networks around the world (and far larger networks than the one we operate within government), was adversely affected by the recent nimda virus. That incident illustrated the difficulty of ensuring, even when one uses the latest virus protection mechanisms, that systems are not corrupted by viruses and worms of the kind that are being developed. It is worth noting that in the United States the Pentagon, and even the White House, networks were adversely affected by nimda, as was the whole of the National Australia Bank network for several days. A great deal of emphasis in ensuring that we adopt the latest systems to counter such viruses has been undertaken. EDS has been consulted and is an important part of the team to develop those strategies.

It is also fair to say that we are looking at improving our e-commerce capacity across the state network. There are a number of initiatives in terms of both the policy and supporting infrastructure being developed. I trust that this answers most of the questions asked by the honourable member, but I will bring back a more detailed response in due course.

#### ROXBY DOWNS

**The Hon. R.K. SNEATH:** My question is directed to the Hon. Robert Lawson, Minister for Administrative and Information Services and in his capacity as acting for the Minister for Government Enterprises. There is only a very short report on workers' compensation in the Auditor-General's Report. Recently there was another fire at Roxby Downs where the amount of damage was estimated to be about \$20 million. In the past four or five years Western Mining has become an exempt employer under the workers' compensation act. My questions to the minister are: has the minister released the report of the December 1999 fire at Olympic Dam, and what were the findings of this report? Were any recommendations of this report implemented? When does the minister expect to receive a report on the recent fire, and will that report be released? Are there any figures to show whether the number of accidents at Roxby Downs has increased or decreased since Western Mining became an exempt employer?

**The Hon. R.D. LAWSON (Minister for Workplace Relations):** Some parts of the honourable member's questions relate to my portfolio responsibilities of occupational health, safety and welfare, while other aspects relate to the WorkCover Corporation, for which my colleague in another place, the Minister for Government Enterprises, has responsibility, and I will refer those matters to him for a detailed reply. The honourable member said that recently there was a fire at the Olympic Dam mine of Western Mining Corporation and alluded to press reports indicating that the damage as a result of that fire amounted to \$20 million. I am pleased to report, and I am sure that the honourable member will be glad to hear this, that there were no injuries of workers or

members of the public in consequence of that very significant fire.

I understand that the fire service is preparing a report, and no doubt there will be a police report in relation to that incident. I am not sure whether the fire service has a practice of releasing a public report in respect of fires such as this one, but I am certainly prepared to make inquiries of the Minister for Emergency Services regarding that.

The member referred to the fire in December 1999 and asked whether a report of that fire had been released and what were the findings. Once again, I am not aware of the answer to that question and I will make inquiries and bring back a response. There was another industrial incident at Roxby Downs earlier this year in consequence of which, tragically, a worker lost his life. Officers of my department were actively engaged in an investigation and inquiry into that matter. However, as a fatality occurred it will be the responsibility of the Coroner to decide whether or not he will conduct an inquest and, if so, when that coronial inquest will be held. All the material gathered in the course of the investigation will be made available to the Coroner who will, in the fullness of time, publish a report and bring down findings.

The honourable member said that Western Mining Corporation is an exempt employer and asked for details about the rate of accidents and time lost following Western Mining becoming an exempt employer. I do not have sufficient particulars to answer that question. However, generally speaking I have seen figures that indicate that the incidence of industrial injury in exempt employers is less than that which occurs amongst non-exempt employers and, if any relationship at all exists between the rate of injuries in a particular enterprise and whether or not it is an exempt or non-exempt employer, the record of exempt employers is by and large better than that of non-exempt employers. I will direct the honourable member to the information that supports that proposition.

**The Hon. T. CROTHERS:** I direct my question to the minister with responsibility for occupational health and safety, Minister Lawson. Given that the latest fire at Roxby Downs is the second major fire that has occurred in the past couple of years, how much of this matter will be investigated by the South Australia Police? It almost seems to be taking too much for granted to have two major fires in such a short space of time. I have heard that in fact this could be sabotage and, if in fact it is sabotage, how much longer will it be before some worker is injured to the point of death, such as that which occurred in the refinery in Victoria? If the company at Roxby Downs, Western Mining, has not learnt lessons from the first fire and applied them in respect of trying to prevent another fire, what is the position of the government in this matter, given that the company is using one of the assets of this state, namely, the freshwater that exists in the underground aquifer in this area?

**The PRESIDENT:** Order! There does not appear to be an Auditor-General's comment on that.

**The Hon. R.D. LAWSON (Minister for Workplace Relations):** I am sure that the Auditor-General would have commented on it if it had occurred at the time that he made the report.

*The Hon. T. Crothers interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.D. LAWSON:** I think that the honourable member does raise some very serious questions and issues that are certainly worthy of closer examination. I heard the

Public Affairs Manager of Western Mining, Mr Richard Yeeles, on air this morning, expressing the fact that the company was, as one might expect, gravely concerned about a second fire of this magnitude in its plant. This fire occurred in the settling ponds, where minerals in a liquid solution are settling. Whilst there is no suggestion or evidence to date, of which I am aware, that sabotage was involved, from listening to Mr Yeeles's comments, it is clear that the company has an open mind and is determined to ascertain, as one might imagine, the cause. If police action is to be taken in relation to this matter, I am sure that the company will be taking that. Inspectors from Workplace Services will be interviewing company officials and if any report is to be made public I will certainly undertake to make it available to the honourable member.

*The Hon. T. Crothers interjecting:*

**The Hon. R.D. LAWSON:** Indeed. As the honourable member says, it is costing the state money to send fire appliances. In addition, the Roxby Downs mine is a very considerable asset within our state, and anything that jeopardises its production capacity adversely impacts upon the economy of the state, and we will be very keen to ensure that it does not happen again.

#### CONSULTANTS

**The Hon. P. HOLLOWAY:** My question is directed to the Treasurer: I refer to the report Part B, Volume III at page 1 125. The report shows that Treasury spent \$3.1 million on contractors and \$935 000 on consultancies. Three of these consultancies were for in excess of \$150 000 per annum, with one over \$250 000 per annum. Can the Treasurer provide details on who was awarded these three consultancies and what they were for, and can he also provide details of the number of employees on contract and the amount paid to each?

**The Hon. R.I. LUCAS (Treasurer):** I am happy to take that question on notice and endeavour to bring back a reply.

#### SOUTH AUSTRALIAN FINANCING AUTHORITY

**The Hon. P. HOLLOWAY:** I again refer to Volume III, page 1 059, note 24. Note 24 to SAFA's account shows that, in 2001, SAFA incurred a \$43.1 million loss in its net fair value of bonds, notes and debentures traded through off balance sheet transactions. While I realise that this represents a book loss, it would appear that losses of this order of magnitude should be a matter of concern. Can the Treasurer outline what measures are being put in place to minimise future book losses?

**The Hon. R.I. LUCAS (Treasurer):** I will take that question on notice and bring back a reply.

**The PRESIDENT:** The time set aside for questions relating to the the Auditor-General's Report has now concluded.

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#### CORONERS BILL

Adjourned debate on second reading.  
(Continued from 3 July. Page 1808.)

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** The opposition supports the bill, which is, as

I understand it, a re-write of the existing legislation. Part 1 of the bill sets out the definitions used in the bill and defines the term 'reportable death'. It suggests that these are deaths that must be reported to the State Coroner or, in some cases, as I understand it, to a police officer. Part 2 of the bill sets out the administration of the coronial jurisdiction in South Australia. Part 3 of the bill formally establishes the Coroner's Court. The establishment of this court is consistent with more recent reforms of coronial jurisdictions in other states and territories. The bill also sets out the practice and procedure of the Coroner's Court. Both the State Coroner and the Coroner's Court are given extensive powers of inquiry, and these are powers that are consistent with the powers granted to the State Coroner under the current legislation.

I understand that the Attorney-General has to give consent for the exhumation of a body. This will now change under this legislation. The Coroner's Court will no longer require the consent of the Attorney-General to issue a warrant for the exhumation of a body.

In relation to the issues of autopsies and exhumations, the opposition received a submission from the President of the Law Society relating to Aboriginal issues. The Law Society noted in its correspondence to the Attorney (a copy of which it sent to me) that the Coroners Bill does not make any provision for the next of kin to object either to an autopsy or to an exhumation of a body. The letter states:

... the Victorian Coroner's Act provides that, where the senior next of kin has requested the Coroner not to direct an autopsy but the Coroner decides that an autopsy is necessary, the Coroner must give written notice of that decision to the senior next of kin.

Perhaps the Attorney can comment on the correspondence from the Law Society and indicate whether he believes that something should be contained in the present legislation to allay its concerns.

I note that the Attorney has put on file some amendments. I indicate that the opposition supports these amendments. The Hon. Mr Gilfillan noted (and I apologise, because I was not in the Council when he gave his speech) that he would be implementing by way of legislation recommendations 13 to 17 of the Aboriginal deaths in custody recommendations. Certainly, the opposition would be sympathetic to those amendments, but we want to see them in detail before we indicate our support for them. We support the legislation.

**The Hon. T.G. CAMERON:** I indicate that SA First supports the amendments to the Coroners Bill. The amendments are fairly minor. 'Reportable death' will now include the deaths of all persons accommodated in approved residential facilities under the Mental Health Act. There are amendments to the appointment of the State Coroner. A person is not eligible for appointment unless they are a stipendiary magistrate. The term of the appointment is for seven years and the State Coroner (and this is very sensible) will be able to be reappointed. SA First supports this bill.

**The Hon. T. CROTHERS:** Independent Labour also supports this bill. But I want to make the comment that this correction, or change, to the Coroners Act brings to my attention the report that was made about the state's pathologist up until 1995.

Obviously, there must be some changes in respect of the law, and maybe even changes where cases are reopened. It seems to me that the move that has been made in respect of the Coroner's having to be a former stipendiary magistrate (which Coroner Chivell was over in Whyalla, if I recall

rightly) are amendments that are a long time overdue, even though in some other jurisdictions the Coroner alternates between being a member of the medical profession and a member of the legal profession. With those remarks—and heightened colourations—Independent Labour supports the changes as being desirable and necessary.

**The Hon. NICK XENOPHON:** I indicate my support for the bill. Last week I was contacted by a representative of the Law Society of South Australia, and of course I disclose yet again that I am a member of the Law Society of South Australia, as well as of the Australian Plaintiff Lawyers Association. I understand that the Law Society has been considering the issue of increasing the powers of the Coroner.

There may well be some amendments tabled in due course with respect to that, although not from the government. There were some issues arising out of the Aboriginal deaths in custody royal commission, and my understanding is that in the committee stage some amendments will be considered in respect of the Coroner's powers and dealing with issues of making recommendations and following up issues that have been the subject of the findings of a coroner, as well as recommendations to prevent the occurrence of incidents where it has been shown that it has been the result of a systemic failure on the part of an institution or organisation that has led to that death.

I look forward to those amendments, because I believe that at the very least they ought to be debated. If they can strengthen the intent of the bill, then they ought to be considered by all members.

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

#### CRIMINAL LAW CONSOLIDATION (OFFENCES OF DISHONESTY) AMENDMENT BILL

Adjourned debate on second reading.  
(Continued from 4 October. Page 2379.)

**The Hon. T.G. CAMERON:** I support the second reading of this bill. In December 1995 the Model Criminal Code Officers' Committee made recommendations regarding dishonesty, drawing from the English experience in law reform in this area. Although the drafting style is different the effects are similar. The laws have been in force in England for 28 years and in three Australian jurisdictions for shorter periods.

The general offences of larceny and specific larceny cases will now be replaced with a single general charge of theft. Theft is now defined as the dishonest taking, retaining, dealing or disposing of another's property without their consent, while intending a serious encroachment on the victim's property rights. 'Dishonest' is the general community standard, and what is dishonest is a matter for a jury to decide. Receiving will still be an offence under the crime of theft. Robbery and aggravated robbery are maintained as separate offences.

The various fraud and deception offences are combined into a single offence of deception. There will no longer be a distinction between obtaining and attempting to obtain. The act of deception and not the end result is enough. Conspiracy to defraud remains as a fallback for those innovative cases when the deception law does not adequately cover such attempts. Forgery now comes under the offence of 'dishonest

dealing with documents' and includes such offences as destroying, concealing or suppressing of documents dishonestly, where a duty to produce the document exists.

A strict liability offence exists of possession without lawful excuse of an article for creating a false document or falsifying a document. 'Document', of course, includes electronic information. Dishonest manipulation of machines is now an offence that deals with electronic dishonesty and fraud. The law of larceny requires that goods need to be taken and moved before they can be stolen. However, this was inadequate, and the concept of conversion was invented because goods may come into possession lawfully but then they do something unlawful with them, such as label swapping. However, this is inadequate in fact.

The bill returns to the concepts of dishonest taking, retaining, dealing with or disposing of property, including the notion of conversion, and supplementing them with supplementary offences that specifically cover the margins of appropriation. It also now includes a generalised offence of making off without payment. This will cover petrol drive-off situations and will, no doubt, bring a smile to Ian Horne's face when he sees the bill go through the parliament.

Current nocturnal preparatory offences, such as being in disguise at night with intent and being armed at night, are replaced with generalised offences and dealt with under other provisions, such as home invasion offences and possession of any article with intent to commit a dishonest act at any time, not just at night, in suspicious circumstances. I hope this is right, because I will be corrected by the Attorney-General if I am wrong. I am no lawyer: he knows that. A corresponding offence to deal with possession to commit a crime against a person is also enacted.

Secret commissions are now replaced with provisions of commercial bias such as payola or deriving a commercial benefit by representing oneself to be an independent expert when one has an undisclosed financial interest in giving the advice. I can only suggest that some party secretaries and members of parliament have a close look at that. Such an offence would cover 'cash for comments'. Various blackmail offences will be merged into one offence. The test for whether or not the demand for benefit is unwarranted—the cornerstone of blackmail—will be both a community standard and a subjective test on the part of the defendant as to the community standard.

The offence of piracy is retained and updated, as is our requirement under international law. Maximum penalties have been changed. SA First supports the second reading of this bill. It provides a far less archaic scheme of offences of dishonesty and seems far less anachronistic than the current law. The only reservation that I have at this stage, to which I have already alerted the Attorney, is that I am seeing some people from a television channel tomorrow and am unaware of precisely what they will put to me. SA First supports this bill, subject to that reservation.

**The Hon. IAN GILFILLAN:** I indicate Democrat support for the second reading of the bill. The bill is a substantial rewrite of sections of the Criminal Law Consolidation Act 1935, and I join in comments that the Hon. Paul Holloway made in thanking the Attorney-General for his detailed second reading explanation of this bill. It makes interesting and at times even entertaining reading. I did not actually hear it delivered in person, but I am sure it was given even more character in the personal delivery.

As I read through part 5 of the act, which deals with larceny and similar offences, I must admit to being slightly bemused. Amongst the provisions set out are specific sections on stealing cattle, stealing deer, stealing dogs, stealing oysters, stealing birds and stealing trees. Stealing fences I thought was rather fascinating, having a few kilometres of fence on Kangaroo Island, some of which I would be happy for anyone to steal as long as they replaced it with something else! Then there is stealing ore and metal. The Attorney-General is quite right in pointing out that these are all, in fact, theft and it is not necessary to outline them separately in the act. If we were to leave the act as it is then we would also be faced with the fact that it is clearly inadequate as it does not specifically mention theft from the parklands.

**The Hon. Sandra Kanck:** That is terrible.

**The Hon. IAN GILFILLAN:** Yes, that is terrible and I am sure that many South Australians would agree that we have suffered from theft from the parklands over the last 160 years, to our cost. That is an issue of greater importance than the fence I referred to earlier. I feel compelled to amend the act in order to address this oversight. Whether I actually get around to it or not I am not sure. It depends on how I am goaded by other members, maybe my acting leader.

As the Attorney-General stated in his second reading explanation, the penalties for the various offences in the bill are comparable to the current measures in the act. An exception to these is general larceny, where the maximum penalty would rise from five years to 10 years. I note that there has been widespread consultation on the bill. I also note that the Law Society's criminal law committee has declined to comment on the bill. I do have some sympathy with the Law Society. It is asked by us and by others to comment on legislation, and that probably imposes quite a lot of extra work on people who have full working lives as it is. However, it is important for the Law Society to realise that, if it wants to contribute on an ongoing basis to legislation in this parliament, it is worth the society's while to respond to requests for comment on legislation as they come to it from time to time.

The penalty for aggravated robbery was not necessarily noted in the draft of my second reading comments. The Attorney may make an observation if he is so inclined. Regarding home invasion, I had the impression that that was covered as aggravated robbery—

**The Hon. K.T. Griffin:** Serious criminal trespass.

**The Hon. IAN GILFILLAN:** The old maximum penalty was life and the new maximum penalty is life. I understood that the penalty for home invasion was raised in previous legislation.

**The Hon. K.T. Griffin:** Aggravated serious criminal trespass is a graded series of offences. I will give you some more information.

**The Hon. IAN GILFILLAN:** It is only that point. It is a matter of curiosity that 'aggravated robbery' is the title; it is on the table that the Attorney included in the second reading explanation. So, he may care to clarify that at some stage in the succeeding parts of the debate. I indicate the Democrats' support for the second reading.

**The Hon. A.J. REDFORD** secured the adjournment of the debate.

## GOODS AND SERVICES TAX

**The Hon. P. HOLLOWAY:** I seek leave to make a personal explanation.

Leave granted.

**The Hon. P. HOLLOWAY:** During question time today, the Hon. Legh Davis asked a supplementary question in the following terms: is the Treasurer aware of how the Labor Party will compensate the state government for any loss of revenue as a result of the rollback of the GST? Quite obviously, that question was directed towards federal Labor policy. I made an interjection something along the lines of, 'Why doesn't the member concerned (the Hon. Legh Davis) call on his federal leader, that is, John Howard, to debate with Kim Beazley so that he would know what Labor policy was?'

Following further interjection, I said that it is a federal issue, to which the Treasurer then went on to criticise me during his answer to that supplementary question by saying that this is a states issue, this is the money that is coming to the state government and the people of South Australia. Clearly, I was referring to the question. The Hon. Legh Davis was quite clearly seeking a federal Labor policy and I was expressing the view in my interjection that if, the member wanted to know what the federal Labor policy was during this election period, perhaps he should ensure that there is adequate debate by the leader of his party so that those federal policies may be adequately addressed.

## STATUTES AMENDMENT AND REPEAL (STARR-BOWKETT SOCIETIES) BILL

Adjourned debate on second reading.

(Continued from 26 September. Page 2233.)

**The Hon. IAN GILFILLAN:** I indicate Democrat support for this bill which is repealing a previous act. We believe in the need for positive and effective legislation—that is a good phrase—and the repealing of this, and I quote the words of the Attorney-General:

A Starr-Bowkett society is a type of building society that causes or permits applicants for loans to ballot for precedence, or in any way makes the granting of a loan dependent upon a chance or lot.

This practice is illegal with the exception of the Starr-Bowkett societies. It is desirable for this practice to remain illegal and since there are no longer any Starr-Bowkett societies in South Australia, with the last society recently being deregistered, it is reasonable to repeal the Starr-Bowkett Act of 1975 and we support the legislation to do so.

**The Hon. T.G. CAMERON:** SA First supports this bill. A Starr-Bowkett society is a society which grants a loan on the basis of grants or lot. Following the deregistration of the last Starr-Bowkett society, apparently no further regulation is necessary. Carrying on business as one of these societies in South Australia would be illegal. However, an interstate society conducting business with a South Australian resident, as I understand it, would be permitted if that resident was a member of the society before commencing to reside in South Australia.

**The Hon. A.J. REDFORD** secured the adjournment of the debate.

**UNCLAIMED SUPERANNUATION BENEFITS  
(MISCELLANEOUS) AMENDMENT BILL**

Adjourned debate on second reading.  
(Continued from 27 September. Page 2265.)

**The Hon. P. HOLLOWAY:** The Opposition supports the second reading of this bill which seeks to amend the Unclaimed Superannuation Benefits Act so that this act remains complementary to the commonwealth's Superannuation, Unclaimed Money and Lost Members Act 1999. The commonwealth legislation brought together various provisions from a number of acts which dealt with unclaimed superannuation benefits. The Unclaimed Superannuation Benefits Act provides that unclaimed benefits of superannuation funds and approved deposit funds registered in South Australia be paid to the South Australian Treasurer. An amount of money held by the fund can be deemed to be unclaimed when the person for whom the money is being held reaches the age of the payment of an age pension and cannot be contacted by the fund. This bill ensures that unclaimed funds will continue to be paid into the state's Treasury by ensuring that it remains complementary to the commonwealth legislation. The bill also extends the current legislation to include retirement savings accounts that are covered by commonwealth legislation. This is very much a technical bill and the opposition supports its second reading.

**The Hon. T.G. CAMERON:** SA First supports this transitional bill. The bill amends the Unclaimed Superannuation Benefits Act to ensure that it remains complementary to the commonwealth Superannuation, Unclaimed Money and Lost Members Act. It is a transitional bill. It ensures that unclaimed benefits will continue to be paid to the state unclaimed superannuation benefits register after the commonwealth amendments to its scheme come into force.

**The Hon. M.J. ELLIOTT:** I rise on behalf of the Democrats to express our support for the second reading. There is nothing contentious in the bill and it has our support.

**The Hon. K.T. GRIFFIN (Attorney-General):** On behalf of my colleague the Treasurer—whose authority I now usurp—I thank honourable members for their indications of support for the bill.

In committee.

Clause 1.

**The Hon. T. CROTHERS:** This is just a thought I had, but I had decided that I would not speak in the second reading but speak now. It just seems to me, and I must confess to not having read the bill, that when you talk about unclaimed moneys, and given that Australia has a very heavy migration program into the country, should we perhaps inform migrants of the right to this super, if in fact they stay here for several years and then decide to go back whence they came? People have talked about the state government being lined up with the federal government, and I just wonder, Attorney, whether there is provision in the federal act that these immigrants into Australia be informed of that particular entitlement that they have got, should they determine to go back home whence they came. It just seems to me that that is of some significance, because we could get maybe 25 000, 30 000 people going back from an annual pool of migration who may or may not know—probably would not know—that they have

certain entitlements lying in our unclaimed superannuation funds. I wonder whether that can be answered.

**The Hon. R.I. LUCAS:** I cannot answer that at the moment, I am afraid. I am happy, with the honourable member's agreement, to take the question on notice and correspond with him. I am not sure what the arrangements are for people who have not claimed and then have left the nation and gone somewhere else in the world. I am happy to take advice on it and see what, if anything, is available by way of information for the honourable member, to answer his question.

Clause passed.

Clauses 2 to 6 passed.

**The CHAIRMAN:** I point out to the committee that clause 7, being a money clause, is in erased type. Standing Order 298 provides that no question shall be put in committee upon any such clause. The message transmitting the bill to the House of Assembly is required to indicate that this clause is deemed necessary to the bill.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

**RAIL TRANSPORT FACILITATION FUND BILL**

Adjourned debate on second reading.  
(Continued from 4 October. Page 2387.)

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** The opposition supports this bill. This bill was first introduced into the House of Assembly, as it is essentially a money bill, and was handled by my colleague in another place the member for Spence. The object of this bill is to create the Rail Transport Facilitation Fund from which the government can undertake various rail projects, and to provide specific appropriation authority for the expenditure by the fund on such projects. I understand that it was necessary to get advice from the Solicitor-General in relation to the setting up of this Rail Transport Facilitation Fund and that his advice to the government was that specific appropriation authority would be required for the government to undertake these projects, and therefore this bill became necessary. I thank the minister for giving me a briefing on this bill since it was introduced in another place, and we support it.

**The Hon. T.G. CAMERON:** SA First supports this bill. This bill establishes the Rail Transport Facilitation Fund, and it will consist of money appropriated by parliament for the fund, income derived from rail projects, sale of assets, interest, and other moneys determined by the minister and the Treasurer that should be paid into the fund. The funds will be used to fund non-metropolitan rail projects and grants or loans to schemes involving non-metropolitan rail transport. This bill recognises the importance of non-metropolitan rail transport, which is an energy efficient and regionally important mode of transport and linkage to other states' and overseas markets. SA First supports the second reading of the bill.

**The Hon. A.J. REDFORD** secured the adjournment of the debate.

**STATUTES AMENDMENT (ROAD SAFETY  
INITIATIVES) BILL**

In committee.

Clauses 1 to 3 passed.

New clause 3A.

**The Hon. CAROLYN PICKLES:** I move:

After clause 3—Insert:

Minister to report on operation of act

3A. The minister must, within 12 sitting days after the second anniversary of the commencement of section 1, cause a report on the operation of the amendments contained in this act to be laid before both houses of parliament.

Although I strongly support what is contained in this bill, there were some reservations from some very small sections of my caucus in relation to random RBT. I have to say that in doing this I again remind honourable members that all other jurisdictions throughout Australia have similar legislation; they have had it for many years and it has operated very well. I do think that since it is something new within South Australia—and I understand that the minister will agree to this amendment—it is a good idea to have some kind of report about the operation of the act and whether there are any problems with it. I understand that the Hon. Sandra Kanck wanted to move a further amendment relating to one year.

*The Hon. Sandra Kanck interjecting:*

**The Hon. CAROLYN PICKLES:** The reason for specifying two years is that, in my discussions with my colleagues, it was said that it would give people in other areas, such as the police, more time to gather the kind of data that might be needed to put into a report. Whereas 12 months would be a good idea, if you could get it together quickly, I felt that two years would give a better perspective of it. Clearly, if there are any problems emanating from the operation of this act before that period arises, it is contingent on any member of parliament to cause the amendments to be brought before the parliament.

**The Hon. T.G. CAMERON:** Will the wording of the amendment make it mandatory for the government to report on the operation of all the amendments contained in this legislation? It provides 'report on the operations of the amendments', and I would be very keen to see a report on all amendments, a couple in particular.

**The Hon. CAROLYN PICKLES:** My instructions to parliamentary counsel were that that is what it should do. However, since they are not here my understanding is that that is what it should do.

**The Hon. DIANA LAIDLAW:** I support the amendment. However, if there is any concern that the government would be seeking to report on the operation of only some of the amendments, not all of them, I would be happy if those clarifying words were added, if the mover wished to do so, as I know it is the mover's intention that it refer to all the amendments.

**The Hon. CAROLYN PICKLES:** I thank the honourable member, but my instructions to parliamentary counsel were that it was the operation of the whole of the act.

**The Hon. Diana Laidlaw:** Do you want to add 'all'?

**The Hon. CAROLYN PICKLES:** My understanding is that this is what the amendment does but, in the absence of parliamentary counsel, perhaps we could agree that if it does not do that we could recommit it, since we are only going to clause 8 today. I agree with the Hon. Terry Cameron that that is what it should do.

**The Hon. SANDRA KANCK:** I placed on record in my second reading speech the concerns my party has about mobile random breath testing and I believe that the Hon. Carolyn Pickles is attempting to address not necessarily my

concerns but the concerns of some of the members of her caucus about the same provision.

I am not sure that it will make all that much difference. I had toyed with the idea of making it a one year reporting period, but in the end I decided not to do that because I am not really sure how effective the whole thing will be, unless you ask the police who are pulling over people to make a record of either the age or race of the people they are pulling over, which obviously becomes very difficult from an administrative viewpoint.

*The Hon. T.G. Cameron interjecting:*

**The Hon. SANDRA KANCK:** My concern is that the mobile random breath testing will be used on a discriminatory basis and will be aimed at young people driving with P-plates and at Aboriginal people. Certainly with this provision here—and it appears that it will be supported—I will be ensuring that groups like YACCSA and the Aboriginal Legal Rights Movement are aware of this provision so that they can provide any feedback they have to the minister where they have any indication at all that there is any discrimination going on.

**The Hon. CAROLYN PICKLES:** In my second reading contribution I indicated that I had written to every minister across Australia whose jurisdiction had implemented legislation like this over a period of years and asked those specific questions and they said 'No'. However, I can give an undertaking that if we have a Labor government when this report has to be laid before—

*An honourable member interjecting:*

**The Hon. CAROLYN PICKLES:** I have already had a discussion with my colleague in another place who deals with the police that these questions will be asked. I am sure that the minister will undertake something similar and will raise these concerns with the Minister for Police and that he will make sure that these concerns are taken into consideration.

**The Hon. DIANA LAIDLAW:** I indicated earlier that the government supported the amendment. There is a need for the amendment to be moved in a different form. It has been a very good practice while I have been minister over the past eight years—and I hope the practice will always be continued, irrespective of government and minister—that more of the measures we pass in this parliament are brought back as a reported process to test that they are working well so that we can make further changes to them and we do not forget the measures we have undertaken.

It is important, particularly with road safety but generally in transport (and I suspect in other portfolios), to remind those who are responsible for implementing them that we are taking a very big interest in the implementation of what we pass, that we do not abandon interest in the measure simply because it has left this place, been assented to and proclaimed. It is a good practice in terms of a house of review and the parliamentary process anyway. I am also very conscious in respect of this package of measures that, when the random breath test scheme was introduced in South Australia, probably 15 or 20 years ago—

**The Hon. T. Crothers:** It was 1982.

**The Hon. DIANA LAIDLAW:** Yes, 1982—I thank the Hon. Mr Crothers—nearly two decades ago. A statutory committee was set up to report each year on the way the random breath test scheme was working, and only recently amendments of this parliament abandoned that system of review. I strongly support the provision moved by the Labor Party and supported generally, although we have not yet heard from the Hon. Mr Crothers. We have not yet got to the



random breath test specific provisions. I have always been a civil libertarian. I had reservations about bringing in seat belts and making them compulsory. I certainly opposed the ID card. Essentially I am a civil libertarian.

With the transport portfolio I have had to make some compromises in some of those views in terms of due responsibilities for road safety and death. I would never discount civil liberty concerns in any measure I have brought to this place, which is why, knowing where honourable members in this place would come from in looking at the mobile random breath test and knowing some of the concerns expressed in my party as well about the measure, we have brought it in with a real road safety focus, and that is the purpose of this bill: road safety, cutting back deaths, injuries and health related costs in terms of road accidents and crashes.

We will debate this measure further at clauses 8 or 9 of the bill, but I highlight at this point, for those who may be expressing concern about the measure of introducing random breath tests, that the government did take account and the bill reflects already—and I have further amendments on file—the addressing of civil liberty issues.

**The Hon. T.G. CAMERON:** In the event that the amendment standing in the name of the Hon. Carolyn Pickles is carried and a report is brought down in relation to the amendments, the minister is aware that I have a concern about the amendment to give the police the right to pull anyone over at any time for no reason whatsoever whilst going about their—

**The Hon. Diana Laidlaw:** Not at any time.

**The Hon. T.G. CAMERON:** We know about the thin end of the wedge argument.

**The Hon. Diana Laidlaw:** It is not in the bill.

**The Hon. T.G. CAMERON:** I know what is in the bill and I know when they will have this power. It is the thin end of the wedge. It will be only a matter of time before they have the power 365 days of the year, 24 hours a day—that is what is coming. I would be interested to know whether there will be any attempt to collect information from the police as to what reason they had when they pulled somebody over and randomly gave them a breath test or whether they had no reason whatsoever. I would like to have some idea, when this report comes in, of how the police are stopping people. In other words, are they using this power unilaterally to stop people whenever they like or, in the majority of cases, did somebody fail to put on an indicator light, or did they swerve slightly or did they commit some other minor infringement of the road traffic rules, which is usually why the police will stop a motorist?

Where these instances occur for no reason whatsoever, where the police stop somebody and demand that they undertake a breath test, I am interested to know whether there is any way we will know which police officers are doing it, how often, how many times a year, and whether it is concentrated in any particular areas. I can see what is coming here. The young lads will be getting buzzed off the road every other day down at Elizabeth and Salisbury, but they will be swanning around through the eastern suburbs and no-one will ever be stopped up there. I am interested to find out whether there is any intention in the minister's mind, now that she has embraced the amendment standing in the name of the Hon. Carolyn Pickles, as to what sort of information will be collected. The minister has conceded that there are concerns in her party, in the Labor Party, in the Australian Democrats and with myself. If we took a free vote on this it might not get

up, but we know what caucusing is all about and we know the Labor Party will support you. What I am interested in is—

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. CAMERON:** I think his track record is only marginally better than yours, which means that you both have an abysmal track record. There is the old saying: look in the mirror before you start throwing mud at anyone else.

*Members interjecting:*

**The CHAIRMAN:** Order!

**The Hon. T.G. CAMERON:** Can the minister outline whether there is any intention by the government, when this report is received, to let us know who is pulling people over and breathalysing them, and where this is occurring?

**The Hon. T. CROTHERS:** I am between a rock and a hard place with respect to this matter. I have always been pretty liberal in my views relative to social issues, and this is a social issue in that respect. When the breathalyser was first introduced, a number of us did not like it, particularly in our union, and Gordon Bruce, who was a former President, had a lot of stick to take. But I have to say that, ultimately, that select committee was proven right, and I certainly appeared before that committee to give evidence to the contrary in respect of its findings. We have seen, I think, road fatalities held in this state as much as in any other state—maybe more so—because of a number of measures that have been taken in the state, some of which do not fit the bill of a civil libertarian.

Whilst I have a penchant to support the Labor Party in respect of the Hon. Ms Pickles's amendment, I am somewhat concerned that some measure has to be found whereby some form of check is kept in respect of the power that we are about to give the police. I understand that the police already have enough powers to not even need this measure. However, all that being equal, I think it is always important to legislate for powers that already exist, either de facto or de jure, in respect of particular matters.

Whilst I feel inclined to support the Pickles amendment, I still have that doubt running in my mind as to what happens if the power is abused. The Hon. Ms Kanck has mentioned race, and I agree with that. I can see a whole lot of young Aboriginal people being pulled up around the Port and Mansfield Park; I can see a lot of our Asian citizens being pulled up; I can see all sorts of people being pulled up. I would not care if many bikies were pulled up, but it seems to me that the police here have a certain respect for, or fear of, bikies and they are very rarely, if ever, touched—

**The Hon. T.G. Cameron:** You're right.

**The Hon. T. CROTHERS:** I know. I am inclined to support the Pickles amendment. I would like to see the Leader of the Opposition and the minister put their heads together to see if they can come up with something which, in fact, gives some security against this power—

*An honourable member interjecting:*

**The Hon. T. CROTHERS:**—I understand, and I support the reasons for giving the power—and which gives some way in which this power can be monitored to the extent that, if there is abuse, we can pull it up sharp. I do not want to see the power being abused in such a way that it does not roll equally across the whole community. So, I will just rest my case on that.

**The Hon. CAROLYN PICKLES:** The Hon. Trevor Crothers raises those concerns, and the very reason why I have moved this amendment is because those concerns were raised—albeit not many. I think it does give some measure

of reporting back and some onus upon the police, if there are those concerns that they might breach—

*The Hon. T. Crothers interjecting:*

**The Hon. CAROLYN PICKLES:** It does not classify them, but it says that they have to come back on a report. I have already given an undertaking that, if a Labor government were in power, these issues would be dealt with quite seriously, and I think that the minister also has given an undertaking that she will talk to the Minister for Police at the present time. So, it will be two years from when this act is proclaimed before parliament receives that report.

I have looked at the issues in relation to the operation of very similar legislation throughout Australia, and I made specific inquiries of every minister in every state of Australia in relation to the issues that have just been raised in the context of these issues, because I wanted to know how it all worked (and I think I read into *Hansard* their responses), to ensure that the police would not be overzealous in the operation. As the member quite rightly pointed out, they already have quite specific powers in relation to this matter. But let us not forget that we are looking at a way in which to try to further reduce the road toll, not just in relation to deaths but also in relation to serious injury—and later on we will be talking about another amendment that the minister will move regarding an issue that was raised by the Hon. Terry Cameron in relation to a very tragic accident, and we are responding to that.

I think that the way in which the government will implement this measure is really a fairly minimalist approach in comparison with other states of Australia. The way in which most people see it is that we really need to try to get into our mind that South Australia has, in fact, the highest death rate per capita of any state in Australia, and we have this commitment over a period of time to reduce this unhealthy statistic. We will have a harder job than any other state because we have not had this kind of legislation.

The minister has agreed, in response to submissions from the RAA, I believe, and issues raised by other people publicly, to publicise this, and there is a further amendment to ensure that that happens. The very act of publicising that there will be a bit of a blitz on a particular day will modify a lot of people's behaviour, in addition to the police picking them up. I think that that is a very commendable way in which to look at it. Maybe over time, if people do not modify their behaviour and we continue to have deaths and have horrific injuries, we will have to do other things. But the fact is that measures to reduce the road toll have plateaued, and that is of great concern to me as shadow minister for transport and it is of great concern, I think, for people who work in the Motor Accident Commission and people who are involved in road accident research throughout Australia.

It is a minimalist approach. My amendment is some sort of a safety measure for those people who have concerns, and I can certainly give an undertaking (although I will not be in this place but it has been discussed with my colleague in another place) that some of those issues will be looked at very carefully.

**The Hon. A.J. REDFORD:** Unlike the Hon. Terry Cameron and his comments about what goes on in the Liberal Party party room, and the fact that he does not know what he is talking about—

**The Hon. T.G. Cameron:** You were the one who raised it.

**The Hon. A.J. REDFORD:** No, I didn't. The Hon. Trevor Crothers has been quite astute—

*The Hon. T.G. Cameron interjecting:*

**The Hon. A.J. REDFORD:** Did I just hit a nerve or something?

*Members interjecting:*

**The CHAIRMAN:** Order! The member will return to the debate.

**The Hon. A.J. REDFORD:** Unlike the Hon. Terry Cameron in relation to that issue, in relation to this issue, the Hon. Trevor Crothers has hit the mark very accurately. We all know that, in a practical sense, the scope and the opportunity for police officers to pull people over to take a breath test is quite broad. If one has any understanding of how the provisions contained within section 47 are set out, one will see that there are many opportunities for a police officer to pull someone over.

I think that the important thing about this initiative, as I mentioned in my second reading contribution and as the Leader of the Opposition alluded to, is the ability to point out to members of the public that there are times when we are on the roads that we need to be more careful and need to be more alert. One is Easter and the other is school holidays, and we know that because that is when the road toll is at its highest.

I endorse what the Hon. Trevor Crothers says: that in a practical sense it is probably not going to make much difference to our individual liberties and it probably will not make that much difference to the way in which the police enforce the law. What it does is enable the government of the day to press the message home that drinking and driving, particularly at these times is, first, a risky exercise and, secondly, that those persons will be apprehended. I think that that in itself is sufficient justification for the clause.

Indeed, I welcome the opposition's amendment, because it gives us another opportunity to publicise, when these figures come out, the effect of this measure, and I hope that we will be able to directly compare the road toll in those periods now with what they will be in two years, and we may even measure the saving of lives in tens and twenties. That is something that we should all endorse without any rancour or point scoring.

**The Hon. T. CROTHERS:** I want, if I may without abusing the time of the committee, to give some examples of that which concerns me. For instance, we know that up to seven years ago, when the Hon. Mr Cameron started raising it, police cameras were not placed on country roads to the same extent as they were in the metropolitan and near metropolitan area. When I worked at another job, I used to drive many hundreds of miles in any given day. I would drive to Port Lincoln and back in a day, and in respect of speeding on those roads—and I was probably an offender, too—they were not policed to the same extent as the metropolitan area is policed.

When you think of the fatalities we get per capita, more fatalities occur on country roads in this state than in the metropolitan area, yet when we see what I thought was a very good initiative by the Police Commissioner, which was informing everyone where speed cameras were, it was only in the metropolitan area. I assume that speed cameras are on the country roads, but we do not see that. We see that they are in the metropolitan area: we do not see anything about country roads.

Some heavy vehicles used to pass me on the Lincoln Highway going at ferocious speeds, enough to make the car rock. That is an example of where it would appear to me, again, that we are not being totally inclusive. There is a law for our city cousins and a law for our country cousins. I agree

with the point that the Hon. Ms Pickles made that we possibly have the highest per capita road toll, but one of the reasons for that, I can tell you as a former professional driver, is the length of distance that we have to drive in South Australia. At the end of eight or nine hours driving you become drowsy.

We know for a fact that a number of semitrailers on the Sturt Highway have cleaned people up. We know all about that: that is painfully and blatantly obvious from time to time. And we know that the vehicles that are involved in these accidents are very heavy vehicles. We are one of the few states that allow a semitrailer to pull two or three trailers behind it, as does the Northern Territory, which again—

*The Hon. Diana Laidlaw interjecting:*

**The Hon. T. CROTHERS:** I am saying to you that if you listen you will learn. The minister has only ever driven a sedan in her life. I have driven everything including the trailers I referred to, and, if you get hit by one of those, you will never live to get hit by anything else, as opposed to being hit by a sedan car. That is yet another reason why the fatalities on our country roads are higher, because the weight of vehicle is higher, too.

I am not blaming our country cousins for that, but we must be fair dinkum about how we police these police powers, about how we police the speed cameras, if that is an example—and I do not want to know about this, because it means it will be only the metropolitan area that is subject to the full volume of police powers. I find nothing wrong with that, but it has to be right through the state, because it does not say that, just as it did not say anything about speed cameras.

The bulk of the speed cameras operate in the metropolitan area. If they did not, it seems funny to me that the police have decided to inform all the city dwellers where all the speed cameras are and not inform their rural cousins. That seems incongruous to me. That is just one example that bothers me. You do not have equity where you do not have equality of treatment, and that is what we are creating here. And we are not helping our rural cousins in respect of that, people here who are driving sedans; it is the heavy commercial vehicles. Indeed, when the wheat season and the barley season start in a month or five weeks, these trucks can sometimes carry, as I remember the regulations, almost double their legal weight if they are carting grains. I may be wrong in that, but they are certainly allowed to carry more than the legal load for that particular truck. I understand and am perfectly at ease with what the Leader of the Opposition and the minister have said, but I believe that, if we want to have this work correctly, then it has to be statewide, not just in the metropolitan area.

**The Hon. T.G. CAMERON:** I want to come back to this question of whether there will be any monitoring whatsoever of the random stopping of people for no reason whatever and breathalysing them. Are situations going to be allowed to develop where the police officer fills his kitbag full of breathalysers, packs up the motorcycle and heads off Saturday morning? If it happens to be a long weekend, it is covered by the section in the act.

We could have police officers literally testing hundreds of people every day in the vain hope that they are able to score a win and find someone who is over the limit. I would be very disappointed if anyone in this chamber were to suggest that the people who are opposed to this, such as the Hon. Trevor Crothers, the Hon. Ron Roberts and I—

*The Hon. Diana Laidlaw interjecting:*

**The Hon. T.G. CAMERON:** Sorry, the Hon. Ron Roberts is supporting this legislation.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. T.G. CAMERON:** I didn't say he was opposing it: I said this section on the mobile testing. I will be voting for the bill, too.

*The Hon. A.J. Redford interjecting:*

**The Hon. T. CROTHERS:** Do you mind if we speak whilst you're interjecting, Angus?

**The Hon. T.G. CAMERON:** I had better sit down. I am out of order, as Mr Redford is on his feet speaking.

*Members interjecting:*

**The Hon. T.G. CAMERON:** Is it okay for me to speak now?

**The CHAIRMAN:** The Hon. Terry Cameron was still going.

**The Hon. T.G. CAMERON:** I was, but I was interrupted by someone else speaking. What I am concerned about is this. Can the minister outline whether there will be any attempt to monitor or control these random breath tests? As I was saying, a police officer could load 200 or 300 on to the motor bike and head off for the day and literally stop dozens if not hundreds of people. Remember that they do not have to have any reason. The government will be advertising, urging them to stop people and test them because this is a dangerous period.

There is no doubt that they will be under some pressure to go out there and give these random tests. If they do not, the government's warnings would have been futile and of no consequence whatsoever. This is what is going to happen: the government is going to publicise it, advertise it and warn people that, 'On this weekend, the police will be able to pull you over for no reason whatsoever, on no suspicions that you might have been drinking, and breathalyse you.'

Is there going to be any monitoring of how many tests are going to be given or will they just hand out random mobile breathalyser tests and give each police officer a new issue each payday or something? I do not know. We have not heard anything about this.

**The Hon. Diana Laidlaw:** You haven't stopped talking so I can answer.

**The CHAIRMAN:** We are talking about an amendment.

**The Hon. T.G. CAMERON:** I am dealing with her amendment because I am trying to ascertain from the government what monitoring they will do and what will be in this report that we are now dealing with in this amendment. Will there be any attempt by the government as it prepares this report on the amendments, only one of which is on the mobile breathalysers? Will we know how many were issued?

**The Hon. Diana Laidlaw:** Yes.

**The Hon. T.G. CAMERON:** Will we know where they were issued?

**The Hon. Diana Laidlaw:** Yes.

**The Hon. T.G. CAMERON:** Will we know to whom they were issued?

**The Hon. Diana Laidlaw:** No, why should you? You do not know them when a random breath test is issued.

**The Hon. T.G. CAMERON:** You have two out of three so far. Just let me keep going. Will we be able to compare the ratio of people who were caught to those who were not—in other words, 'We tested 10 000 people and 24 were guilty.'

**The Hon. Diana Laidlaw:** Well, we do that with random breath tests today, so, yes.

**The Hon. T.G. CAMERON:** I am not precisely sure what you do. I am just trying to ascertain that.

*The Hon. T. Crothers interjecting:*

**The Hon. T.G. CAMERON:** The Hon. Trevor Crothers chipped in: 'Will there be any measuring of any disparity

between the country and the city?' Or can we expect that an equal number of people in the city, per capita, will be tested as in the country? For example, the police are not going to be able to pick all of the people in Port Pirie and say, 'We've got a bit of a problem up there so we will issue instructions to the local police to start going heavy on random mobile breathalyser tests.' You will not know, and the Minister for Police will not know. The police will be able to do what they like, won't they?

**The Hon. Diana Laidlaw:** You know that no minister instructs the police in terms of operational issues and I do not intend to start doing that.

**The Hon. T.G. CAMERON:** Well, that is almost as naive as thinking in the old days before we had speed cameras, etc. that police were not under pressure to get a certain number of traffic fines or what have you for the week. If they came in from two weeks out on the road and they had not booked 20 people, they were hauled over the coals. You have raised a very interesting point, minister, which we could spend some time on but the Chairman would probably pull me up. Just what instructions or guidance will the police get in relation to this? Under the current system, the guidelines are fairly clear. If they are going to pull someone over, they must have some reason for it, such as the car is swerving, it went through a red light, or it did a left-hand turn with the right-hand indicator on, etc.

When these police officers go out during these prescribed times, how are we to know that a police station up there in the eastern suburbs will go out and administer the same number of tests as they will at the Elizabeth station or the Port Adelaide station? In other words, how much liberty and freedom will the police themselves have to decide? Can an individual police officer say, 'Well, I didn't see anybody breaking the law so I did not randomly test anybody today.' Can you imagine what will happen if his comrades in the police station are all randomly testing half a dozen people in a day and he is not doing any? We all know what will happen. Pressure will be brought to bear. I am deviating from the subject a little bit but, getting back to this report, perhaps the minister could answer five or six of the questions that I have raised.

**The Hon. DIANA LAIDLAW:** I think that I can provide a number of the answers to the honourable member when we deal with the relevant clause where the police may require an alcohol test or breath test. I am not too sure what the hysteria is in relation to this. This measure applies without limitation in every other state—

*An honourable member interjecting:*

**The Hon. DIANA LAIDLAW:** Oh, concern. As a reality check here, I just remind everyone that, across every other state in Australia, this measure has applied for a number of years. We also recognise that South Australia, in addition to the material that the honourable member provided in terms of this motion, had the highest increase last year of all states and territories—9 per cent, and that is well above. That was principally in rural areas. I know that speeding is an issue, and that is why I have continually resisted the measure to increase the maximum speed limit on some of our roadways.

I know it is an issue. That is why we have brought in heavy vehicle driver fatigue management systems to address the issues that the honourable member is concerned about. And that is why we are interested, in terms of random breath tests, because they are not applied in terms of drink driving and are hardly ever applied in any way in any testing of drink driving in country areas because it is essentially undertaken

today only through random breath test stations. No reason is provided today to pull over a person in terms of random breath test stations, other than for the purpose of taking a measurement. And that will be exactly the purpose that would be applied for mobile random breath test stations.

There are other factors that I will bring back some information on if I can gain it from the Police Commissioner. But, as I understand it, it has never been a practice of any member or minister for police, or anyone else with such responsibility, to direct the police in operational issues. This government would not intend to do so and I do not really think, upon reflection, that it is what the Hon. Mr Cameron is even wanting us to do. That may require reflection on his part.

As the honourable member would know, in terms of the random breath test reports that were provided annually when stations were first brought in, it was a comprehensive reporting mechanism. The police will continue to want measures, over the years, to deal with road safety issues. They are on notice by this measure that, if they produce a report to this parliament that is tripe, this parliament is not going to be interested in undertaking other measures that the police might want. They are on notice through a measure like this. They have to produce a credible report that will address the issues that are of concern, and it is not in the police interest to be seen to be operating in a discriminatory way.

It would not be this measure alone that would introduce discrimination in terms of any practice; they could do that if they wanted to now and we would hear anecdotal evidence but no real evidence of such things, and there are mechanisms to deal with this. I will dwell more on all those issues when we discuss the relevant provision in clause 8. In the meantime, I am a little surprised that it has taken us so long to get this far in dealing with the first amendment, but I indicate again that the government supports the accountability that it introduces.

**The Hon. T. CROTHERS:** I well understand that the Leader of the Opposition, the representative of the Democrats and the minister mean very well by what they are trying to do. But having expanded the powers of the police, or at least having legalised those powers in this bill that they already possess, I well understand that there is, of course, one thing that the minister has not touched on, and that is the amount of drugs, particularly hemp and marijuana, that go from this state across the border and come from other states into South Australia. Indeed, that is one of the hidden side benefits of this legislation, provided that the country roads are policed, that, when they stop people to breathalyse them, they may well have a sniffer dog with them that will pick up on those particular matters. That is all to the good.

But, having said that, I draw your attention, minister, to a situation up at Burra, some several years ago, where in fact the local sergeant of police there had come in and had used his authority beyond what the people of Burra were prepared to accept as a reasonable application of police powers. In fact, they rebelled against that particular police sergeant. He was in fact a sergeant; he was not just a young constable but a sergeant who had spent years in the police force. He was then removed from his position. I think from memory he was sent up to Coober Pedy, or some area like that. However, I just make those points that, if you get a member of police who is a zealot, this fails in respect of being fair and equitable to the citizens of this state. I think it is a necessity for the police to have this power, but I am still concerned that it can be a power which can be abused. I am not going to oppose it but

I want to place on record my view that police can abuse police powers, and do. Because of the training we have here that is probably a minority grouping, but it is there. By the way, minister, was it the police who sought these extra powers?

**The CHAIRMAN:** This amendment concerns reporting. The minister has mentioned before that there are other clauses in here about police powers.

**The Hon. T. CROTHERS:** But we are talking about the whole of the bill.

**The CHAIRMAN:** There are other clauses in here about police powers.

**The Hon. T. CROTHERS:** I am talking about clause 2, if you like.

**The CHAIRMAN:** We are now on new clause 3A.

**The Hon. T. CROTHERS:** Whatever clause you want me to speak on.

**The CHAIRMAN:** Honourable members must debate the clause in front of them.

**The Hon. T. CROTHERS:** I am talking about what is going in the report. The question I am asking the minister is: did the police ask for these powers?

**The Hon. DIANA LAIDLAW:** Yes. So has the RAA, so has the Australian Medical Association, so have I, and it is widespread. I can give all of the reports to the member. It was not one body alone that sought the power, and the government has moved this measure having considered all the issues overall. I ask the honourable member to specifically read clause 8, with the safeguards and limited application that the government has introduced in this measure.

*The Hon. T. Crothers interjecting:*

**The Hon. DIANA LAIDLAW:** No, but you do not know when the police are going to pick up a defected vehicle, or anything else.

New clause inserted.

Clauses 4 and 5 passed.

Progress reported; committee to sit again.

#### ADJOURNMENT

At 6.10 p.m. the Council adjourned until Wednesday 24 October at 2.15 p.m.