LEGISLATIVE COUNCIL

Wednesday 24 October 2001

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

LEGISLATIVE REVIEW COMMITTEE

The Hon. A.J. REDFORD: I lay on the table the 30th report of the committee.

QUESTION TIME

CLAYTON REPORT

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Treasurer a question on the employment of his electricity adviser.

Leave granted.

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: Mr Clayton QC and Mr R. Stevens found that a statutory declaration of Ms Alex Kennedy, dated 15 January 1999, 'contains evidence which is misleading, inaccurate or dishonest' (page 204). It was reported yesterday by the Deputy Premier, Dean Brown, that Ms Alex Kennedy had been dismissed as the Treasurer's ministerial adviser on electricity reform. Will the Treasurer give an assurance that Ms Kennedy's termination did not involve a separation package such as that of $250 000 given to John Cambridge when he was sacked, allegedly by mutual agreement, and will he provide full details of Ms Kennedy's termination package?

The Hon. R.I. LUCAS (Treasurer): I am happy to give the assurance that there was not a $250 000 pay-out to Ms Alex Kennedy. She was terminated late last week and was paid out the contractual requirements, which (and I will check) was eight week's severance—or whatever the appropriate term is in her contract—or termination pay, and any accrued leave—

The Hon. L.H. Davis: Not as good as Bruce Guerin.

The Hon. R.I. LUCAS: No, not as good as Bruce Guerin. So the pay-out—

Members interjecting:

The Hon. R.I. LUCAS: Mr Ralph has not been terminated. The true story of Bruce Guerin and the cost to the taxpayers of South Australia of his arrangements with the former Labor government—

Members interjecting:

The Hon. R.I. LUCAS: Well, he is still working for the government.

An honourable member interjecting:

The Hon. R.I. LUCAS: Is Mr Guerin still working for the government?

An honourable member interjecting:

The Hon. R.I. LUCAS: He was. That is a generous description. But then again the Deputy Leader of the Opposition is noted for his generosity.

Members interjecting:

The Hon. R.I. LUCAS: Well, in relation to Bruce Guerin, it was not a Liberal government: it was actually the Labor government—

Members interjecting:

The PRESIDENT: Order, the Hon. Mr Davis and the Hon. Paul Holloway!

The Hon. R.I. LUCAS: The opposition is in a particularly fractious mood today. I am not sure why they are fractious today.

The Hon. L.H. Davis: He tried to say the GST was a federal issue and of no concern to us and it is in the *Hansard* report.

The PRESIDENT: Order!

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: They might be. I have just told you. I told the journalist last Monday, I think it was. The *Advertiser* rang the office on Monday or Tuesday. If anyone wants to make an inference, as the Leader of the Opposition is making, that in some way this was hidden, the *Advertiser*, through the journalist Williams—

An honourable member interjecting:

The Hon. R.I. LUCAS: An *Advertiser* journalist, or an *Australian* journalist, and others, rang my office on Monday or Tuesday and I provided the information.

The Hon. L.H. Davis: You are two days behind again.

The Hon. R.I. LUCAS: You are a couple of days—

Members interjecting:

The Hon. R.I. LUCAS: I cannot help it if it is not deemed to be newsworthy. It was given to the media outlets. I was asked for the information and I have provided it. Through the Deputy Leader of the Opposition in this chamber there has been a lot of character assassination in relation to the whole of the Clayton report.

Members interjecting:

The Hon. R.I. LUCAS: Exactly. Ultimately, if something ends up in a court or in proceedings, that will be the first occasion that people who have been accused will have the opportunity to cross-examine the evidence that various witnesses have given and in some cases it will be the first time they will have seen the evidence of accusers.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: It is easy to be judge, jury and executioner, as the Deputy Leader and others in this chamber have been. If some of these things were to get into that forum it will be the first occasion for some people to cross-examine witnesses. I will give one example in relation to the case of Alex Kennedy. Members opposite will not highlight the fact that in the report, which I do not have with me, the evidence given by the then Chief Executive of the Premier's Department was that there was nothing wrong, improper or inappropriate (or words to that effect—I do not have the exact words with me) with staff looking at the documents, if indeed they were so doing.

Members interjecting:

The Hon. R.I. LUCAS: Hang on, I am just saying that you need to bear that in mind. Equally, Mr Clayton also indicated in his report that he made no finding that it was improper or inappropriate (or words to that effect) in relation to staff looking at the Motorola documents. Great play has been made that in some way—and it was a question raised by, I think, Mr Conlon in the lower house—that at various stages documents were being shredded, falsified or whatever else, but no evidence was found of that. The inference about Ms Alex Kennedy and Ms Vicki Thompson was that in looking at these documents they were, in some way, doing something improper, illegal or inappropriate. It is important to note what Mr Clayton—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: It is part of the point. I am making the point that the inference has been made that someone was looking at the documents in some way that was improper, illegal or inappropriate. To turn to the Clayton Report, at page 204, point 1126 states:

> The inquiry has not been made aware of any reason why Ms Kennedy and Ms Thomson should not have had full and free access to the documents.

I highlight that because of claims made by the Labor Party, in particular the member for Elder and others, that in some way if they had been looking at these documents there was some impropriety in relation to that. On page 215, point 1193, Mr Clayton quotes the former Chief Executive of the Premier's Department, Mr Kowalick, as follows:

> . . . they were frustrated because there was nothing wrong with Ms Thompson and Ms Kennedy looking at the files.

From that viewpoint it is important that it be placed on the public record. Ultimately, the issue in relation to what has occurred in the past few days will mean that the DPP will make judgments, and that is an issue for the DPP: I will not traverse that area at all. If people have made statutory declarations under the Oaths Act, they need to be answerable for those declarations.

I highlight to members that Ms Kennedy's evidence was that she was looking at FOI files, and one of the pieces of evidence was that someone came into this room and, from the doorway, I presume (or wherever it happened to be), said that they were not FOI files. If I put myself in that circumstance and if I had the opportunity to cross-examine that witness, I would be asking the witness, 'Can you describe to me what an FOI file looks like?' If anyone has been involved in government and if anyone has—

The Hon. L.H. Davis: What colour is it, Paul? Do you know?

The Hon. R.I. LUCAS: What colour is an FOI file? Is there a neon sign on an FOI file that says whether or not it is an FOI file?

An honourable member: Read the report.

The Hon. R.I. LUCAS: I have read the report. The reality is that it is not possible for anyone to say what an FOI file does or does not look like. An FOI file could be red, green, yellow or blue coloured, and it could be photocopied material. There is no readily recognisable identification of an FOI file. I would defy anyone to enter a room and be able to say that a particular person was or was not looking at an FOI file, because an FOI file can look like any other file that has been processed. I highlight that as an example that if, ultimately, one is in a position to be able to—

Members interjecting:

The PRESIDENT: Order! The Hon. Paul Holloway will come to order.

The Hon. R.I. LUCAS: —question and test the evidence of witnesses—

An honourable member interjecting:

The Hon. R.I. LUCAS: Because Mr Clayton would not allow the cross-examination of witnesses; that is why. Mr Clayton also certainly did not provide copies of the draft findings and his conclusions to other people who were so accused.

The Hon. K.T. Griffin interjecting:

The Hon. R.I. LUCAS: The Attorney-General says that, for example, the leader of the government—the Premier—was not even provided with copies of the accusations in the Labor Party's submission to the inquiry. They were the rules that—

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: —Mr Clayton followed in relation to the process. According to the Premier, he was not provided with, for example, the information of the accusations included in submissions such as the Labor Party's and, indeed, others. He was not able to cross-examine evidence provided by others and, in most cases, he was not provided with copies of the evidence. It is easy to sit on the cross benches and say, 'That is too bad. You do not need that.' That is fine.

One day I hope that members who make that accusation will be in exactly the same position where they do not receive copies of the evidence that is provided, they are not allowed to cross-examine the witnesses who are accusing them and they do not receive draft copies of the findings which, ultimately, can lead to either the resignation or dismissal of the people concerned. That is the position of the Labor Party and the Democrats; that is fine. But I just hope that, at some stage throughout their careers (not that I am wishing they will ever be in government), they are in exactly the same position where they do not have access to that sort of information to try to defend themselves from something of which they might have been accused.

I make it quite clear that, ultimately, the question of whether or not there are offences under the Oaths Act is not an issue that I will comment on. That has appropriately been referred to the DPP. Everyone has to be answerable to whatever they might have sworn under the Oaths Act or anything else. I make no comment in relation to those issues, but I do make comment about some of the snide inferences as to whether it was proper or inappropriate in relation to having access to particular documents. That has been the snide inference from the Labor Party and others.

And I do raise a question about the issue of someone who is accused, to the extent where they might lose their job or have to resign, where they do not have the capacity to defend themselves. If there had been the opportunity to cross-examine particular witnesses, then at least that aspect of their evidence would have been well and truly tested, and I would defy any person to be able to answer the question as to what an FOI file actually looks like.

The Hon. CAROLYN PICKLES: As a supplementary question, has the Treasurer read the full report, particularly page 217?

The Hon. R.I. LUCAS: Yes.

PORTS CORP

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

Leave granted.

The Hon. P. HOLLOWAY: The Treasurer will recall that on 5 June I asked him a question about the consequences of the sale of Ports Corp on the finances of this state. I pointed out that the budget papers (particularly table 5.10) estimate that total contributions—that is, dividends and tax equivalent payments—over the next four years from Ports Corp would be $48.1 million. However, the government announced that $100 million from the proceeds of the Ports Corp sale would be used to fund a $100 million salinity program over the next seven years.

On 16 October the government announced that the state would receive $130 million from the sale of Ports Corp. After the $100 million contribution to the River Murray, this leaves $30 million, and there will be less available for debt reduction, of course, with consultants' fees and other relevant costs. This relates to an interest saving of no more than $1.8 million per annum at an interest rate of 6 per cent, or a saving, if you could call it that, of $7.2 million over four years, compared with a loss of dividends of $48.1 million.

That is a loss of about $41 million over the next four years as a result of the sale. The taxpayers of this state will have $10 million less each year to be spent on health, education and other services as a result of the sale. In answer to my question in June—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Even without that, it would be $5 million less.

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: The government could do it.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: Because it's irrelevant, Legh. If you don't understand economics, that's your problem. In his answer to my question in June—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: Is it any wonder, Mr President, that when these facts are being exposed these people are nervous?

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Angus Redford!

The Hon. P. HOLLOWAY: In his answer to my question in June, the Treasurer said:

> . . . the government, through offsets in various provisions and contingency lines within the budget, has appropriate offsets for those revenue streams that are being quoted by the Deputy Leader of the Opposition. . . we have made conservative provision within the accounts, not only in the line to which the honourable member has referred but in other accounts in much the same way we did with the electricity businesses.

My questions to the Treasurer are:

1. How will the government make up the net loss to taxpayers (that is, the loss of expected dividends minus interest savings) of at least $40 million over the next four years as a result of the privatisation of Ports Corp?

2. Will the Treasurer provide details of these 'offsets in various provisions and contingency lines within the budget' that will allow the loss of the Ports Corp sale to be absorbed in the budget?

The Hon. R.I. LUCAS (Treasurer): I am happy to take the question on notice and bring back a reply. In relation to my earlier response in June, that more than adequately describes what the government did, and I highlighted that it was similar to the provisioning in relation to electricity. Provisioning, of course, may well include provisioning for some net negative impact on the budget subject to what the sale price ultimately achieves for the Ports Corp. That is what a provision is. The Hon. Mr Holloway may not understand what a provision is. I am happy to take the honourable member's question on notice and bring back a reply.

BLACK CASH TRANSACTIONS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Treasurer a question about the alleged growth of black cash transactions in the state's economy.

Leave granted.

The Hon. T.G. ROBERTS: It has been reported to me that there is a growth of noncompliance in the community in relation to black cash trading in a number of areas. There are some traditional areas that governments have always had trouble with in collecting a fair return in taxation—some sections of the building industry, the fishing industry and others—but it has been reported to me that there is a growth of black cash transactions in avoidance of the GST and other taxes due to both the state and commonwealth. My questions are: has the Treasurer any evidence or information in relation to the allegations in relation to the growth of black cash transactions in the state's economy, and will he investigate and report his findings to parliament?

The Hon. R.I. LUCAS (Treasurer): I have to confess that I do not have much information at my fingertips about the extent of black cash and its growth in the economy.

The Hon. R.R. Roberts interjecting:

The Hon. R.I. LUCAS: I am more than happy to take advice from the Hon. Mr Ron Roberts if he has any information. I am prepared to seek advice from Treasury as to whether or not it has any useful information that we can share with the honourable member in relation to his question.

STATE DEBT

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Leader of the government and the Treasurer, the Hon. Robert Lucas, a question on the subject of state debt.

Leave granted.

The Hon. L.H. DAVIS: One of the joys of life is to have the privilege of occasionally reading with some bemusement the articles of John Spoehr, the Executive Director of the Centre for Labour Research at Adelaide University who, with Professor John Quiggin, is certainly well to the left of most people in this chamber. In an article in the *Australian Options* magazine dated May 2001, which I have just had an opportunity to read, John Spoehr attacks the privatisation of electricity in Australia and defends the level of debt in South Australia. That, admittedly, as members would know, is the position of the Australian Democrats and, certainly, the Labor Party. On page 13 in this most remarkable article John Spoehr states:

> While public debt did increase substantially after the State Bank crisis—

my memory is that in 1990-91, before the State Bank crisis, the state government debt was in the order of $3.5 billion, and public debt did increase substantially after the State Bank crisis, that is, from $3.5 billion to $10 billion in 1991-92 terms—

> the public debt management strategies that were put in place—

that is, by the then Labor government—

> ensured that debt would fall to pre crisis levels without asset sales.

The Hon. R.R. Roberts interjecting:

The Hon. L.H. DAVIS: Just listen to this, Ron, because even you will not believe this. In other words, John Spoehr, Executive Director of the Centre for Labour Research, Adelaide University, who is apparently an economist, is claiming in this article that, without any asset sales, the debt would reduce from $9 billion in today's language (or $10 billion in 1991-92 terms) back to its pre-State Bank crisis

levels because of the public debt management strategies put in place by the state Labor government. My questions are: has the Treasurer seen this article, and can he explain how the public debt levels in South Australia would have fallen to pre-State Bank levels under the Labor Party plans? If he cannot explain this to the Council, would he write to Mr John Spoehr and ask him to detail why he makes that statement? Can he provide the data which backs up the extraordinary claim that he has made in this article?

The Hon. R.I. LUCAS (Treasurer): I would have to say that I have seen the article now, but only because the Hon. Mr Davis was kind enough just before question time to highlight this extraordinary piece of writing from John Spoehr. I have got to say—and I have said this to John Spoehr face to face, so it is nothing that I am saying behind his back—if John Spoehr actually wants to have an ounce of integrity in terms of economic debate he must find at least one occasion where he can actually say the Liberal government—and previously John Olsen, or now Rob Kerin—has actually done one good thing in relation to economic policy in South Australia. I said, 'John, you do your credibility and integrity no good when you cannot find even one circumstance where you support it.' I have to say, as Mr Spoehr hangs himself out for hire as consultant and otherwise, I would not spend bad money, or black cash, or anything, on hiring John Spoehr for economic advice.

The Hon. L.H. Davis: You'd almost get Danny Price.

The Hon. R.I. LUCAS: Well, if the price is right Danny will be there. This piece of writing is just extraordinary. With the public debt management strategies that were in place at the time, without asset sales, he is saying that the Labor government was going to be able to, in essence, reduce the debt to the pre crisis levels. So they will have to find three to four billion lazy dollars in terms of bail-out plus the interest. The public sector management strategies at the time actually were adding to the debt. There was a deficit of $300 million to $350 million a year, which was adding to the debt.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.I. LUCAS: A lesson in Economics 1 for Mr Spoehr, who may well have forgotten what he was taught, if he ever was taught, is that if you have a debt and if each year you are spending $300 million to $350 million more, that is an annual deficit and that gets added to your state debt, Mr Spoehr—it actually gets added to it.

The Hon. L.H. Davis: Understand that, Paul? Got that?

The Hon. R.I. LUCAS: I would hope that even the Hon. Mr Holloway might be able to understand that. How Mr Spoehr can argue that if you had a state debt in 1993, which in today's dollars is about $10 billion, if each year you are adding to your debt by $300 million to $350 million, how on earth he can justify saying that the Labor government had public debt management strategies in place which would ensure that that debt would fall to pre crisis levels without asset sales defies logic.

Members interjecting:

The Hon. R.I. LUCAS: Well, even Mr Holloway is struggling to explain what on earth Mr Spoehr is talking about, and that says something. The Hon. Mr Holloway can generally explain most things of Mr Spoehr and Mr Quiggin, and he quotes them often, in terms of being loftly economic commentators supporting the Labor policy of how to run the budget and the state debt. But even Mr Holloway is struggling to explain what Mr Spoehr is talking about.

The Hon. L.H. Davis: We will give you five minutes to explain it.

The Hon. R.I. LUCAS: Yes, the Council is prepared to give Mr Holloway five minutes during the grievances this afternoon. Members will give way to Mr Holloway for him to explain the Labor policy and, indeed, it was the Democrat policy, too, because in relation to Mr Elliott one remembers that infamous quote, which I am sure will be revisited during the coming election campaign, that, if you just left it, the debt would go away magically by itself, and you did not really have to do anything about it.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I ask the leader of the Democrats to withdraw and apologise for saying, 'You're a liar.'

The PRESIDENT: The Hon. Michael Elliott is being asked to withdraw the remark that the Treasurer is a liar.

The Hon. M.J. ELLIOTT: I have had a gutful of misrepresentation from this Treasurer.

The PRESIDENT: I have just asked you to withdraw.

Members interjecting:

The PRESIDENT: Order! The honourable member is on his feet. I have asked the honourable member to withdraw—

Members interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: Mr President, on your request I will withdraw and apologise.

The Hon. R.I. LUCAS: I am delighted to hear that contrite apology from the leader of the Democrats for his intemperate language in this chamber. I think people will be very disappointed at that sort of language in this chamber from the leader of a political party. I am shocked and horrified. I am happy—

Members interjecting:

The PRESIDENT: Order.

The Hon. L.H. Davis interjecting:

The Hon. R.I. LUCAS: I understand—I did not hear it—that the leader of the Australian Democrats, in more unparliamentary language has referred to the Hon. Mr Davis as a moron. I would ask for him to withdraw and apologise. Again, that is unparliamentary language.

The PRESIDENT: Order, the Hon. Ron Roberts! I am calling on the Hon. Michael Elliott to withdraw and apologise for the use of the word moron in reference to the Hon. Mr Davis.

The Hon. M.J. ELLIOTT: Much worse than that has been said in this place without drawing your censure.

The PRESIDENT: I am asking you to withdraw the word.

The Hon. M.J. ELLIOTT: Mr President, again on your insistence, I will withdraw and apologise. That does not change the facts, though.

The PRESIDENT: It would be a good idea for the Treasurer to bring his answer to a conclusion.

The Hon. R.I. LUCAS: If I could just conclude my answer without all this unparliamentary language sweeping across the chamber at me, I am happy to respond to the Hon. Mr Davis's question. I will look at the possibility of writing to Mr Spoehr and pointing out the error of his ways, not only in relation to this article but also in relation to others.

CLAYTON REPORT

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Treasurer a question in relation to Mr John Cambridge and the Clayton report.

Leave granted.

The Hon. M.J. ELLIOTT: On page 228 of Volume I of the report on the second Software Centre Inquiry, it states:

> This Inquiry has determined that misleading, inaccurate and dishonest evidence was given to Mr Cramond by Mr John Cambridge in connection with the dealings between the South Australian Government and Motorola.

I note also the recent termination of the employment of Mr John Cambridge, CEO of the Department of Industry and Trade, on 3 September this year. The following day the *Advertiser* reported Mr Cambridge as stating that he had left the position because his close relationship with the Premier would make him the target of ridicule and innuendo during an election period. Very prescient. That same day the Treasurer was reported in the *Australian* as saying:

> It was a termination by mutual agreement. [Mr Cambridge] came in for a specific task, the Premier brought him back just over two years ago to restructure the department—he sees that task as being substantially filled and will move on.

The Treasurer also stated that Mr Cambridge would receive a $250 000 severance package, including three months' salary in lieu of notice, three months for each year of the contract remaining, plus an unspecified 'transition' provision.

Members interjecting:

The Hon. M.J. ELLIOTT: Yes, she was not quick enough. I ask the Treasurer:

1. In discussions of the termination of Mr Cambridge, was the issue of the Motorola inquiry raised in any way?
2. If not raised specifically in the discussions, was it a factor in any way in relation to the termination?
3. If his task was substantially done, why was such a large termination pay-out considered necessary?
4. Since it appears that not all the termination payments related specifically to the time remaining for his contract, is there any part of that severance that might be recoverable, recognising that other people who have had severance over recent times, in particular, Ms Alex Kennedy, received no severance payment at all?

The Hon. R.I. LUCAS (Treasurer): The last part of the honourable member's question was that Alex Kennedy did not receive a severance payment. I indicated in response to the first question of the day that there was a severance or termination payment in accordance with her contract which was of some eight weeks. Obviously, the Hon. Mr Elliott does not listen in question time to the answers that are being given and it makes question time tedious when the same questions are repeated or the member has not listened to the answers that have been given. So I cannot help the honourable member in relation to that. Given the report—

The Hon. L.H. Davis: Did you ever pass to him when you were playing basketball together, Michael?

The Hon. R.I. LUCAS: It was a very interesting basketball team the honourable Mr Elliott and I shared: we did pass to each other occasionally. We were a great team on the basketball court: it is only off the basketball court—

Members interjecting:

The Hon. R.I. LUCAS: The first I knew of any findings of dishonesty against Mr Cambridge was at some stage last week and, given that the termination and the arrangements in relation to that were handled many weeks prior, it is quite clear (and I make clear again) that I was not in a position to know and did not know that there was likely to be a finding of dishonesty against Mr Cambridge. Therefore, that did not impact on the decision from my viewpoint.

ROADS, EYRE PENINSULA

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief statement before asking the Minister for Transport a question on Eyre Peninsula roads.

Leave granted.

The Hon. CAROLINE SCHAEFER: I have a recent media release from the national candidate for Flinders, Mr Grantley Siviour, which reads in part:

> The Lincoln Highway south of Cowell is currently being upgraded to an acceptable standard despite recent protestations by the member for Flinders, Liz Penfold, that it only required new edging. National Party candidate for Flinders, Grantley Siviour, who called on the government 'to do the job properly' in July, said he is pleased to learn of the work in progress for approximately eight kilometres and that the remaining unsafe section will be rebuilt next year. Mr Siviour said he congratulates Transport Minister Diana Laidlaw for providing the attention the road needed, despite Mrs Penfold's insistence that it did not warrant fixing up properly.

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLINE SCHAEFER: That is right. He is claiming that Liz Penfold, probably the most parochial of all our members, did not want money. It goes on:

> Whilst we can assume that public pressure has helped bring this work forward, much to the surprise of everyone, we must not let the matter rest until the balance of the road is up to an acceptable standard, nor let the government walk away from the responsibility it has to provide long-term remedial work on the newly completed Cleve/Kimba road.

He seems to have forgotten that there was a National Party member for Flinders for 20 years and that the Cleve Road has been sealed only since there has been a Liberal government. He goes on to say that most of the under budget savings of approximately $2.5 million are rapidly being eroded with continual patching of the road, and finishes this amazing statement by saying:

> After eight years of being ignored by the state government it appears Eyre Peninsula may be back on the map due to the impending election.

My questions to the minister are:

1. Can she confirm that Mrs Penfold did protest and insist that the road did not warrant fixing properly?
2. Can she confirm or deny that the state government has ignored Eyre Peninsula roads for the past eight years?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I acknowledge that I know of no member of parliament from the House of Assembly who argues more strongly for expenditure on roads in their electorate—

The Hon. J.S.L. Dawkins interjecting:

The Hon. DIANA LAIDLAW: —or in fact on any issue, although I do not have experience of that lobbying, but the Hon. John Dawkins may well be right. Certainly Mrs Penfold is tenacious in arguing for funding for road and transport related projects across the electorate of Flinders, and she has good reason to do so because the former National Party member, Mr Blacker, was completely ineffective, as the record will show, in gaining road funding and transport investment through his own efforts or through the Labor Party. He was absolutely ineffective, and that is why the electorate of Flinders had the wisdom to change its member and elect Mrs Penfold.

Despite Mr Blacker, as I recall, standing again last election, she defeated him handsomely because he failed and, in effect, so did the National Party he was representing. They may protest but they do not perform, and this seems to be

another example of a National Party candidate protesting but not being informed.

The Hon. J.S.L. Dawkins: He stood for Custance against Mr Venning.

The Hon. DIANA LAIDLAW: So he is a movable feast?

The Hon. J.S.L. Dawkins: Yes.

The Hon. DIANA LAIDLAW: Well, he would be wise, if he wishes to serve the electorate of Flinders with any credibility, to at least acknowledge the facts. I appreciate the praise he has bestowed on me, but not at the expense of seeking to misrepresent the situation in terms of Mrs Penfold. I asked Mrs Penfold, in terms of the investment for the Lincoln Highway for which Transport SA was proposing $500 000 in its budget, whether it was being adequately and appropriately allocated to the issue of the Cowell to Arno Bay road widening, and Mrs Penfold confirmed that, within the $500 000 that Transport SA was proposing as the allocation, this was the greatest safety issue. However, it was not her only priority for funding for the Lincoln Highway. I was well aware of that at the time. She wanted more, but at the time that was not possible to deliver. It was only later, as part of funding received from heavy vehicle charges and other programs that we were not able to pursue for a variety of reasons, that a further $800 000 was allocated to the widening and upgrading program for the Lincoln Highway, thereby accelerating the advice and work program Mrs Penfold had earlier advocated.

I have to acknowledge that the issue that the National Party candidate has raised in terms of this government or Mrs Penfold ignoring the needs of Eyre Peninsula does not stand up to any scrutiny. I highlight the 10 year sealing program of rural arterial roads—roads for which the Eyre Peninsula residents had long argued but for which no government until our government had ever given approval. Some $4.2 million has been spent on that project to date, with 35.9 kilometres of the Elliston-Lock road having been sealed, and that road will be completely sealed by this government by the year 2004.

The Kimba-Cleve road was sealed at a cost of $8.4 million and was opened in December 1999. That kind of investment has been unheard of in Eyre Peninsula for some decades. Over the past 10 years, the federal government has provided funding of $29 million for the widening and upgrading of the Eyre Highway, and a further $2.9 million has been allocated for that project this financial year.

With respect to the Lincoln Highway, we have spent $2 million in all in 2001-02, and still that does not satisfy Mrs Penfold. However, she just has to recognise that that is the limit for the allocation this year. Some $600 000 has been spent on the Eyre Highway airstrip under the rail reform federal government funding. The Head of the Bight road reconstruction was funded at a cost of $1.3 million in 1995-96. The state government is even investing $100 000 in the Lipson-Ungarra road under the Black Spot program. And Bratton Way has been given funding of $700 000 this year under a new regional road project, $456 000 of which was allocated in June 2000. Some $3.15 million has been spent to upgrade Eyre Peninsula jetties, as part of the transfer of responsibility of those jetties, which has been accepted by local councils.

I think that it is important to recognise the diligence and thoroughness of Mrs Penfold's representations, and I think it is mere jealousy that has caused the National Party candidate to be sour about it and to misrepresent her positive efforts and contribution.

The Hon. P. HOLLOWAY: Sir, I have a supplementary question. Will the minister release copies of the submissions that the member for Flinders has made in relation to all these roads?

The Hon. DIANA LAIDLAW: If the member wants me to photocopy the submissions, I am more than relaxed about doing it, and I can also provide advice of the verbal discussions. I will obtain whatever information is at hand for the honourable member.

GAMBLING PROBLEMS

The Hon. NICK XENOPHON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, who is also the minister for gambling, a question in relation to the sentencing last week of Toni Lee Powell and the services provided to problem gamblers in the prison system.

Leave granted.

The Hon. NICK XENOPHON: Last Wednesday, 17 October 2001, Toni Lee Powell, a 32 year old mother of an eight month old child, with an unblemished record, was sentenced to 5½ years' imprisonment with a two year non-parole period for embezzling her employer of $672 000 to fund her poker machine addiction—this was a finding made in the sentencing remarks by Chief Justice Doyle. In his sentencing remarks, the Chief Justice stated:

> It is regrettable that treatment aimed specifically at your gambling disorder is not available in prison. I draw to the attention of the prison authorities the desirability of them doing all that they can to facilitate you continuing to receive appropriate treatment, but this cannot reduce your punishment.

The Productivity Commission has noted that there is a clear link between pathological gambling and crime, with Australian research indicating that up to 60 per cent of pathological gamblers (as distinct from problem gamblers) have admitted committing a criminal offence to fund their gambling addiction, with some 20 per cent facing the courts.

Only yesterday I was told by a gambling counsellor that he has seen 15 problem gamblers who have committed criminal offences to fund their gambling addiction. Four of those have admitted to embezzling from their employers, committing crimes in excess of $100 000 each. My questions to the are:

1. Given the concerns expressed by the Chief Justice, will the Minister for Police, Correctional Services and Emergency Services, the minister for gambling, advise of the extent (or lack thereof) of rehabilitation and treatment services for problem gamblers within the prison and parole system?
2. Will the minister investigate the link between problem gambling and crime and provide details of cases before the courts where gambling has been a factor with respect to the commission of an offence?
3. What assessments have been made by the government of the extent to which problem gambling has been a material factor in the commission of an offence for those sentenced to a custodial period of imprisonment?
4. What programs are in place to ensure that those convicted of gambling-related crime receive appropriate treatment and support so as to minimise the risk of their reoffending when they are released?

The Hon. K.T. GRIFFIN (Attorney-General): I presume that the honourable member is not critical of the sentence actually handed down by the court.

The Hon. Nick Xenophon: No.

The Hon. K.T. GRIFFIN: He is focusing more on the observations about the treatment in prison and other issues. I will need to refer the matter to my colleague in another place and I will bring back a reply.

TAB, TELEPHONE BETTING

In reply to **Hon. NICK XENOPHON** (3 April).

The Hon. K.T. GRIFFIN: The Minister for Government Enterprises and the Commissioner for Public Employment have provided the following information:

1. This brochure was launched in August 1999 with 12 000 packs sent to active PhoneBet customers and 18 000 to PubTABs and sales outlets on proportional basis.

2. There are currently no verbal warnings on problem gambling given to participants of PhoneBet Express, however the SATAB has recently formulated codes of conduct and is implementing policies for dealing with and providing problem gamblers with information on accessing help.

3. I certainly do not endorse employees betting whilst on duty. However, as the honourable member would be aware, employees do have breaks during a working day. Obviously employees would also need to take into account their employers policy regarding internet/phone use.

4. There is no direct public sector policies that specifically refer to public servants betting with the TAB during working time.

However, there are whole of public sector policies and guidelines (which are generally supported by agency specific policies), relating to the behaviour and conduct of public sector employees, and on the appropriate use of government facilities, resources and equipment.

Part 2 of the Public Sector Management Act, 1995 sets out the general public sector aims and standards which are binding on all South Australian public sector employees. In addition, section 57 states that an employee is liable to disciplinary action if he/she makes improper use of government property.

These standards are reinforced by the recently reviewed Code of Conduct for South Australian Public Sector Employees.

Also, the Commissioner for Public Employment will shortly be issuing a guideline for ethical conduct in the South Australian public sector and a comprehensive determination on ethics. The determination will address the proper use of government property, such as vehicles, telephones, computing equipment and internet services.

The publication of these policy documents will be accompanied by a significant promotion to reinforce the behavioural standards expected of South Australian public sector employees.

5. SATAB staff are not permitted to place bets whilst on duty and cannot process their own bet at any stage.

6. The SATAB did not undertake any consultation with gambling rehabilitation service providers prior to establishing its phone betting facility. However, it should be noted that as part of the government's review of the Gambling Inquiry Report by the Social Development Committee, the government outlined its commitment in relation to a number of the committee's recommendations.

SA TAB is in the process of implementing initiatives to address recommendations 2.1 and 6.2 from the report. Namely, that information is currently being displayed in all TAB outlets as well as TAB's internet wagering site. Furthermore, messages are provided on the internet site which encourage customers to bet wisely and within their means. These messages are consistent with the messages displayed in TAB's sales outlets.

The new regulatory framework, as outlined in the Authorised Betting Operations Act 2000, includes provisions which will require the new owner of SA TAB, namely TABQ, to adopt codes of conduct, as approved by the Gaming Supervisory Authority, dealing with the provision of signs and information regarding services available to address gambling problems.

Furthermore, SA TAB management monitor activities and continue to broaden their awareness of these sensitive social situations. SA TAB operates within acceptable social standards including advertising and has developed codes of conduct as previously highlighted.

COMMUNITY AGED CARE PACKAGES

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about community aged care packages.

Leave granted.

The Hon. CARMEL ZOLLO: The federal election campaign has seen a number of commitments made by the Howard government in relation to aged care, in particular the promise of apparently another $82 million to allow the elderly to stay home rather than having to move into a nursing home. It was widely reported in the media that $68 million would be used to create an additional 6 000 community aged care packages over the next four years. However, the report went on to state that, because of the parlous state of the budget, only $15.5 million out of the $82 million would be spent in the next two financial years, with the remaining $66.5 million not allocated until 2004-05 and 2005-06.

The media report further indicated that the number of packages has been disputed by the Labor shadow minister, who is of the view that the funding allows for only 3 200 new packages, with the government reaching the 6 000 figure only by counting the packages twice and accumulating them at the end of the four years. The shadow minister was also reported as saying that the additional funding announced for the first year represents less than .5 per cent of the current budget for community care places and that the announcement does nothing to address the real crisis in aged care.

There is no disputing that the government has announced funding for just 360 places next year when there is, in fact, a current shortage of over 12 000 aged care beds. My questions are:

1. What is the minister's understanding of the level of funding and the number of packages that have been announced by the federal government?

2. Is he aware of how many packages have been identified as being allocated to South Australia over the next four years?

3. What percentage increase would this represent for South Australia?

The Hon. R.D. LAWSON (Minister for the Ageing): I am somewhat surprised that the honourable member would seek to use this issue to make a point in the context of the current federal election. The present federal government has allocated thousands of additional aged care places and packages—thousands more than were ever allocated by the Labor government when it was in power. Labor set the formula of 10 places for every 100 persons over the age of 70 years but never came close to allocating sufficient places to meet that formula.

This government has not only introduced the Aged Care Act, which has greatly raised the standards required of aged care providers, but it has also allocated a significant number of aged care packages and places in the community. The number of places allocated to South Australia in the past two years has been very substantially increased, and the number of packages especially has been increased. It is for that reason that the state government introduced its HomeStart initiative to enable the charitable and not-for-profit sector to build, with reasonable expedition, facilities to accommodate the record number of places that the federal government has been making available to us.

The federal Labor Party, no doubt wounded by the embarrassment of realising that its own record is so appalling in this field, has sought to confuse the community by making a

number of wild allegations against the commonwealth government, and the federal minister in particular. The alleged double counting is something which I would place no credence upon. Labor's arithmetic in relation to aged care matters is dubious at best.

I think it is also worth mentioning that, under the Labor Party formula, operators in this state were substantially financially disadvantaged and that the formula adopted by Labor resulted in providers in this state receiving subsidies significantly less than those received in, for example, Victoria and Western Australia. As a result of the actions of the Olsen Liberal government and the Howard Liberal government, that formula was adjusted significantly to the benefit of South Australian operators. I believe that the federal government has appropriately addressed the very important issue of aged care places, both residential and in the community.

STATE SUPPLY BOARD

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Administrative and Information Services a question about the State Supply Board.

Leave granted.

The Hon. SANDRA KANCK: In December 1998 I raised concerns about the processes of the State Supply Board and the failure to achieve best procurement practices as outlined in the document of May 1998 entitled 'Purchasing Strategically'. Nearly three years later, the Auditor-General's Report reveals inadequacies and concerns regarding the implementation of policies and procedures. At page 131 of the Audit Overview, the Auditor-General states:

> The Board has not to date formally issued detailed instructive guidance to agencies concerning best practice procurement policies and procedures, nor has it issued formal instructive advice to agencies as to what those policies and procedures might comprise.

He goes on:

> . . . no comprehensive whole-of-government policies and procedures (as to the conduct of procurement processes, structured and focused on each step in the procurement cycle process) have been developed at the government agency level. It can be said that in most cases agencies have only advanced marginally beyond the high level policy framework material published by the Board.

The Auditor-General also states:

> Deficient conduct or execution of procurement processes can cause government and agencies to fall short of the guiding principles that underpin procurement reform.

My questions are:

1. Why have procurement agencies failed to receive detailed instructive guidance on best procurement practice since May 1998?

2. Given the fact that agencies have failed to receive whole of government policy and guidelines regarding procurement, does the minister agree that these agencies have fallen short of the guidelines outlined in the May 1998 document 'Purchasing Strategically'?

3. Having fallen short of the guidelines, have these agencies failed to save the estimated $80 million outlined in the procurement reform in 1998?

4. Will the minister commission an external consulting firm to independently review government purchasing arrangements as suggested in the Auditor-General's Report?

The Hon. R.D. LAWSON (Minister for Administrative and Information Services): I think it is a matter for regret that the honourable member did not continue in her reading of the Auditor-General's Report to note that the chairperson of the State Supply Board responded—and, to use the Auditor-General's language, 'in a positive manner'—to the concerns expressed by the Auditor-General.

The Chair of the board indicated, and I think this is worth putting on the record, that:

> Firstly, since the commencement of the procurement reform program major emphasis has been placed on providing agencies with skills and knowledge to undertake effective processes. Secondly, policy and procedural development has been occurring within agencies. The board does recognise the need to move beyond providing agencies with mainly high level policy to that of providing clear leadership and procurement improvement, including the development of best practice guidelines and a more detailed set of procedural instructions. Thirdly, the board established in March of this year a dedicated resource unit to assist in procurement leadership and improvement initiatives. Fourthly, the board is to review published material of other states as part of its current process of developing best practice procurement guides. Roll-out of guides in a phased way is anticipated from November of this year.

So the matters referred to by the honourable member are under close examination of the State Supply Board, as part of an ongoing process of improving the processes of our procurement. The honourable member asks whether the government has given consideration to engaging an external consulting firm to review government purchasing arrangements, something that had occurred elsewhere, in particular in Victoria. I do not propose to engage external consultants at this juncture. I will wait upon the report from the State Supply Board of the steps which it is currently taking to ensure that our procurement reforms deliver appropriate results for the community.

MATTERS OF INTEREST

UNITING CHURCH

The Hon. J.S.L. DAWKINS: On 20 September I was pleased to attend the installation of Mrs Jan Trengove of Spalding as the thirteenth moderator of the SA Synod of the Uniting Church in Australia. The installation ceremony was the opening segment of the twentieth annual synod meeting, which was held in the Barossa Arts and Convention Centre at Tanunda. It is pleasing to note the ecumenical nature of the synod venue which is part of the Faith Lutheran Secondary School campus. Mrs Trengove is not the first lay moderator of the UCA in South Australia. The first was Mrs Elizabeth Finnigan and the second was former Deputy Premier, Hon. Don Hopgood. However, she is the first moderator to be a farmer.

In the Uniting Church the Moderator is called upon to undertake, among other duties, the following: to give general and pastoral leadership; to uphold the standards of the church; to preside over meetings of the synod; to represent the church on public occasions; and to speak on public issues on behalf of the church. In her address as the newly installed Moderator, Mrs Trengove spoke of the challenges that have faced rural church communities in recent years. She particularly referred to the lay response to the particular challenges faced in Spalding. Ultimately, it would seem quite evident that her own response has played a key role in her recognition as a leader of the church in South Australia. I will quote from Mrs Trengove:

> I believe it was in 1992, some nine years ago, that the Reverend Frank Measday, then the presbytery minister in Eyre and Frome presbyteries, called into our home in Spalding with a pale blue piece of paper in his hand. On that paper were some ideas Frank had as to the way ministry might be carried out in the future in our large presbytery.
>
> Financially things were difficult in the rural scene. Money was tight in the community and in the church. Attracting ordained ministers to rural areas continued to be difficult. People were leaving the bush, and there were fewer people to maintain congregations, church buildings and communities.
>
> Frank was hesitant to share those thoughts too widely, until I challenged him to be brave and start talking! Since that time, ministry with a small 'm' has dramatically changed in our area.
>
> In Spalding, as in a number of communities and congregations in rural and in some urban areas, we have a team of people who are the ministers to the congregation and to the community.
>
> We continue to worship each week. We continue to enjoy the fellowship we have together.
>
> We continue to delight in the Kids Club ministry we have and the outreach that it affords. We continue to encourage our sister churches and we meet together at times through the year and we continue to provide ministry to the sick and bereaved.
>
> We do not have an ordained minister. We do not get everything right all the time. The call on the lives of people within the lay ministry movement has been to sing a song in a way that puts us upfront at times, to sing a song to a tune which we are not sure of at times, to often sing without music and trust that God has the conductor's baton, to offer messages in a different way.

It was pleasing that the President of the National Assembly of the Uniting Church in Australia, Rev. Professor James Haire, was present to witness the installation of Mrs Trengove by the previous Moderator, the Reverend Don Catford, who is the Superintendent of the Port Adelaide Central Mission. I also noted the presence of representatives of the Heads of Churches of South Australia, including Archbishop Leonard Faulkner of the Roman Catholic Church and Bishop Seraphim of the Greek Orthodox Church. Also in attendance on the occasion was the member for Schubert, from another place, who is the local member.

I wish Mrs Trengove well in her leadership of the South Australian synod for the next two years. I have known her for the best part of 30 years. She originally came from the Two Wells area. The Uniting Church and, prior to that, the Methodist Church are part of her background from that district. She is an excellent example of a woman who has taken on a key leadership role within the state and within her faith, and I am sure that she will serve both the Uniting Church and South Australia extraordinarily well.

PORTS CORP

The Hon. P. HOLLOWAY: I wish to make some comments about the question that I asked of the Treasurer today in relation to the privatisation of Ports Corp. Of course, Ports Corp is the most recent of the privatisations that have been undertaken by the Liberal government. What is of great concern to us is the bottom line—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The honourable member talks about being positive, but how could one be positive in a situation—

Members interjecting:

The PRESIDENT: Order! The member should be allowed to make his point.

The Hon. P. HOLLOWAY: —where the taxpayers of this state will be about $10 million a year worse off as a result of that particular privatisation? The figures are quite simple. Ports Corp was sold for a cash price of $130 million. That was announced on 16 October. However, if one looks at the budget, and in particular table 5.10, one will see that the estimated dividends over the next four years under the government amount to some $48.1 million—that is, $12.1 million in the current budget, $11.5 million estimated for 2002-2003, $11.9 million for 2003-2004, and $12.6 million for 2004-2005. They are the projected dividends and tax equivalent payments that would have been made to this government, or to any future government, if Ports Corp had remained in public hands.

However, the government has said that $100 million will be used to fund a salinity program which, of course, means that just $30 million is left from those proceeds, and from that we have to pay the considerable costs associated with the sale. I do not know what those costs amount to, but we do know that the TAB was sold for about half that amount and that the various fees associated with the sale, including success fees to the consultants, amounted to something in excess of $5 million. So, if in this case we use a figure of $5 million, there is probably only $25 million left to reduce debt to cover the loss of these dividend payments into the future. So, the taxpayers of this state will not have the benefit of those dividends coming into the state in the future. The estimate is $48.1 million over the next four years, but the interest savings from what is left from the sale to reduce debt will be considerably less than $2 million per year at current interest rates. That is not a good deal under any standard for the taxpayers of the state. In fact, it is quite a disastrous financial outcome.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: The Hon. Legh Davis should be thinking about the return for the taxpayers of this state. How can it be to the benefit of this state if we forgo an income stream of about $12 million a year just to save $2 million in debt? How does that benefit the state? If the Hon. Legh Davis can tell me how it does, I would be very interested to hear from him. Of course, he might refer to port development, which is part of this package. An extra $50 million will be invested in the ports in the future. Of course, if the investment to deepen the harbour to panamax standard had been undertaken in a public-private partnership so that it did not add to the debt of this state, the cost of servicing that extra $52 million would have been something like $3.2 million at that rate of interest. So, even if you combine that with the saving, we would still be $5 million a year better off, even if that new development was funded directly by the taxpayer.

Whichever way one looks at this particular deal in relation to the taxpayers of this state, they have been considerably shortchanged by this privatisation. What we have seen in the past few days in relation to what is now the Kerin government, and what was the Olsen government and previously the Brown government, is a real sense of paranoia. Like most political pundits, I would have thought that electricity privatisation would be the big issue at the next election but, in view of the events of the past few days, I suspect that the big issue at the next election will be the accountability and integrity of government. With what we have seen today and with the recent report of the Auditor-General and the response of this government to reports by independent entities, I think that the issue of integrity in government is now coming right to the fore in this state, and the sooner that we get rid of this government the better.

Time expired.

STATE DEVELOPMENT

The Hon. L.H. DAVIS: What do the following 10 projects have in common: the Mount Lofty Summit redevelopment, the Holdfast Shores development, the Glenelg North boat haven, the extension of the Memorial Drive complex, the Adelaide Oval lights, the National Wine Centre, the International Rose Garden, the Bicentennial Tropical Conservatory, the River Bank project and the Convention Centre? They are all worthy projects over the past 13 years, most of them in recent times, which have been stridently criticised by various groups in the community and, on many occasions, by people within this parliament.

The Mount Lofty redevelopment was vigorously attacked by the Australian Democrats on the basis that they believe that the regrowth eucalyptus, some 5 to 10 years old, should not be cut down. Crazy stuff, but that was the reality, and it warranted a page one story in the *Advertiser*. The Holdfast Shores development was also stringently criticised, stridently criticised, by the Australian Democrats, and yet it is a development that I think we should all be proud of. The Glenelg North boat haven, which has provided valuable sanctuary for boats in times of storm and is also a welcome addition for boat owners, has also been criticised. The extension to the Memorial Drive complex, which provides a gymnasium, swimming and recreational facilities and upgrading of the Memorial Drive tennis courts in a very sympathetic fashion, has, again, been attacked by many people, including Jane Lomax Smith, the Labor candidate for Adelaide and the Australian Democrats, notably the Hon. Mike Elliott—

Members interjecting:

The ACTING PRESIDENT (Hon. J.S.L. Dawkins): Order!

The Hon. L.H. DAVIS: —who rumour has it actually uses the very complex which he attacked. The Adelaide Oval lights have also been attacked as an unwelcome addition to the Adelaide Oval on the basis that it is an intrusion into the parklands. The Australian Democrats may belong to the Adelaide Oval which, dare one say it, is on parklands. Although they go to the Adelaide Oval, they could not come at having lights. The reality is that, if the Adelaide Oval is to be competitive in the international cricket arena, day/night matches are a matter of fact. The Hon. Ian Gilfillan argued that they should be pop-up lights—never mind the fact that $25 million had been lost in the original attempt to have the world's first pop-up lights. Cost never comes in the way of a good idea for the Democrats!

The National Wine Centre has been stridently criticised for being on parkland: the critics say it ought to have been located elsewhere. Yet the recent opening of the National Wine Centre highlights the fact that South Australia is the leading wine state with 60 per cent to 70 per cent of the nation's exports and over a billion dollars of exports in the last 12 months. It is a welcome addition to that cultural precinct along North Terrace. It is complemented by the International Rose Garden, which has been planted up for only little more than a year and which will be a most popular tourist attraction, along with the wine and roses theme in the precinct. It also has been criticised.

The Bicentennial Tropical Conservatory, designed by leading Adelaide architect Guy Maron, was built in 1988. In time it will be regarded as one of the great Australian buildings of the twentieth century. It is a magnificent building, a magnificent facility, and now appears to advantage with the rose garden and wine centre adjacent to it. That was also criticised. The most recent project is the magnificent Convention Centre, which faces the Torrens River. It has recently been opened and is admired by everyone. It is a magnificent showcase for Adelaide. The Riverbank project, already under way, will also add lustre to a precinct which has been sadly underutilised and much unloved in recent times. So there are 10 projects and they have all been criticised. This village mentality that consumes Adelaide is something that we should all look to overcome in future years. We should act in a more positive manner.

Time expired.

EMPLOYMENT

The Hon. CARMEL ZOLLO: On a number of occasions I have spoken about precarious employment, which is the employment of people on a casual or part-time basis. This type of employment does not provide any security and there are those who do not have enough work to make ends meet. This group of people is commonly described as 'underemployed'. In Australia we have around 437 400 underemployed, part-time workers. The latest job figures also indicate that the number of part-time jobs fell by 102 300.

In May this year I also talked about the manner in which employment statistics are measured by the Australian Bureau of Statistics and the fact that they can lead to misleading results. The bureau, in its surveys, classifies casual part-time employees, even if they have work for only one hour per week, as being employed. Another group are those who do not have a job but would like one and are not officially counted as unemployed—around 1.159 million people. They are people who have simply given up ever being employed. With the 657 000 people who are officially unemployed, we have a total of 2 253 900 Australians who do not have enough work.

This job crisis has been ably assisted by the creation of the 'never ever' GST by the Howard Government. Certainly, many large retailers have blamed the GST for their job losses, as have small businesses. It is estimated that since the GST was introduced in Australia there are an extra 66 000 unemployed. Youth unemployment has jumped to 25.4 per cent, with the annual jobs growth slumping from 3.7 per cent to 0.3 per cent.

I know that the vast majority of people welcome the statement by Kim Beazley that under a Beazley Labor government, from 1 July 2003, we will see the GST taken off electricity and gas supplies; and of course the Federal Labor Government has pledged that the states would not carry any of the costs of this reduction in GST tax income. It shows just how arrogant and out of touch with reality both the current Prime Minister and his understudy are in the way they have reacted to the announcement, but it is typical of their attitude to ordinary Australians and job security. I think most people will remember for a long time the words used by several federal ministers regarding the Ansett collapse and the resultant job losses: 'A small blip and a carcass'.

A slight fall in the latest unemployment rate in South Australia is welcome. However, our youth unemployment, in particular, is now at 30 per cent and again the GST has contributed to this high level. Our state's youth unemployment is the highest on mainland Australia. The shadow minister for unemployment in the other place rightly pointed out that the job market in this state remains fragile, with the Australian Bureau of Statistics data showing 18 400 full-time

jobs lost in South Australia over the past year, with total employment also falling by 7 000 over the same period.

We have seen so many corporate collapses in recent months, but the recent figures are yet to be reflected in the September figures. It is estimated that 50 000 people lost their jobs Australia wide in September alone. The list of corporate collapses, downsizing and rationalisation is extensive and far reaching: Ansett, Telstra, HIH Insurance, Harris Scarfe, One-Tel and Pasminco, to name a few, along with thousands more employed in the community sector. Security of employment remains, for the majority of people, a measure of their success in so far as it enables them to enjoy what we all strive for: a life of dignity and comfort, the ability to afford accommodation, a decent standard of living, education, transport and so on.

Both the federal and state governments are, in my view, falsely comforted by the current levels of unemployment figures, by the many thousands of people who have simply given up looking for work. The federal Liberal government's legacy is Australia's high inflation, rising unemployment, lower growth, the surplus gone and record taxes. Employment and employment security are and should be the key issues in the federal election. A federal Labor government will give a high priority to employment and employment security and it is strongly committed to tackling the job crisis in Australia.

PENOLA

The Hon. A.J. REDFORD: Next Sunday I have been asked to launch a book entitled *Corartwalla—A History of Penola, the Land and its People*. I have been provided with a copy of some extracts of the book and the author refers to the book as being a history of Penola, taking into account previous writing on the area. He goes on in his note and says:

> . . . the book is a reference work for the sources of much of the Penola district's historical material. The preservation of true and valid information for future generations is one of the prime tasks of those who pursue the writing of history. It is equally important to avoid writing a dry-as-dust account, where an endless procession of factual material takes precedence over the truth that history is inhabited and created by people. Wherever possible the participants speak for themselves, allowing the reader to experience some of the atmosphere and immediacy of the past.

This book has been brought into being amidst considerable local controversy. It was commissioned by the Penola council and later taken up by the Wattle Range council, with a grant of some $20 000 to the principal author, Mr Hanna. Mr Hanna in early drafts wrote that the founder of Penola was a Mr Alexander Cameron, otherwise known as Black Sandy. There has been considerable local debate as prior to that it had been thought that a Mr Alex Cameron Jr was the founder of Penola. Not so long ago a statue was commissioned and unveiled in the centre of Penola celebrating Alex Cameron Jr's founding of Penola.

The matter has led to some considerable debate within the community and, as a consequence, Mr Hanna decided to write the book independently, having sought assistance from Mr David Abbey, a local resident, Mr Glen Clifford and Mr Alistair Roper, who are local historians. Mr David Abbey, I understand, has substantially funded this book and has operated in a manner that would remind one of a 19th century philanthropist, paying for the book and the work and providing considerable material from his own family's collection to support the author's work.

Mr Glen Clifford, an 86 year old man, has also provided considerable material. It is a little disappointing that Messrs Abbey, Clifford and Roper have all received legal letters from the Wattle Range council, but I understand that the legal issue was resolved yesterday and that the book will now be launched at the Penola Royal Oak Hotel, and one would hope that there will be considerable attendance there.

The parts that I have read are extraordinarily well written and refer to the rediscovery of a race of Aborigines largely lost to Australian history—the Pinejunga, who existed on the land for thousands of years. Mr Abbey provided a lot of information. It talks about the Austin brothers who founded the Penola district and the growth of Penola characters such as John Bowden, Christie Sharam, William Wilson, Julian Tenison Woods, James Don, George Scott, Jane Balnaves, George Gladstone and, of course, John Riddoch. Penola has had a major share of national personalities, including Mary MacKillop, the famous poet John Shaw Neilson, Will Ogilvie and of course the famous Adam Lindsay Gordon, who was very much part of the early history of the town and district.

The Penola district is a famous district and has played an important role in the history of this state. Indeed the late Max Harris saw Penola as a cradle of Australian culture. It gave birth to the development of a home-grown mythology and folk law and the story shows how legends can be cemented into fact when repeated over a long period of time. I look forward to participating in the launch of this important historical account of an important town in this state.

GAMBLING RESEARCH

The Hon. NICK XENOPHON: I will use my opportunity in this matters of interest debate to reflect on comments made by Dr Ray Gangarosa, who presented evidence to the Pennsylvania state house government committee hearing on gambling less than two weeks ago with respect to the impact of gambling. Dr Gangarosa has a medical background and uses biological analogies. In his submission he talked about a noxonomy and a noxocracy. He says that a noxonomy is an economy based on harm and a noxocracy is a government that fosters harm. The terms are derived from the Latin 'nocere', to harm, which is also the root for the word 'noxious'. He has coined these terms to point out longstanding but previously unrecognised phenomena that have been silently undermining our nation's economies, infrastructures and economic incentives.

Dr Gangarosa uses the biological analogy of cancer. Cancer is a malignant growth that arises from the body's own tissues but mutates into a destructive form. He talks about the major features of cancer in that it escapes accountability by masquerading as normal tissue. It competes for resources so voraciously that it causes the body to waste away, and even a very small malignant tumour can cause life threatening illness.

Dr Gangarosa talks about a noxonomy being an economic sector based on an epidemic of harm. He talks about the damage and the destructive nature of industries that can cause enormous harm and have a parasitic effect. In particular, Dr Gangarosa makes the point that most industries impose small social costs of some kind but then they pay their way through taxes, regulation and pollution control and, if all else fails, product liability. Normal industries are fairly sensitive to whatever harm they might cause in society. When one person died of tainted Tylenol, Johnson & Johnson pulled the whole product off the shelves nation wide and invented tamper proof packaging. That incident may not have been caused by

a defective product at all, but that company set the standard for good corporate citizenship in the face of revealed harm.

Dr Gangarosa makes the point that with respect to gambling there is an evasion of accountability and voracious competition and that these are blame shift industries that escape society's usual controls by shifting blame for harmful commerce to their consumers. That can be seen with some in the gambling industry—and I emphasise 'some'—who blame problem gamblers and say that it is all their fault, that it is a question of free choice on their part and that they are responsible. The blame shift industries have enormous political influence—a point that Dr Gangarosa makes in the context of the economic power they have in political campaigns. He makes the point that blame shift industries have exorbitant profit margins—often more than twice those of the economy as a whole—and they get a huge implicit subsidy just by causing harm to society.

These points are particularly pertinent in the context of what has happened in recent times with respect to media reports of individuals who are before the courts or who are being sentenced before the courts for gambling-related crime. Earlier today I referred to the case of Toni Lee Powell, a woman who had an unblemished record and who was sentenced to 5½ years' gaol with a two year non-parole period for embezzling $672 000 from her employer to feed her poker machine-related addiction.

I have raised in this Council on a number of occasions the issue of gambling-related crime and the frightening link between compulsive gambling and crime. I have raised the fact that there is a significant link between the two and that, according to a report, 'Who's Holding the Aces?' in the *Alternative Law Journal* almost four years ago, something like 60 per cent of pathological gamblers have admitted committing a criminal offence in order to feed their gambling addiction. Last year, Michael Gary Handley was sentenced to 10 years and nine months gaol for an armed robbery. Although it was accepted by the court that it was linked to his addiction to poker machines he was given a very heavy prison sentence.

I am not suggesting that that prison sentence should have been in any way mitigated because of his gambling addiction, but it does highlight the enormous cost to the community of gambling-related crime and makes the point that, in the absence of decisive action by governments to reduce the level of gambling addiction and, with it, gambling-related crime, we will continue to see tragic cases such as those that we saw last week of Toni Lee Powell and last year of Michael Handley in terms of the commission of their offences due to their gambling addiction—which is, in many respects, a state-sponsored addiction.

Time expired.

INTERNATIONAL INCIDENTS

The Hon. IAN GILFILLAN: I want to raise two matters which are in some way connected and which are of great concern to me—and, I hope and believe, the population of South Australia. First, I refer to the refugees and the treatment by Australia of the so-called asylum seekers who are coming by boat, mostly from Indonesia. It is time to reflect, I believe, on a well known parable that most of us would have referred to as the parable of the good Samaritan. It appears to me that we have denied blatantly the precept that our immediate response should be compassion for those in need. I find it callous and inhumane in the extreme that we, as a nation, have denied that prime human response that is required of all of us of love and compassion and to treat those in need as our first priority. To add insult to injury, we are defining these people as being less than genuine refugees and using evidence which I regard as blatantly spurious, the so-called jumping into the sea—as if this is an indication that they are people who are manipulating the system; closet terrorists manoeuvring their way in. It is a blatant denial of humanity to argue, and expect to be regarded seriously, that people who wish to come into Australia for nefarious purposes would risk under any circumstances an entry on what are (as has been most recently proved) desperately unseaworthy vessels in a most uncomfortable and hazardous way.

The so-called argument that they are queue jumping blatantly disregards the fact that the countries from which these people are escaping have no queue. It is not as though there is a procedure (and these smug people who are making these statements are, sadly, principally parliamentarians and ministers), and to say that all countries from which these people come have similar structures to Australia is, in my view, deliberately misleading. It cannot in any intelligent way reflect anyone's opinion of the system that is available to these people in order for them to escape from these countries. If people who wish to escape use resources—in other words, pay money—and to accuse them of being counterfeit because of that, again, I believe belittles the intelligence or morality of those Australians who propose that argument.

To argue that by determinedly turning these people away by so-called reasonable and necessary force—and, tragically, both the old parties, Labor and Liberal, have subscribed to this—will diminish Australia's impact or speed up the process is ridiculous. The cost will increase. If these people were processed effectively in Australia, those who were undesirables and those who did not qualify, of course, could be sent back either to the countries they came from or put into an international situation that would be satisfactory for us.

The second aspect is the war in Afghanistan. There is no doubt that the world has been changed dramatically by the events of 11 September. I am profoundly concerned that the one cure that is being waved about is the sort of wild west logic and rhetoric of President Bush whereby bin Laden is now the personified, epitomised focus which is the cause of terrorism worldwide: he is to be brought in dead or alive; run him in; and use whatever it takes. That is not the language of a responsible and balanced world leader.

I also felt extremely uncomfortable when our Prime Minister said that he believed that bin Laden should be killed. Surely, as a civilised society, we believe in the proper use of due process. It is a comfort to me that the *Australian* has consistently carried a rational and balanced approach to both the refugee situation and the war in Afghanistan. Martin Hamilton-Smith, in a piece quoted in the *Advertiser*, said that any activity in Afghanistan should use a scalpel, not a blunderbuss—and, as the former head of the SAS in Australia, he should know. It just amazes me that we are currently in a position of what I call talk-back radio led political rhetoric and, sadly, that has been translated into action. I hope that, in time (and I hope it is not too long), we mature as a country and realise that war will not solve our problems.

Time expired.

STATUTORY AUTHORITIES REVIEW COMMITTEE: ANNUAL REPORT

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

That the annual report of the committee 2000-01 be noted.

The committee has, again, been very active in the financial year just past. It held 42 meetings and it tabled several reports, including the Annual Report of the Statutory Authorities Review Committee and the Inquiry into the Operations of the South Australian Community Housing Authority (which was a major report). Another major report that was concluded was the Inquiry into the Animal and Plant Control Boards and Soil Conservation Boards. We adopted terms of reference for the second inquiry into the Commissioners of Charitable Funds, and subsequently we reported on that in recent weeks. Also, we have recently completed a further report into timeliness of reporting by statutory authorities.

The committee has been well supported by its staff. Kristina Willis Arnold who, until recently, had been the secretary of the committee, has taken maternity leave and, in fact, only recently became a very proud mother. The committee compliments her on her enthusiasm and professionalism. She is ably assisted by the research officer, Mr Gareth Hickery, who also, of course, has the major responsibility of preparing the reports for publication. The other change in committee staff has been the necessary replacement of Kristina Willis Arnold, and Tania Woodall has filled that position in recent times and has, like Kristina, performed admirably in that role, with her experience in the public sector being used to good advantage.

The committee's role is what we have made of it, in many senses, over the past seven years, since it was formed in May 1994. We have now published 28 reports, and the committee has primarily sought to make government departments and agencies—indeed, ministers and parliament—more aware of the importance of transparency, accountability and timeliness when it comes to statutory authorities, their annual reports, the content of annual reports and, indeed, their operations. The two major reports that we tabled were of particular significance.

The inquiry into the operations of the South Australian Community Housing Authority (SACHA) was a long lasting inquiry, given that on the way through the inquiry the committee found itself enmeshed in a very controversial and long-running inquiry into the West Terrace cemetery, which occasioned three reports and which led to some fairly heavy-handed—and necessarily heavy-handed—action by the responsible minister, the Hon. Diana Laidlaw. The committee has a continuing role in the oversight of the management of the West Terrace cemetery as a result of the findings of the recent Select Committee on the Adelaide Cemeteries Authority Bill.

The SACHA report recommended that the government should review the need for a separate authority to administer community housing. The minister has rejected that proposition but, in other respects, has agreed with the main recommendations of the committee. The committee was unanimous in all but one of its findings. In particular, we recognised the importance of housing associations in delivering affordable public housing in South Australia.

Housing cooperatives were very fashionable in the early 1980s and there were some philosophical considerations abroad at the time that housing cooperatives were the solution for low cost housing. The necessary limitations of housing cooperatives have been revealed in recent years and housing associations, which comprise a partnership between government and agencies such as Red Cross, the Salvation Army and church groups, have proved to be very cost-effective and efficient ways of providing housing for people in need across a wide spectrum of the community.

The most important inquiry, in my mind, was that into the animal and plant control boards and soil conservation boards. That was a major inquiry that involved the committee travelling to three regions of the state, receiving 85 written submissions and hearing evidence from 96 witnesses. We recommended in the end that the soil boards and the animal and plant control boards should be merged over a period of time so that there will be land management under one group rather than two groups, which would complement the very successful and recently established catchment water boards, so that water management and land management will be under two streams rather than three.

We recommend that the Animal and Plant Control Commission and the Soil Conservation Council should be amalgamated and renamed the Land Management Council. All these recommendations, of course, would require legislative change. The fact is that there has been a sea change in attitude in regional and rural South Australia about the importance of the environment and the need to rationalise resources, to communicate more effectively, to network better and to avoid duplication, which was occurring with animal and plant control boards.

Indeed, in some cases we saw animal and plant control boards and soil boards working very well together, whereas in other cases they passed each other in the middle of the night without knowing that each other was there. There was a wide variation in communication between those two groups. What is pleasing to the committee is that the report obviously has been very helpful to the state government in preparing the draft Integrated Natural Resource Management Bill, which I understand is about to come into parliament if it has not already done so. That will be a major piece of legislation, which I think will ensure that the environment in regional and rural South Australia will be better managed.

Again I commend the work of the staff and also pay tribute to the work of the committee, which in all but one instance has been unanimous in its recommendations. It has been a very effective vehicle. As I have said on more than one occasion, parliamentary committee work often provides members of parliament with the most satisfying contribution one can make in one's role as a parliamentarian.

The Hon. R.K. SNEATH secured the adjournment of the debate.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE: ANNUAL REPORT

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

That the 45th report of the committee, being its annual report 2000-01, be noted.

The reporting period saw the committee undertake a larger than usual number of inquiries, involving numerous site visits, particularly in relation to the ecotourism inquiry but quite broadly as well. The committee has been impressed with the level of interest shown by the public and with the goodwill extended to it. The cooperation of ministers and

their departments and agencies has also been greatly appreciated.

Our annual report this year is, in essence, a summary of almost all the committee's investigations. It is probably the most comprehensive annual report prepared by the committee, and clearly this demonstrates the scope and volume of work undertaken by it. I will briefly outline the work of the committee over the reporting period, commencing with our inquiry into native fauna and agriculture.

We all know that native birds are an integral part of our unique environment, and 165 years of agricultural and pastoral development, including the clearing of native vegetation, has had a considerable effect on the numbers and behaviour patterns of some native fauna in this state. The committee found that there has been considerable concern within the community regarding the impact of native fauna on agriculture and the methods being used to manage these interactions. Of the many methods used to control birds, the use of audible bird scaring devices is amongst the most controversial.

Clearly, there is a need to place more controls on the use of these devices. Not only is the effectiveness of their isolated use questionable, their impact on communities is often a source of neighbourhood conflict. There is a need to better understand the complex interaction of agriculture with native species. Only through improved data collection and the introduction of mechanisms that ensure that growers acknowledge their responsibility can the full impact of agricultural development on native fauna be determined.

The committee concluded that there is no single solution to managing native fauna and that there needs to be an integrated management approach which includes all stakeholders and which must be treated as a regional issue, not just by often isolated and individual landowners.

Our second inquiry was into urban trees, and arose from a Plan Amendment Report prepared by the Minister for Transport and Urban Planning. The fact that the temporary protection of significant trees in the suburbs, which is provided under the Metropolitan Significant Tree PAR, would cease at the end of July 2000 was of considerable concern to the committee. Councils have always had the means to protect significant trees by amending their development plans. Despite some local government bodies expending considerable cost and effort, there was not one local council with additional urban tree protection policies established within the prescribed time.

This would have left a large number of trees within metropolitan Adelaide unprotected as of the start of the 2001-02 financial year. This situation could have presented an opportunity for the removal of trees, resulting in the loss of valuable assets that the legislation was designed to protect.

The report of the committee recommended that the Minister for Transport and Urban Planning further extend the interim controls. I am pleased to report that the minister advised that the regulations under the Development Act were amended to temporarily protect trees with a circumference of between 1.5 metres and 2.49 metres and South Australian indigenous species over 4 metres in height to 30 June 2002. Councils covered by the controls include Unley, Mitcham, Norwood, Payneham and St Peters, Prospect, Burnside and Adelaide.

Perhaps the most significant inquiry that the committee has undertaken in recent times, and which included a considerable amount of the reporting period, was into ecotourism. This inquiry arose as a result of concerns regarding the impact of tourism on ecologically sensitive land, the methods being used to deal with managing the issue and limited recognition of South Australian ecotourism in the 2000 annual National Tourism Awards. This inquiry was timely, since 2002 is to be both the International Year of Ecotourism and the Year of the Outback.

The committee received submissions from numerous groups and spoke to in excess of 50 people from regional areas, and it had numerous witnesses appear before it in the parliamentary complex. Familiarisation trips were undertaken throughout the state from as far south as the Naracoorte Caves to the extremities of northern and western South Australia. The inquiry confirmed the significance of tourism to this state. Ecotourism is the fastest growing sector of world tourism. In particular, there are outstanding opportunities to develop South Australia's natural assets in a way that promotes economic and community development while protecting and enhancing natural assets for current and future generations. Since the close of the reporting period, the committee has tabled both its interim and final reports on ecotourism. The committee looks forward to the responses from the relevant ministers on the recommendations contained in that report.

During the reporting period the committee also commenced a rather substantial inquiry into smart communities. The term 'smart communities' is a reference to the post industrialised society where economic activity and social exchanges will centre on the way that knowledge is created and retrieved to an extent that will determine the character of our occupations and work. Smart cities are not just about the provision of IT infrastructure but strategically connect and market packages of services and resources offering land, quality of life, an educated and skilled work force, competitive advantages and a wide range of associated benefits.

Adelaide has many obvious competitive advantages and resources over other states of Australia and other countries. There is a great deal of good news to be reported and the committee will use this opportunity to raise industry profiles and community awareness. This inquiry is, indeed, timely when it is recognised that Adelaide will host the World Congress on Information Technology in 2002.

The committee is currently focusing on an inquiry into urban development, which commenced in the reporting period. However, the committee has just recently hosted an urban development forum at which individual stakeholders presented and discussed their views on the issues and opportunities that face South Australians. The view of the committee and of the participants in the forum is that this event was a resounding success, and the committee may build on that success by making such forums a regular feature of the way in which the committee conducts its inquiries. I take this opportunity to thank the Speaker in another place (Hon. John Oswald) for allowing us to use the House of Assembly chamber for this event.

The committee has a broad charter and investigated almost every matter that was brought to its attention during the reporting period. I will not go into all of these, but I will quickly touch on issues in relation to the Sellicks Hill Caves. The committee was led to believe that a genuine attempt will be made to ascertain the extent of the remaining caves in that area. We appreciate the advice from the Minister for Minerals and Energy that companies that do not comply with the new legislative provisions that protect such natural assets will be vigorously pursued. This annual report contains a number of

recommendations that will hopefully heighten the industry's awareness of its obligations under the Mining Act.

The committee took considerably more evidence this year than in past years on a number of planned amendment reports. The report contains a summary of our deliberations and findings in relation to planned amendment reports and, of course, the committee has an important role in the determination of such reports.

The 2000 Annual Conference of Environment and Public Works Committees was held in Darwin. Site visits centred on the new port facilities at the East Darwin port. Significant rail approach work to the facility had already been put in place in anticipation of the final approval for the Alice Springs to Darwin railway link. Conferences such as that held in Darwin, which I was fortunate enough to attend, provide the ideal forum for committee members to meet with interstate colleagues who have similar interests, without the pressure of party politics coming into play. Incidentally, next year (2002), South Australia is scheduled to host this annual conference and we are well placed to showcase this state to our interstate counterparts.

Again, I am pleased to report that another year has passed without a dissenting report being tabled by the ERD Committee. As the government does not have the numbers on this committee, it is clearly a reflection of the resolve of members to focus on the issues and work together. I extend my thanks to my colleagues on the committee, including the presiding member, Mr Venning; the Hon. Mike Elliott; Ms Key, the member for Hanson in another place; Mrs Maywald, the member for Chaffey; and the Hon. Terry Roberts. On behalf of the committee, I also extend our gratitude to the staff appointed to the committee: Mr Knut Cudarans, the secretary; Mr Stephen Yarwood, the research officer, who is currently on study leave; and also his replacement, Mr Philip Frensham, who commenced his duties towards the end of the reporting period. I commend the report to the Council.

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

LIBERAL PARTY, FUNDRAISING PLAN

The Hon. R.R. ROBERTS: I move:

> That I be ordered to lay on the table the fundraising plan of the Liberal Party of Australia and associated statistical material.

It is with some regret that I find myself having to go to these lengths. Having served in this parliament for many years, whenever there has been mention of statistical information or any document the Liberal Party has wanted to lay on the table, it has never been denied the right to do so.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: I shall endeavour to continue against these outrageous interjections, Mr President. Yesterday honourable members would remember that during a question I sought leave to table these documents, and with great confidence, because I thought that the information is basically statistical in its content; the majority of it is statistical. Some of it, in my view, is clearly in the public interest. I must admit that I was particularly concerned at the vehemence of the opposition. When we came back here on Monday we were being told that the Liberals were going to be united under the new leader, after the disgrace of the previous premier.

The PRESIDENT: Order! In this debate the honourable member has to be relevant to the documents he is seeking to have tabled.

The Hon. R.R. ROBERTS: Yes, Mr President, I understand that you have been instructed to carry along in those lines. I understand you have taken advice.

The PRESIDENT: You must be relevant and must not stray from the reason for putting the documents on the table.

The Hon. R.R. ROBERTS: Well, Mr President, it is almost impossible, when we were denied the opportunity to lay this on the table, not to talk about the circumstances in which that was done.

The PRESIDENT: Order! The honourable member cannot refer to circumstances.

The Hon. R.R. ROBERTS: When we arrived back here, within hours of the arrival of the new Premier these documents were appearing in members' boxes. I asked some questions, and I sought leave yesterday to table this in the normal manner, and was denied that, because I did want to ask a series of questions about it. When I was denied the ability yesterday to lay this on the table in accordance with procedures, members opposite said—

The Hon. L.H. Davis interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: Members opposite said that they did not know what was in it; that was the reason they denied me leave. I say, Mr President, they knew exactly what was in it, and that's why they denied it.

The Hon. A.J. REDFORD: On a point of order, Mr President, the Hon. Ron Roberts is imputing improper motives on those of us who sought, quite appropriately, to deny him leave to table documents. He is misrepresenting what occurred yesterday and I would ask you to direct him to say something factual—at least at some stage during this contribution.

The PRESIDENT: Order! There is no point of order. I have asked the honourable member to be relevant to the motion that he has moved.

The Hon. R.R. ROBERTS: This case has to take in the proceedings yesterday. Had the normal procedures taken place—

The PRESIDENT: Order! The honourable member, and other members, can refer to the contents of the document and what is in the document, but you have to be relevant to the motion you have moved, which is about tabling it, and no other subject.

The Hon. A.J. REDFORD: On a further point of order, Mr President, the honourable member keeps referring to what is normal and what is not. One can only interpret that he is reflecting upon a decision made by the Legislative Council yesterday, and that is improper. I would ask you to rule accordingly.

The PRESIDENT: I do not think I can.

The Hon. A.J. Redford: It is reflecting on the role of the Legislative Council

The PRESIDENT: Order! I ask the Hon. Ron Roberts to be relevant to his motion.

The Hon. R.R. ROBERTS: I am trying to do that. These documents—and I will refer now to the documents—that we sought, I believe in the public interest, to be tabled yesterday have a number of features, and I wish to point out to the Council why it is in the public interest that I be ordered to lay them on the table. Since yesterday I have done some further research in respect of these matters, and I find that much of the information that is contained in these documents was in

fact printed in the *Advertiser* on Monday. I have checked the facts of the documents I have received, and many of those facts are indeed printed in there.

I was surprised today that the minister in another place, Mr Brokenshire, in answering a question on this very subject, was very clear, speaking on behalf of the government, and said that he was not worried about it because this information was available to all—Labor and Liberal. So the only difference is that, in the lower house, they have no objections. But honourable members opposite have forced this Council to go to these lengths to try to get information—

The Hon. A.J. REDFORD: On a point of order, Mr President, the honourable member is seeking to misrepresent what took place in another place. What we are objecting to and what was objected to here was the tabling of the document. What happened in another place was a question put to the minister and answered accordingly. What the member is seeking to do is to misrepresent what happened in another place, and I would ask you to rule accordingly.

The PRESIDENT: Order! Well, I do not know what happened in another place.

The Hon. R.R. ROBERTS: I actually quoted the words of the minister, so I do not know what misrepresentation that could mean. What we have is a situation where a lot of this information has been made available, and I am now put in the position where we have to go through a formal motion. Clearly, members opposite do not want me to proceed so they are resorting to these frivolous points of order. These documents do a number of things. This document says that they needed to raise $1.5 million for state elections, along with money for federal elections and the maintenance of the division.

All up, it says, they needed to raise $2.25 million and they were at least $670 000 short. They decided that they would get the finance committee together with major sponsors such as Rob Gerard, who would be invited to come on board. This is the interesting part why it is in the public interest that this document becomes available for all people—and I am talking about shareholders of private companies and members of banks, etc. They ought to know where their funds are being used. It is also important, when I read this sentence, that we understand what is going on. It says that they need to target industry sectors and companies that have benefited from the state government, or will be, in their view, disadvantaged by a Labor state government.

Members interjecting:

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: The public has a right to know how these people benefited from this government. Does this mean that those companies that have received millions of dollars in industry assistance will be asked to tip into the Liberal party coffers? I clearly assert that that is the case, because if you look at the past donors and if you look at the list of people who have received government assistance for the creation of industries you will find that they reflect one another. Does this mean that those companies that have bought formerly taxpayer owned assets in Liberal privatising will be funding the next campaign? Let us look at other fundraisers leading to the Liberals' dash for cash.

The Hon. A.J. REDFORD: Mr President, I would ask you to rule the honourable member out of order. We all know that Adelaide Independent Taxi Service donated $8 000 to the Labor Party, and I could equally make that allusion about them, couldn't I.

The PRESIDENT: Order! The Hon. Angus Redford will resume his seat.

The Hon. R.R. ROBERTS: They dare not have the public find out what they have been up to. These documents show that Mr Bernard Booth is in charge of rattling the Liberal can in the real estate industry. Ross Adler is there. Peter Hurley is there. He is listed in these documents as the President of the Australian Hotels Association, covering the hospitality industry. He is not listed as a hotelier but as the President of the AHA.

There is also Mr Dick McKay, covering the banking industry. There is more about Dick McKay from the Adelaide Bank which I will come to in a moment. No less than $100 000 is expected from the Adelaide Bank. I think that the people who support and put their money in the Adelaide Bank have a right to know that $100 000 of that money has been given to the Liberal Party without any reference to them. They do not get a chance to have a say. I am also advised that, and it is clear from these documents, a major fundraiser will be taking place in the Adelaide Bank boardroom. This is a major fundraiser. Other bits and pieces that we will see—

The Hon. T.G. Cameron interjecting:

The Hon. R.R. ROBERTS: All of our donations are there in the documents which have been laid before the electoral commission. It may be a very good exercise for students of politics to have a look at the statistical information that is provided here, and then look at the returns that have actually been lodged with the electoral commission to see whether they all line up.

Members interjecting:

The Hon. R.R. ROBERTS: Rob Gerard is there and he is not frightened to come forward. In Sunday's paper, a source claimed that a prominent Adelaide businessman offered $300 000 to a cash-strapped party if it accepted Mr Brown as Deputy Premier. That is how much it costs to buy a Liberal Party deputy premier—$300 000. Minister Brokenshire says that he does not mind whether these documents are tabled or not because he says that it is public information, so why is there a protest against us tabling them in this chamber?

One of the things that this reveals to people who may be interested in the mining industry, for instance, is the major fundraising contact people who have made themselves available, and their backgrounds. Mr Bernard Booth is in real estate; Mr Ross Adler, from the mining and energy sector, is a captain in the cash grab routine; Mr Martin Cameron—well, Martin is not going to worry, he will fess up to that; Ms Vickie Chapman from the fishing industry—I believe this is the same Vickie Chapman who is a candidate and has been appointed by the government to the Fishing Industry Council—she is a captain; Mr Rob Clampett from the hospitality industry; Mr Richard England from the health area; Mr Peter Frazer from the wine area; Mr Brian Fricker—now here is a good one—Director, Computer Site Solutions Pty Ltd; and a Mr Graham Fricker, who is a director of the same company. I understand that these particular people have had major contracts in relation to information technology for this government. One has to question whether there is a conflict of interest here. Mr Rob Gerard—well we have mentioned him; Mr Peter Hurley who is the President of the Australian Hotels Association; Mr Tony Johnson, who is a partner in Johnson Winter & Slattery—

The PRESIDENT: Order, I remind the Hon. Ron Roberts—

An honourable member interjecting:

The PRESIDENT: Yes, that is what it is like listening to you. I order that the Hon. Ron Roberts must be relevant to his motion. He is straying from that.

The Hon. R.R. ROBERTS: The relevance to the motion is that this is in the public interest and that the people have a right to know. These people do not want the people to know this.

The PRESIDENT: You are tabling the document.

The Hon. R.R. ROBERTS: If we have to table the document, I have to provide information to the Council which may convince it that I should be ordered to table the document. I am endeavouring to do that by explaining what is in the documentation.

The PRESIDENT: You can refer to what is in the document.

The Hon. R.R. ROBERTS: Thank you, Mr President, for your help. There is a whole range of other statistical information about how much money has been received over a period of time. There is one interesting exercise in this area that I also think should be raised. I refer to the chapter in the lead-in headed 'State Chapter of the Menzies Research Centre'. When I look at the statistical information, I see that there have been donations from businesses to the Menzies Research Centre. One is often asked to make contributions to research centres and, while I am not a general fan of Bob Menzies, he had a great deal of respect from certain people mainly in the conservative area of politics.

When one says, 'The Menzies Research Centre', one would expect that research was going to be carried out. But when you read the rest of the sentence you get a lead as to where I am going and why I believe that this document ought to be placed on the table. It says,'This could reduce the research bill for the State Campaign by around $50 000.' Clearly, what you have to read into this is that this will reduce polling research by about $50 000. The Menzies Research Centre is clearly not researching politics; it is researching voter intentions. It is a blind and it is all laid out in here as to who has been involved and what has been got out of it. Since these documents were made public in the *Advertiser* on Monday, I am advised that many of these people have now resigned.

Members interjecting:

The Hon. R.R. ROBERTS: The Hon. Legh Davis has made some remarks about my shirt and my tie with 'the wild one' on it, but I can assure the Hon. Legh Davis that he is not half as wild as most of those people who have been donating on a regular basis to your organisation. What they are really trying to do is to stop this information becoming public. I have been around this place a long time. I will move this motion today and this motion, which should have been decided yesterday according to the normal protocols of the parliament—

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. The honourable member is again reflecting on this Council. He says that there was a motion yesterday that should have been decided yesterday. First, there was not a motion so—

The PRESIDENT: Order! The Hon. Angus Redford does not have a point of order.

The Hon. R.R. ROBERTS: He is struggling to come up with another thought, let alone a point of order. I understand clearly what is going on. I have been in this Council for a long time. I would expect, as would everybody else, that an open and honest government would have allowed leave to be granted, given that much of this information was already in the *Advertiser*. The members of the Liberal party ensconced in this red chamber, taking effortless superiority to an art form, have a different view on this issue from their lower house members. So one has to wonder whether they have greater involvement.

Given that this motion has been moved today, the proper thing to do would be to decide the question today. If we do not decide the question today, or if they go into a cover up routine to stop public scrutiny of what they have been up to, we will have it adjourned. If that occurs I can only say that I was right and this was a cover up and they do not want the scrutiny of the public because they have something to hide. Why does this indolent lot on the other side have a different view from the Minister for Police, the Hon. Mr Brokenshire, or is Mr Brokenshire wrong? Is this information perhaps dynamite—not in that it does not reflect the truth? I believe this is an authentic document—

The Hon. A.J. REDFORD: I rise on a point of order, Mr President. The honourable member's remarks are not pertinent and he is being repetitious. That might work in the caucus but it does not work here.

The PRESIDENT: Order! The Hon. Ron Roberts should remain relevant to his motion without being repetitious.

The Hon. R.R. ROBERTS: These documents are clearly authentic. I draw strength from the fact that it says 'Fundraising Plan, Liberal Party of Austra-ia'—no 'l'. Clearly, it was written by a Liberal.

I put the case that these documents are in the public interest and I again lament that we could not have done this yesterday and proceeded with the business of the Council. I hope that the government will show some integrity and respect for the public interest and support this motion today. I do not think they will because they will go for the cover up. I commend the motion to the Council.

The Hon. T. CROTHERS: I would like to speak in generic terms in respect of this matter. I have some problems with it. Since it is close to election time, one has to wonder where or who made a document of this kind available to the Hon. Ron Roberts in his mailbox. If the argument used to justify the tabling of this document is one of democracy then I have to wonder where democracy went when the major parties, the Democrats and other parties decided that I could not run at the next election as Independent Labour, even though I spell it with a 'u'. I wonder where democracy went if this matter is alleged to be democratic: I have some doubts. There is not a major party that is any different in respect—

The PRESIDENT: Order! The Hon. Mr Crothers has to be relevant to the motion and must not stray away.

The Hon. T. CROTHERS: I am trying to be relevant, sir.

The PRESIDENT: You must refer to the document.

The Hon. T. CROTHERS: I accept your direction on relevancy, sir, and I am trying to be as relevant as I can. A number of matters were raised by the previous speaker. In this time of election one wants to be fair in respect of tabling documents. It would only be fair if every participant in the election were to table documents that pertained to their donors. I cannot forget that there was a donor to the government party in the last election called Catch Tim. We do not know who he is.

Members interjecting:

The Hon. T. CROTHERS: Well, we do know who he is. But this is in spite of the fact that there is an act about parliamentary donations. People who donate as per this list, one presumes, are supposed to be labelled under the act of Parliament. The Hon. Mr Roberts referred to the position of

people paying into trusts. All major parties do that. That shields the people from having to comply with the act about party political donations.

My own view in respect of this matter of electoral donations is that, the sooner the parliaments of this nation, federal and state, determine that they will totally support the funding of all elections, the better. We will get much more integrity and honesty in politics, and you will not have the position of ministers having to resign and so on. I understand what the Hon. Mr Roberts is up to but I have to indicate that, because of the inequities involved, I cannot support him.

The Hon. R.I. LUCAS (Treasurer): I look forward to the contribution of the Hon. Mr Cameron in relation to this debate but, at this stage, I move:

That the debate be adjourned.

Motion carried.

The PRESIDENT: The adjourned debate to be made an Order of the Day for?

The Hon. R.R. ROBERTS: The next day of sitting, Mr President.

An honourable member interjecting:

The PRESIDENT: The next Wednesday of sitting?

The Hon. R.R. ROBERTS: Mr President, I am in charge of the motion—the next day of sitting.

The PRESIDENT: Yes, and I am asking you.

The Hon. R.R. ROBERTS: I do not need the honourable member to answer for me.

The PRESIDENT: Are you saying the next day of sitting?

The Hon. R.R. ROBERTS: The next day of sitting.

The PRESIDENT: I put that question. Those for the question say aye; against say no. I think the noes have it.

A division on the question was called for.

While the division bells were ringing:

The Hon. T. CROTHERS: I rise on a point of order, sir. The Hon. Ron Roberts has moved that this matter be adjourned to the next day of sitting—not the next Wednesday on which we sit but the next day of sitting. If that is beaten here and it is knocked off, can it then be brought on next Wednesday?

The PRESIDENT: It has to be resolved by another motion.

The Council divided on the question:

AYES (6)

Holloway, P.	Pickles, C. A.
Roberts, R. R. (teller)	Roberts, T. G.
Sneath, R. K.	Zollo, C.

NOES (15)

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

Majority of 9 for the noes.

Question thus negatived.

The Hon. R.R. ROBERTS: In light of the view of the Council, I move:

That the motion be adjourned to the next Wednesday of sitting.

Motion carried.

MINISTER'S REMARKS

The Hon. M.J. ELLIOTT: I seek leave to make a personal explanation on the subject of allegations made in the House of Assembly in relation to my views on drugs.

Leave granted.

The Hon. M.J. ELLIOTT: Yesterday in the House of Assembly the Minister for Police, the Hon. Robert Brokenshire, talked about a letter he wrote to members of parliament on drug related matters. He noted within his contribution yesterday that he received one letter, and that letter was from me. I will not go through much of what he said, other than one particular sentence which has caused me grave concern, as follows:

Mr Elliott said to me that he wants to see more drugs on our streets and he wants to see more devastation among our young people.

I have a copy of the very short letter I wrote to Mr Brokenshire, in which I stated:

Dear minister,
I am sure I feel just as passionately about the issue of drugs and the damage they inflict on our community as you. I have three teenage children, whom I care for greatly, and I was recognised as a dedicated teacher before entering parliament. Despite your honourable intentions, I believe your approach to drugs is doomed to failure because you are not addressing the real problems. Unless you do so, then your approach will in fact make things worse. I am confident that future generations will reflect with dismay on the simplistic approach that is being adopted at present in South Australia.
Yours sincerely, Mike Elliot, MLC.

The letter is dated 27 September 2001. I seek leave to table that letter.

Leave granted.

The Hon. M.J. ELLIOTT: Anyone can see that I never said any of the things that were alleged to have been said by me.

The Hon. T.G. Cameron: He is not alleging that you had a personal conversation with him, is he?

The Hon. M.J. ELLIOTT: No, but to take it further, I visited Mr Brokenshire yesterday and explained that my letter did not bear any resemblance to what he said that I had said. Last evening, just before the adjournment of the House of Assembly, he said the following:

Earlier today, in answer to a question without notice, I said the Leader of the Democrats in another place, the Hon. Mike Elliott, had said that he wants to see more drugs on our streets and he wants to see more devastation to our young people. As a fair-minded person, I wish to clarify this statement. Mr Elliott did not say that he wanted more drugs on the streets, but what I was referring to was the fact that he and the Democrats support a policy that would see the amount of cannabis and other drugs being able to be used legally increased. Let us be crystal clear: the Democrats and their leader are on the record saying that they want to increase the number of cannabis plants allowed for personal use. . . Mike Elliott says that he is personally committed to children and, in that regard, I take him at his word. But let there be no mistake: the policies the Democrats espouse will be devastating to our young people as they would see more drugs and dealers on our streets.

I make quite plain, as I thought I had in the letter to the minister, that I am absolutely deeply committed to my children, I have taught thousands of children and have given many hours over many years to coaching junior sport. I have always encouraged all kids to participate equally, regardless of their ability, as I realise there are many things we can do to try to prevent children using drugs. Any suggestion that in any way I would want, accept or think it is a good thing that people use drugs or that I want more drugs to be used I find absolutely abhorrent. It is reasonable to have honest differ-

ences of opinion about what is the best way of achieving that goal of reducing the harm done by drugs in our community, but I was disappointed that for political purposes those sort of accusations were made against me.

CLAYTON REPORT

The Hon. P. HOLLOWAY: I move:

That the report of Mr Dean Clayton QC, into the evidence given to the First Software Centre Inquiry ('The Cramond Inquiry'), be noted.

I think it is quite appropriate that such a significant report, one which has, after all, led to the resignation of the Premier, which has indirectly, at least, led to the resignation of the Chief Executive Officer of the Department of Industry and Trade, and which has led to the dismissal of the—

An honourable member interjecting:

The Hon. P. HOLLOWAY: In part. It has certainly contributed—

An honourable member interjecting:

The Hon. P. HOLLOWAY: No. Perhaps I should have made it clear that the events that have led up to this have resulted in—I guess it was not the resignation of the CEO; the Treasurer has told us, in any case, that he was sacked—

The Hon. R.I. Lucas: Terminated.

The Hon. P. HOLLOWAY: Or terminated—I think that really means the same thing. If the Leader of the Government wants to mince words, let him do so. Also, of course, the Treasurer's electricity privatisation adviser has been sacked—

An honourable member: Terminated.

The Hon. P. HOLLOWAY: —or terminated. I am not sure about the former Premier's Chief of Staff: I am not sure whether she was terminated, sacked or resigned; I am not quite sure who got in first. However, because of the fact that it has caused such significant ripples in this state, I think it is appropriate that this parliament should have a debate on such a significant matter.

The first point I want to make is that this government has been very unwilling to accept the umpire's verdict—not only with respect to this report but with respect to any other report that this government has had that is unfavourable to it. We had the case where—

The Hon. R.I. Lucas: The leader resigned.

The Hon. P. HOLLOWAY: So did Joan Hall. The leader says, 'The Premier resigned.' Yes, he did, but of course what the Premier has tried to do in going down is to try to leave an innuendo—

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I would have thought that the Hon. Legh Davis would be the last person—and I know that he does not want to hear this—

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: In the case of Joan Hall, for example, we had the incredible scenes in the House of Assembly today where, with respect to the findings of the Auditor-General (which, of course, she did not accept), she came out and abused the Auditor-General. That led to the scenes in the House of Assembly today, when we had the Auditor-General, for the first time that I can ever recall, having to respond to allegations made by a member of parliament just minutes after the House had endorsed the integrity of that office. Similarly, in relation to Mr Clayton, the response that we had from the government was to try, by innuendo, to create doubts about the integrity of this inquiry. But, of course, I do not think that those attempts by this government will succeed any more than they will in relation to the other inquiries.

The other day, when this report was released, the former Premier came out and made his statement and issued his press release. All his minders were there giving their spin to the journalists. All of this was before the report was released. I was looking for a copy of the report in this place last week, but copies were not made available until just before 5 o'clock—just before the deadline for the news. It was an orchestrated attempt by the government to ensure that only that particular line was given. So, we had reports the following day in the *Advertiser* that what the former Premier was really guilty of was trying to create jobs.

Right at the start, I would like to knock all that on the head. I would like to say something about this government's record in relation to jobs, because I think it is highly relevant to this sort of climate of disinformation that this government is trying to create. Let us look at the statistics and put them on the record—it is long overdue that this should happen. The fact is that South Australia's economy has under-performed significantly compared to the national economy since December 1993, which was when the Liberal government was elected. While there has been a decrease in the unemployment rate, that fall must be put in the proper context. In December 1993 (almost eight years ago), Australia and South Australia were emerging from a deep national recession, with employment as a trailing indicator just starting to grow.

What has happened since December 1993? Employment in South Australia has grown by 34 600 (that is 4 500 a year) or 5.4 per cent, compared to a national growth in jobs of 1 357 500—175 200 per annum, or 17.4 per cent. Growth in employment in South Australia was 5.4 per cent over that almost eight year period, compared to 17.4 per cent nationally. So, jobs growth in South Australia has been less than one-third of the national rate. The number of full-time jobs in this state has risen by only 3 700 since December 1993, and most of those came just within the last month, which I suspect could well be a statistical aberration. Indeed, if one looks at the statistics for the month before last—August of this year—one will see that the number of full-time jobs had fallen since December 1993, on the ABS statistics.

Despite South Australia's low rate of population growth of 51 200 (that is, people aged 15 and over) since December 1993, it is still 51 per cent more than the jobs growth of only 34 600 over the same period. So, of the jobs that have grown (the 34 600), 3 700 were full time and the rest were part time—and, of course, the definition of a part-time job can involve as little as one hour of work in the previous month. If South Australia's job growth has failed to meet even the state's modest growth in population, why has the unemployment rate fallen rather than risen? The answer lies in the labour force participation rate, which is the key measure of confidence in the jobs market.

Since December 1993, South Australia's participation rate has fallen by 1.7 percentage points, from 61.7 per cent to 60 per cent. Over the same period, Australia's participation rate has risen from 62.9 per cent to 63.5 per cent. In fact, if South Australia had the same participation rate as Australia as a whole, the unemployment rate in South Australia would now be 12.3 per cent—well above the unemployment rate of 10.6 per cent in December 1993, when the Liberals took office. So much for this nonsense that all the Premier has been guilty of is creating jobs. I think it is long overdue that those statistics are understood by the people of this state.

The other point that needs to be made is that, in relation to the myth that this government is trying to create—that, somehow or other, the Motorola deal was a great one for this state—we should never forget that one of the reasons for the introduction of the emergency services levy in this state (which was originally touted at $141 million a year in revenue; it was subsequently cut back, under public protest, to about two-thirds of that figure) was to pay for the government radio network, of which the Motorola contract was a part. So much for this contract that has created so much grief for the former Premier: so much for that being a great deal for this state.

In fact, both in terms of the overall employment performance of this government over eight years and also in relation to the impact of this network (and, incidentally, we now know from emergency services personnel they are having a great many problems with this new network), to suggest that, somehow or other, in fact, this Motorola deal has been a great benefit to the state is something that really is a lot of nonsense. I think that just puts the government's spin that it has tried to put on this matter into some perspective.

Let us look what the report has found. In fact, the Clayton report found that there has been a quite systematic cover-up under this government. It began way back in 1994, when the former Premier was asked a question by the Leader of the Opposition during the estimates committee. That question related to the Motorola contract that was being issued for a software centre in Adelaide and whether there was some side deal that resulted in the contract being awarded to South Australia.

This was on 21 September 1994. When the opposition leader asked Industry Minister Olsen in parliament about rumours that informal promises had been made to Motorola about future government work, the then Minister (later Premier) Olsen replied:

> Certainly, to my knowledge, no formal or informal discussions or commitments have been given to Motorola.

Later, he said:

> I repeat: there has been no formal or informal discussion with Motorola about other components of business.

Of course, we subsequently discovered, no thanks to this government, that that was wrong. In fact, back on 14 April 1994 Minister Olsen had actually written a letter to Motorola offering it the contract to become the designated supplier for the equipment for the whole of government radio network, subject to normal commercial criteria and the establishment of its Australian software centre in Adelaide. So, quite clearly, an understanding was given by the then minister back on 14 April 1994 that, if the software centre was established by Motorola in Adelaide then, subject to normal commercial criteria, Motorola would be offered the contract to become the designated supplier for the whole of government radio network contract.

Of course, it is a long, complicated and, I suggest, very sordid story that has led up to the Clayton report. If the Premier had told the truth on that occasion and referred to this relationship with Motorola, as far as making it the designated supplier for the whole of government radio network was concerned, then this issue would never have arisen. But, of course, what we know subsequently is that this government was involved in a systematic cover-up to try to hide what had actually happened in relation to that.

If we go through the chronology of events, on 19 October 1994 the Chief Executive Officer of the Office of Information Technology (Mr Ray Dundon) wrote to Motorola, following discussions with the Economic Development Authority, to confirm that the government:

> . . . is committed to the undertakings made in the various letters which have been sent to Motorola earlier this year by. . . Mr John Olsen.

In May of 1995 the new Project Director asked the Crown Solicitor's Office for a legal opinion of the legal implications that the government may have to Motorola as a consequence of John Olsen's letter of 14 April and Ray Dundon's 19 October 1994 letter. On 14 May 1995 Crown Solicitor Philip Jackson provided advice that Mr Olsen's 14 April 1994 letter to Motorola had exposed the government to two possible legal actions for damages for misrepresentation or deceptive conduct if it reneged on the offer of the whole of government radio equipment contract. The advice, which mentions both the 14 April 1994 letter and the 19 October 1994 letter from Ray Dundon, confirms that the government had a legally binding obligation to make Motorola the designated equipment supplier of the radio network.

If we then move forward to July 1995, the annual report of the Auditor-General spells out his concerns about a case in which the State Supply Act has not been complied with on a major government contract because of a letter sent to the company that was contrary to law and had the effect of creating a legal relationship that gives rise to obligations, liabilities and rights. Mr MacPherson said:

> Steps are being taken to protect the interests of both the state and the external party involved.

On 9 August 1995 then Treasurer Stephen Baker issued a media release announcing that the government would invite tenders for the South Australian government's fixed and mobile telecommunications infrastructure, and on 17 October of that year Wayne Matthew announced in parliament that the government had determined the need for a new communications and dispatch system for emergency services with a common computerised dispatch system and stated:

> We do not intend to follow a similar model to that adopted by some other states.

On 11 March 1996, according to the Solicitor-General, legal advice given on this day from the Crown Solicitor's Office concluded that it was unlikely that the minister's 14 April 1994 letter had created a legal liability between the government and Motorola, but on 20 March 1996 Premier Dean Brown gave approval to undertake negotiations with Motorola to finalise the terms and conditions of supply as designated supplier of radio equipment for the whole of government radio network. On 9 July 1996 Premier Brown wrote to Motorola and reiterated the government's commitment to giving Motorola the designated equipment supplier contract for the government radio network.

The important point, of course, is that from 1994 onwards the Minister for Information Industries, as he then was, the then Premier (Dean Brown), all the officers in the Economic Development Authority, all the public servants, senior and below within the Office of Information Technology, all clearly understood that they had an obligation to use Motorola equipment in relation to the whole of government radio network contract. The only one, it seemed, who was out of step on this was John Olsen—but more of that in a moment.

If we move on to 1998, the opposition, through my colleague the member for Elder (Pat Conlon), issued a media release saying that the Motorola deal was looming as a major

political headache for our Premier. He was certainly right about that. On 5 August that year (1998) the first of a series of questions from the opposition to Premier Olsen was asked about Motorola, to establish whether the Premier, as he then was, misled parliament over his September 1994 comments—which at first he refused to answer. Minister Matthew, however, said in answer to a question:

> It is fair to say that, because Motorola achieved that nomination as designated supplier for part of the equipment, that was sufficient encouragement for it to establish its software development centre in Adelaide.

On 26 August 1998 parliament's Economic and Finance Committee agreed to hold an inquiry into how and why Motorola was given the deal to be the designated supplier of radio equipment for the government radio network. On 27 August 1998 Premier Olsen produced a selective quote from the Crown Solicitor, which he claimed vindicated his position that his clause 17 defence—that is, clause 17 of the contract that set up the software centre in Adelaide—was rock solid. He refused to table the full Crown Law advice. The Premier repeated his statement to parliament:

> There is no side deal.

On 29 September 1998 Solicitor-General Brad Selway wrote advice backing up the 27 August 1998 opinion written by the Crown Solicitor, based on what he was told, instructed and understood but without being supplied the vital pieces of advice and information. On 30 September 1998 the Auditor-General appeared before the Economic and Finance Committee and revealed the existence of the 9 July 1996 letter, which he believed reignited the legal commitment of the government to Motorola over the government radio network. He also said that there was no open tender process for the radio equipment contract in South Australia because a similar tender process for a similar contract in New South Wales was used here in South Australia.

In October 1998, over a number of days, the opposition received leaks relating to the Motorola deal, namely, the Solicitor-General's advice dated 29 September 1998, the Crown Solicitor's advice dated 14 May 1995 and the Ray Dundon letter dated October 1994. On 4 November 1998 the opposition moved in parliament to have a privileges committee formed to inquire into whether or not the Premier misled parliament on two occasions. The Premier relied on the Solicitor-General's advice as his sole defence in saying that he did not mislead parliament. The opposition's motion at that time was lost.

On 18 November an Economic and Finance Committee meeting heard evidence from the former Project Director Peter Fowler, and it was confirmed that he had not even heard of John Olsen's June 1994 agreement with Motorola until he read about it in the media that year (1998). Also, the Auditor-General presented the committee with a 10 point plan on how best to inquire into the Motorola deal. On 26 November 1998 Premier Olsen made a ministerial statement to parliament in which he said that it had been decided by Motorola and him that the other deal with Motorola for the radio equipment contract would be negotiated separately from the incentive agreement. He also announced that the Solicitor-General would conduct an inquiry into the whole deal. The opposition moved another motion to establish a privileges committee based on the leaked cabinet IT subcommittee minutes showing that Premier Olsen had not told the committee about the June 1994 contract. The opposition's motion was again lost.

On 27 November 1998, the opposition called for an independent inquiry, saying that the Solicitor-General had a conflict in terms of his previous role as Crown Solicitor when he gave advice on Motorola and his subsequent later involvement in giving advice as Solicitor-General. The Council will recall that the Attorney-General had asked the Solicitor-General to conduct the inquiry into this matter initially. Ultimately, former Chief Magistrate Cramond was asked by the Attorney to inquire into it. I will return in a moment to the Attorney's behaviour in relation to that matter.

On 9 December 1998 the Premier again reiterated that he had not misled parliament and he said that he looked forward to receiving an apology from the opposition and the media when the inquiry was over. On 10 December 1998, the Attorney asked former magistrate Cramond to inquire into and report on allegations that the now Premier misled parliament on 21 September 1994 and on subsequent occasions when answering questions relating to Motorola.

On 9 February 1999 the Cramond report was tabled in parliament. Premier Olsen said that the report shows there was no side deal for the Motorola contract. The report said that Mr Olsen had on three occasions given misleading information about Motorola. Mr Cramond said that he did not have the time to complete the final term of reference which asked him to identify significant matters which did not reflect good and proper public administration.

On 7 December 2000 Premier Olsen made a ministerial statement in parliament in which he tabled a report of the Prudential Management Group which completed the terms of reference of the Cramond inquiry. It set up a new initiative to ensure greater communications between agencies at a ministerial level. I will refer to that in a moment.

On 28 February this year a series of questions was asked in parliament by the opposition about the existence of key documents that were missing from the Cramond inquiry into whether John Olsen misled parliament over his dealings with Motorola. The Council will recall that these documents had been sent by the chief executive officer of the Treasurer's department (Department of Industry and Trade), to the Ombudsman and various other figures, including the Premier's office. They were received by Miss Vicki Thompson, the Premier's Chief of Staff, and were sent back to the Treasurer's office. The Treasurer did nothing in relation to those documents. Perhaps we can well understand why that was the case.

In the end, because nothing was done, the opposition asked questions about them earlier this year. On 28 February a series of questions was raised in parliament by the opposition about the existence of key documents that were missing from the Cramond inquiry. On 1 March this year the government lost a vote, with the help of the four Independents, to stop standing orders from being suspended to allow for the establishment of another inquiry into why documents went missing from the Cramond inquiry. This inquiry was established with the power to subpoena documents and witnesses and to take evidence under oath.

I also remind the Council that on that occasion the then Premier did not wish to have a royal commission established. Indeed, when the opposition suggested such a thing, it was rejected by the government and, indeed, it was not part of the motion that was passed. Going through some papers, I notice this report in the *Advertiser* of 22 March this year:

> Government spokeswoman, Vicki Thompson, is quoted as saying that a Royal Commission would cost millions of dollars and take

more than a year to complete. 'We have complied with the motion as put by the opposition and supported by the government', she said.

It is worth putting on the record that that was the position of the Premier's office at the time in relation to the scope of this particular inquiry. So much for the nonsense that the ex Premier is now saying about royal commissions.

That is the background—a fairly shortened version of the background—in relation to how this particular report came about. I think it is significant that, as a result of this saga over the 7½ years since the former Premier's letter of 14 April 1994, there has been not only systematic cover-up of these matters on behalf of the government but, also, enormous damage has been done to the processes of government in this state. I will point out some of these. A number of individuals and departments have been unnecessarily and quite unfairly maligned as a result of the processes which have been undertaken, particularly through the Cramond inquiry and other procedures that were undertaken during the last 7½ years.

I refer to page 74 of the Clayton report. Mr Cramond, as I said, had insufficient time and, we now know, insufficient documents because they had been withheld, for whatever reason, from his inquiry. He concluded that the former Premier had misled parliament although, of course, he said that that had not been a deliberate act because reliance had been put on clause 17 of the agreement to establish the software centre in this state. But, as a result of the subsequent inquiry by the Prudential Management Group, which was looking at the unfinished business of the Cramond inquiry, there was considerable criticism of the lack of communication between the Economic Development Authority and the Office of Information Technology. What did Mr Clayton find? At paragraph 385 he stated:

> The evidence indicates there was no relevant lack of communication between the Economic Development Authority and the Office of Information Technology in 1994. On the evidence to this Inquiry the criticism of Mr Cramond and the Prudential Management Group that there was a 'process problem' has no foundation. Mr Dundon did not send his letter of October 1994 in error because he had not been properly instructed. Mr Dundon's letter correctly stated the commitment of the South Australian government.

Paragraph 386 states:

> It was not only the Office of Information Technology which was unaware that the obligation created by the letter of 14 April 1994 had been terminated no later than 23 June 1994 as suggested by Mr Olsen to Mr Cramond. All of the officers of the Economic Development Authority held a similar belief to the Office of Information Technology.

So there it was—the Treasurer's department had been maligned. In fact, I asked questions in this place about this issue when documents were finally brought forward by the acting deputy of the department, now the new Chief Executive Officer of the Department of Industry and Trade. I asked questions in relation to those matters. Clearly, one of the reasons why the documents came forward which led to the Clayton inquiry was that the Department for Industry and Trade felt aggrieved that, in fact, it had been unfairly criticised by the Prudential Management Group. I guess it shows what a wicked web we weave when we set out to deceive. I think that, because the former Premier had tried to concoct this defence before the Cramond inquiry back in 1998, all sorts of other people got hooked up in it and it was the fact that those people were unfairly hooked up that ultimately led to the truth of this matter coming out. But how much damage has been done to the processes of government by the fact that these agencies were unfairly maligned? And what about the individuals involved? What about Mr Dundon? I quote from clause 401 of the Clayton report:

> As discussed in more detail elsewhere, the evidence to this inquiry establishes that it was misleading for Mr Olsen to suggest that the offer in the letter of 14 April 1994 was not acted upon by Motorola. It was therefore incorrect and unfairly critical of Mr Dundon for Mr Olsen to suggest that Mr Dundon had revived the commitment unnecessarily and without checking. The evidence is that Mr Dundon affirmed an existing commitment after thoroughly checking the position with Mr Cambridge. If anything, the onus was on Mr Cambridge to alert Mr Dundon to clause 17 of the Software Centre Agreement if that clause had extinguished the offer of the radio contract. There is no evidence that Mr Cambridge did that.

So there we have it from Mr Clayton's words, that Mr Dundon had been unfairly criticised for doing the right thing, way back in 1994. So again the point is made that with this whole sordid affair there are other aspects. We saw last week all the tears for the former Premier of this state. We saw the ministry lined up and they were all in tears about the former Premier parting, but what about some tears for all those individuals who had their careers damaged and were otherwise quite unfairly maligned as a result of the systematic dishonesty that has proceeded over the last 7½ years?

Indeed, what about others such as the Solicitor-General? The Attorney-General was asked some questions yesterday in relation to the Solicitor-General. He also put on the record some information that was almost what one might describe as a pre-emptive strike in relation to the role of the Solicitor-General. But the point I want to make in my comments this afternoon is: why was the Solicitor-General of this state, a very significant position, a person with a statutory role, an important role in the legal framework of this state, put in the position that he was? I think that is a question that the Attorney-General of this state really should answer and has to take responsibility for. I think that the Attorney-General of this state back in November and December 1998 placed the Solicitor-General in a quite untenable position, a position that was totally inappropriate for that office.

The Hon. K.T. Griffin: I've already given you the answers to that.

The Hon. P. HOLLOWAY: Well, let us just cover this in some more detail. The position of Solicitor-General is provided for in the Solicitor-General Act. Section 7 of the act provides that the governor may remove the Solicitor-General from office on the grounds only of incapacity or misconduct. Parliament created this elevated position to allow the Solicitor-General to give advice to the government without fear or favour.

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Not at all. I am pointing out the position of the Solicitor-General, so the question is: why was the Solicitor-General put in that sort of position? Members of this Council might well recall that prior to the Cramond report being established the Attorney-General had asked Mr Selway, the Solicitor-General, to undertake the review.

The Hon. K.T. Griffin: The opposition objected.

The Hon. P. HOLLOWAY: We did, and quite properly so I would have thought.

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: No, what was said was that the Solicitor-General had been involved in providing advice to the government in relation to the Motorola contract.

The Hon. L.H. Davis interjecting:

The Hon. P. HOLLOWAY: I am sorry, perhaps the Hon. Legh Davis should listen carefully to what I am saying. What had happened was that the Solicitor-General—

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: Perhaps the Attorney might care to answer this question, namely, did he instruct Mr Selway to conduct the inquiry before December 1998, whenever it was, when Mr Cramond took over, and did Mr Selway himself seek release from that position? What was his view on the fact? Did he believe that he had—

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: And appropriately so, because Mr Selway had provided advice to the government that had been publicly used. It had been distributed to all members of the Liberal Party and selected members of the media, to try to justify the Premier's position. Paragraph 572 of the Clayton report says:

> Upon receipt of the advice of the Solicitor-General copies were promulgated by the Premier's Office to all Liberal Members of Parliament and certain sections of the media. The covering message from the Premier's Chief-of-Staff to all Liberal Members of Parliament was:
>
> > "Please find following advice from the Solicitor-General on the Motorola issue which puts the matter in context, a point which is being conveniently ignored by the Labor Party and some sections of the media."
>
> Mr Olsen acknowledged that the advice which was released in full was used 'as part of the political process'.

So you see Mr Selway had been dragged into the political process, not by the Australian Labor Party but by this government. I think the role of the government of putting Mr Selway in that position is something which needs to be examined closely. The reason that Mr Selway is in an embarrassing situation at the moment, I would suggest, is that he was given incorrect instructions. What Mr Clayton says is that in August 1998 Mr Selway provided an opinion which was circulated to all Liberal MPs. I just referred to that. Mr Clayton writes:

> Given the use to which the opinion was to be put, it was important that the instructions on which the opinion was based were complete and correct. At least one important premise for the Solicitor-General's confirmation of the Crown Solicitor's opinion was incorrect. That is the Solicitor-General had been incorrectly instructed and he accepted that, subsequent to the execution of the Agreement of 23 June 1994, representatives of Motorola accepted that there were no continuing additional commitments outside of the Software Centre Agreement.
>
> In the circumstances the Solicitor-General should have been instructed to take into account everything that was relevant to whether the government had a commitment to Motorola, not just the letter and the agreement.

That is on page 109 of the Clayton report. So what Mr Clayton is saying really is that the Solicitor-General should have been given a broad brief, if it was to be used for these sorts of purposes, everything that was relevant to whether the government had a commitment to Motorola. But what has happened is that the Solicitor-General was put in a position where he was given narrow instructions and the advice that he gave was used for political purposes. Mr Selway was put in that position. Who was responsible for putting the Solicitor-General in that position? If Mr Selway is embarrassed by where he finds himself now under the Clayton report, who put him in that position?

Further, there was, of course, the matter of Mr Selway's relationship with Mr Chapman, who was the chief-of-staff of the Premier at the time. As is pointed out in the report:

> Mr Selway had a close relationship with Mr Chapman. Mr Selway described Mr Chapman as a friend; Mr Chapman was naturally in the Premier's camp.

An interview took place with Mr Selway and his assistant with the Premier's chief-of-staff on 16 December 1998 and substantive notes were taken of that conversation. Mr Clayton says:

> Both records of the interview indicate a lengthy discussion. The statements noted by Ms Byers suggest a discussion by people with a similar interest. For example, there are references to the 'best position' and 'problem', which on their face could be interpreted as being partisan and inconsistent with an interview by an independent inquisitor. A frank discussion is understandable, having regard to the close relationship between Mr Selway and Mr Chapman.

Again, I think that raises the question about the appropriateness of Mr Selway conducting this review. Did he seek to be released from it? I do not know the answer to that question. I will give him the benefit of the doubt in relation to that matter. I will be interested to hear from the Attorney about whether Mr Selway at any point went to the Attorney and said, 'Look I don't believe it is appropriate for me to conduct that particular inquiry because I have given advice to the government and because I do have a close relationship with individuals involved in it.' I do not know whether that happened or not, so I will leave that question open. Anyway, Mr Clayton's report continues:

> Mr Selway's attention was drawn to the fact that the note indicated he was not acting as independent inquisitor when he gave evidence to the Inquiry. He responded that the Cramond inquiry had to be done quickly and that, while the process was different from the method adopted by this inquiry, the method of discussing hypotheses and how things developed with witnesses is not inappropriate but actually the way one should proceed. Mr Selway said that Mr Chapman would have been able to give useful insights and that Mr Chapman would have useful information if he was aware of what the investigation was looking for.

So, as I said, I wish to be fair to Mr Selway in relation to that matter. The point that I am trying to make here in relation to Mr Selway's role is that, to me, it clearly was not appropriate that he conduct the inquiry and, indeed, the fact that he ultimately withdrew was, I would have thought, a recognition of that fact. What concerns me more than Mr Selway' role is the reason why the Solicitor-General of this state was put in a position where he was asked to give an opinion on incorrect information and that opinion was then used for political purposes. I think that is a question that will hang around the Attorney for the remainder of his career.

The Hon. K.T. Griffin: Are you saying that I gave him instructions?

The Hon. P. HOLLOWAY: Well, no, and I do not know who did, but certainly you appointed him to undertake the original inquiry. I do not know who gave those instructions. They are questions that need to be asked.

The Hon. K.T. Griffin interjecting:

The Hon. P. HOLLOWAY: No, he was given instructions in relation to the opinion that he had made, but the point is that the more relevant part is the quote I referred to earlier where, on page 109, Mr Clayton finds:

> In the circumstances, the Solicitor-General should have been instructed to take into account everything that was relevant to whether the government had a commitment to Motorola, not just the letter and the agreement.

Of course, that is where Mr Selway subsequently said that, if he had had that information, he may well have reached a different conclusion as, indeed, the crown law officer said. What I think is regrettable in this whole episode is that the office of the Solicitor-General, in particular (crown law less

so), was used for this purpose. That does not do any credit at all to this government—none whatsoever.

While we have talked about the role of the Attorney, it is probably also worth making some comment about the Treasurer in relation to this matter. As a result of this inquiry, the Treasurer has lost his electricity privatisation adviser, Alex Kennedy, because she was found by Mr Clayton to have 'given evidence which is misleading, inaccurate or dishonest'.

We know Mr Cambridge's circumstances when he left earlier this year. Mr Clayton also found that he gave evidence that was misleading, inaccurate or dishonest. We also know that he received a $250 000 package. There are some matters about that that have never been satisfactorily answered in this place, and this reflects badly on the Treasurer. Until the Treasurer can provide a proper explanation into that matter, I think the question marks remain. The Treasurer has also told us in the past how John Olsen was his best mate. John Olsen has also been found to have given evidence that was misleading, inaccurate or dishonest. The Treasurer has some strange friends in politics and there will be some significant restructuring of his office. It will be a wonder if there is anybody left given the way he has been going with his electricity adviser, CEO and others.

The other matter that I wish to raise in relation to the Treasurer's role came from the comments made by Jim Hallion in his letter following the Prudential Management Group's report into the Motorola affair. I gather that it was the documents provided with a forwarding letter by Mr Jim Hallion, Deputy Chief Executive, on behalf of Mr John Cambridge, and sent to the Premier that revived the whole issue in the first place, and subsequently led to this report. In his report to the Premier (and remember that this was forwarded back to the minister) Mr Hallion said:

> To my knowledge, this is the first time the department has seen the report [he is talking about the Prudential Management Report] and I am not aware of any interaction with this department in the preparation of the report by the Prudential Management Group. There are a number of matters raised in the PMG report to which this department takes issue. I understand that the PMG report was effectively based upon the Cramond report so the matters raised also have implications for that report.

He also said:

> The implication in the PMG report, and also from the Cramond report, is that the EDA never provided a copy of the Motorola contract to the Office of Information Technology, or at least not before the preferential treatment was accorded to Motorola, which I understand occurred per the medium of the contract of 22 November 1996. I do not believe that this implication is correct. I attach for your consideration copies of relevant correspondence between this department and the Department of Information Industries, formerly known as OIT, which confirms that not only was the Motorola contract provided to DII prior to November 1996 but that DII had taken responsibility for the contract.

Of course, those views of Mr Hallion, which were provided, I gather, on behalf of John Cambridge and which were made on 13 December last year, are now seen to be quite correct in that the implication in the Cramond report has now been found by Mr Clayton to be incorrect. I remember asking the Treasurer at the time why he was not keen to defend his departmental officers. He did not lift a finger when these documents were sent back. He did not do a single thing about them. I believe that the Treasurer was negligent and, as Minister for Industry and Trade, he must answer for this. As a consequence of his inaction, there has now been a slur over his department for 7½ years which he did nothing to remove. The slur has been finally removed only as a result of the Clayton report putting the truth of this sorry and sordid story on the public record.

I believe that neither the Attorney-General nor the Treasurer come out of this particular affair with any credit whatsoever. They may not have been named in the report, but I believe that the actions that they did or did not take have caused harm to a number of people within the public service. And we know that that is quite unfair.

As a result of the Clayton report, we have had a number of resignations and sackings. The matter is now to go to the DPP and he will investigate the matters further but, again, this is not as a result of the Attorney-General of this state taking action. As we have seen throughout this whole sordid, sorry saga, this government had to be dragged kicking and screaming every inch of the way. Those of us on this side of the chamber can well remember the sort of abuse that the opposition copped, even though our position has now been totally vindicated by this report. I refer to the ministerial statement on the Cramond report that Premier John Olsen made on 9 February 1999, as follows:

> While the Opposition is revealed as having conducted a baseless witch hunt which has wasted valuable time, effort and money, especially over the past year and, worse, a witch hunt which has used this parliament as a media circus to create mayhem over a five-year-old accusation with no foundation, rather than deliver constructive opposition on behalf of the people of South Australia and their future well-being. In this report, Mr Cramond does not give credence to one single allegation which the opposition has made about me or about any side deal with Motorola.

Later in that statement he says:

> There are valuable lessons for both the government and the Opposition in Mr Cramond's report. . . I most certainly hope the Opposition too will learn and be embarrassed by its abuse of the parliamentary process in this witch hunt.

Fortunately, for this state we do have an opposition that will not give in. When we see injustice, we will pursue it to its logical conclusion. That is what the opposition has done in this particular case—and others, of course, who have been involved in this. Had there not been the numbers in the other place to establish an inquiry into these matters, this whole saga would never have been exposed: this saga of cover-up, lies and deceit, which we have seen going right to the top of government, would have been allowed to continue. This government would have gone on the same way without any check whatsoever.

It has taken many years for this matter to come to a conclusion. Incredibly, we have had members opposite try to say, 'All these matters happened seven years ago. Why are they important now?' The reason that they matter is that this government—the former Premier in particular and some of his acolytes—has, ever since that date, done everything it can to try to cover up what has happened in this matter. It is a shameful saga in this state's history. I would like to conclude my remarks by complimenting Mr Clayton and his assistant, Mr Richard Stevens, on the calibre of their report. I think it is highly regrettable that they, like the Auditor-General—and anybody else who criticises this government—have been subjected to all sorts of abuse and attacks. Now the final verdict will be up to the people of this state in an election and it cannot come too soon for South Australia.

The Hon. R.I. LUCAS secured the adjournment of the debate.

STATUTORY AUTHORITIES REVIEW COMMITTEE: COMMISSIONERS OF CHARITABLE FUNDS

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

That the second report of the committee into the Commissioners of Charitable Funds be noted.

(Continued from October 3. Page 2325.)

The Hon. L.H. DAVIS: I thank honourable members for their contribution.

Motion carried.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Legal Practitioners Act 1981. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

This Bill makes miscellaneous amendments to the *Legal Practitioners Act 1981*. The amendments predominantly arise from the report of a competition policy review of the Act completed earlier this year. That review canvassed a range of competition issues arising from the Act, including the scope of reservation of legal work, restrictions on the ownership of legal practices, requirement to insure through a statutory scheme, and other matters. The review found that there are a number of features of the South Australian legal market which contribute to healthy competition, including the fused profession, freedom to advertise, direct competition with conveyancers, and the availability of contingency fee agreements. The review did not identify a need for major reform in this regard.

However, it identified some minor legislative amendments which were required in order to comply with competition policy. As Members are aware, competition policy requires that any restriction of competition which is more than trivial should be removed, unless it delivers a public benefit which cannot be delivered in any less restrictive manner.

The review noted that it is a requirement for admission as a legal practitioner that the applicant be resident in Australia (s. 15(1)*(b)*). This requirement restricts competition in that non-residents cannot apply for admission. However, the review found that this requirement does not deliver any public benefit. There is no ongoing requirement for residence in Australia after admission, as a condition of remaining on the roll. Accordingly, the review proposed that this requirement be removed, and the Bill does so.

The review also noted that the Act presently restricts competition between land agents and legal practitioners for the work of drawing tenancy agreements, by providing that a land agent cannot draw a tenancy agreement for a rental value greater than the prescribed amounts. The amounts prescribed by regulation are at present $10 000 for residential tenancies and $25 000 for commercial tenancies. The review, by majority, considered that the amount of the rental is not a reliable indicator of the complexity of the tenancy agreement and that therefore no significant public benefit is delivered by the restriction. It recommended that the restriction be removed.

Thirdly, in this respect, the Bill would remove an existing restriction on the entitlement of trustee companies to charge for the preparation of wills. This was not a recommendation of the review, but arises as a corollary of amendments to the *Public Trustee Act* which are proposed in another Bill presently before the Parliament. That is the *Statutes Amendment (Public Trustee) Bill 2001*, which would apply to the Public Trustee the provisions of the *Public Corporations Act*. It is proposed that, while the Public Trustee should remain a public entity, it should be more closely assimilated to the position of a private trustee company and should compete more directly in the market with private trustees. One aspect of that proposal is that the Public Trustee be able to charge for the preparation of a will, even though it is not named as an executor of the will and even though the will is not drawn by a lawyer. The reality is that the Public Trustee can already sell to the public wills which are not prepared by lawyers, as long as the Public Trustee is nominated as the executor of this will. There is therefore not considered to be any additional risk where the Public Trustee is not nominated as executor.

In the interests of competitive neutrality, therefore, this Bill would extend the same rules to private trustee companies. It is considered that the public is adequately protected by the requirement for a trustee company to receive the approval of Parliament before it is able to offer services in this State. Trustee companies are typically required by Parliament to be companies of some substance. Also, trustee companies are already able to sell to the public wills which are not prepared by lawyers, where the company is named as executor. This Bill will amend the *Legal Practitioners Act* to enable public trustee companies to charge for the preparation of a will, even though the trustee company is not named as an executor of the will and even though the will is not drawn by a lawyer.

In addition to the amendments identified by the competition policy review of the Act, the Bill also makes a number of other minor miscellaneous amendments to the Act.

The Bill makes a consequential amendment to the definition of "company" in the Act, which arises as a result of the new corporations legislation enacted by the Commonwealth earlier this year. Although ancillary provisions dealing with the transition to the new corporations legislation have been enacted, which have the effect of causing the definition of "company" to be read in accordance with the new corporations legislation, the definition is now updated on the face of the Act. The definition is relevant for the purposes of determining whether a company is entitled to apply for and be granted a practising certificate under section 16(2) of the Act. The amendment will make it clear that the entitlement to apply for and be granted a practising certificate continues to be restricted to South Australian companies, now referred to as "companies taken to be registered in South Australia".

The Chief Justice has suggested that the Act should provide a time frame within which practitioners from interstate who are practising in South Australia should be required to notify the Supreme Court of any conditions or limitations imposed on their practising certificate interstate. While the Act currently contains an obligation to notify the Supreme Court of such conditions or limitations, no time frame for notification is imposed.

Under the Act, a person who has been admitted as a legal practitioner in a State or Territory that participates in the national practising certificate scheme is able automatically to practise in South Australia. However, subject to the Act, the practitioner is required to comply with any conditions or limitations in respect of his or her practice imposed by the participating State or Territory.

The Bill amends the Act to provide that notice of any conditions or limitations on an interstate practitioner's practising certificate must be provided to the Supreme Court by the practitioner within 14 days of the practitioner commencing practice in South Australia. Where the conditions or limitations are imposed on the interstate practising certificate after the practitioner has commenced practice in South Australia, the practitioner must notify the court within 28 days of the imposition of the conditions or limitations.

The Chief Justice has also suggested that the provision in the Act dealing with appointment of replacement members of the Legal Practitioners Disciplinary Tribunal be amended. Currently the Act provides that, when a member of the Tribunal resigns, or that person's office otherwise becomes vacant, a person is appointed as a replacement member for the balance of the vacating member's term. In some cases, this means the term of the replacement member's initial appointment will be quite brief. There is also the risk of overlooking the fact that an appointment is only for the balance of an unexpired term. These are considered unnecessary complications. The Bill amends section 79(5) of the Act to provide that replacement members are appointed for the same term as any other appointment of a member of the Tribunal—for an initial term of three years.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause updates the definition of 'company' (in line with the new *Corporations Act 2001* of the Commonwealth).

Clause 4: Amendment of s. 15—Entitlement to admission

This clause amends section 15 of the principal Act to remove the requirement that a person applying for admission as a barrister and solicitor of the Supreme Court be a resident in Australia.

Clause 5: Amendment of s. 21—Entitlement to practise

This clause amends section 21 of the principal Act—

- to allow agents registered under the *Land Agents Act 1994* to prepare tenancy agreements regardless of the amount of rent payable under the agreement;
- to allow a body corporate that is authorised by a special Act of Parliament to administer estates to prepare a will or other testamentary instrument for fee or reward even if the body corporate is not named as an executor in the will or instrument and even though the will or instrument is not drawn by a legal practitioner.

Clause 6: Amendment of s. 23B—Limitations or conditions on practice under laws of participating States

This clause amends section 23B to ensure that notice of conditions imposed on an interstate practising certificate is given within certain time limits.

Clause 7: Amendment of s. 79—Conditions of membership

This clause amends the section dealing with membership of the Tribunal to provide that a person appointed to fill a vacancy that has arisen before the expiration fo a term of office may be appointed for a full term (rather than just being appointed for the balance of the term).

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

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

LEGAL SERVICES COMMISSION (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to amend the Legal Services Commission Act 1977. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

The *Legal Services Commission Act 1977* establishes the Legal Services Commission as the statutory authority responsible for the application of funds granted by the State and Commonwealth Government for the provision of publicly funded legal assistance to the people of South Australia.

The *Legal Services Commission Act 1977* (the Act) was enacted in contemplation of a relatively uncomplicated scale of operation. It was enacted when there was a different basis for Commonwealth Government funding than is now the case, and under a system of legal aid where there was no national uniformity of administrative practice, as there is now.

This Bill proposes a number of changes to that Act. Some will help the Commission to operate more efficiently by formalising existing administrative practice and removing unnecessary restrictions upon it. Others recognise the changed nature of the relationship between the State Government and the Commission and the Commonwealth Government since the Act was enacted in 1977. In 1997/98 the Commonwealth instituted a purchaser-provider model of funding for Commonwealth law matters only, in place of the previous partnership arrangement under which the State and the Commonwealth shared responsibility for the funding of all matters.

Some parts of the Act no longer assist sensible business practice. The Act presently unduly restricts the ability of the Commission to delegate its power to expend money from the Legal Services Fund and prevents the Director from delegating the power to grant and refuse aid. In order to conduct its daily business in a way which does not offend these provisions, it has long been the practice of the Commission to authorise fixed financial delegations to senior management annually, and for an appropriate officer other than the Director to authorise the grant or refusal of legal aid.

In his 2000-2001 Interim Audit, the South Australian Auditor-General commented adversely on the fact that, in the absence of appropriate amendment to the Act, the Commission and the Director were continuing to delegate authority in this way.

This Bill amends the Act to give the Commission and the Director appropriate powers of delegation.

Another provision in the Act, which has been abandoned on a national scale, and is not complied with by the Commission in practice, is the requirement for applicants for legal aid to statutorily declare that the contents of their applications are true and correct. In the past, the practice amongst Australian Legal Aid Commissions was not uniform on this requirement. Some Commissions required statutory declarations, and others did not.

In 1995, a national uniform application form was adopted by all Australian Legal Aid Commissions, including the South Australian Commission. The form does not require verification by statutory declaration, on the basis that this is unnecessary. Standard conditions of all grants of legal aid are that the Director may terminate or change the conditions or terms of the grant at any time, and that an applicant who knowingly withholds information or supplies false information is guilty of an offence.

Since the adoption of the national uniform application form, the Commission has not required applicants to sign such declarations, and has continued to pass resolutions (under s17(2)*(a)* of the Act) exempting applicants from complying with these verification requirements.

In his 2000-2001 Interim Audit, the South Australian Auditor-General commented adversely on the fact that, in the absence of appropriate amendment of the Act, the application form contained no requirement for a statutory declaration.

This Bill removes the requirement for applicants to verify their applications by statutory declaration.

Other minor amendments include substituting gender neutral terminology for the title of 'chairman' of the Commission, and removing restrictions on the name and location of the Commission's offices to ensure that the Commission may not only continue to conduct its business from a head office and branch offices, but may operate under any other office configuration that it considers 'necessary or desirable'.

I now turn to the provisions in the Act that refer to arrangements between the State and Commonwealth Governments with respect to legal aid, and to the Commission's position vis a vis the Commonwealth Government under those arrangements.

In meeting the cost of providing legal aid, the Commission receives funds from the State and Commonwealth Governments under agreements negotiated between the State and Commonwealth Governments. In 1996 the Commonwealth Government announced a radical change to the basis of its funding to legal aid commissions. It moved from a partnership with the States in the provision of legal aid services to a purchaser-provider model of funding, under which the Commonwealth, as a principal, contracts with the legal aid commissions to deliver legal aid services in matters only involving Commonwealth law. By the end of 1997, all legal aid commissions had signed the new agreements.

The Act does not reflect this changed relationship in a number of ways.

Since its establishment in 1977, the Commission has included members who are nominees of the Commonwealth Government. Now that the Commission is a provider negotiating the supply of services to the Commonwealth, it is not appropriate for nominees of the Commonwealth Government to remain on the Commission.

At the expiry of the terms of the Commonwealth Government nominees to the Commission in July and September 1999, the Commonwealth Government indicated that it would make no further nominations. It has taken the same position with all other Australian Legal Aid Commissions.

In his 2000-01 Interim Audit, the South Australian Auditor-General commented adversely on the fact that, in spite of the requirements of Act, there were no Commonwealth nominees on the LSC.

In recognition of the changed nature of the funding relationship between the Commonwealth Government and the Commission, this Bill removes the requirement for there to be two nominees of the Commonwealth Government on the Commission.

Section 27 of the Act, which describes legal aid funding agreements between the State and the Commonwealth, is couched in terms of the pre-1997 'partnership' agreement between the State and the Commonwealth with respect to funding for legal aid, now superseded by the Commonwealth's purchaser-provider arrangements. The Bill changes the wording of this section to reflect the fact that the current agreement is a standard purchaser-provider agreement under which the Commission has the status of a provider of services in respect of Commonwealth law matters.

Other incidental amendments safeguard the Commission's competitive advantage by no longer imposing a duty on the

Commission to liaise with and provide statistics to the Commonwealth at its behest, allowing this to happen when agreed between the Commission and the State Attorney-General, and by releasing the Commission from any statutory duty to 'have regard to the recommendations of any body established by the Commonwealth for the purpose of advising on matters pertaining to the provision of legal assistance'. This should now be a term of the funding agreement between the Commonwealth and the State and/or Commission, not a statutory requirement.

In addition, the Act has undergone a statutory revision, to replace outmoded language and remove obsolete provisions such as the one which refers to the appointment of the first Director of the Commission, and to replace references to obsolete Acts.

I commend the Bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 6—Constitution of Legal Services Commission

This clause amends section 6 of the principal Act, which establishes the Legal Services Commission and deals with its constitution. The amendment removes the gender specific word 'Chairman' and substitutes a provision that includes gender neutral terminology.

Clause 3 further amends section 6 by removing the requirement that two persons nominated by the Commonwealth Attorney-General be appointed to the Commission. This requirement is no longer appropriate in the light of current funding arrangements. Section 6(5), which provides the Governor with the power to appoint deputies of the members nominated by the Commonwealth, is no longer required and has been removed.

Clause 4: Amendment of s. 8—Quorum, etc.

This clause amends section 8 of the principal Act, which deals with the quorum of the Commission. This amendment follows from the removal of the word 'Chairman' from section 6. Section 8(4) now refers to 'the member appointed to chair meetings of the Commission' rather than to 'the Chairman'.

Clause 5: Amendment of s. 10—Functions of Commission

Section 10 of the principal Act describes the functions of the Commission. Clause 5 amends this section by:

1) removing the requirement that the Commission establish an office to be called the 'Legal Services Office';
2) deleting the word 'local' from subsection (1)*(e)*, which requires the Commission to establish 'such local offices and other facilities as the Commission considers necessary and desirable', thereby allowing the Commission to establish an appropriate configuration of local and branch offices;
3) deleting subsection (1)*(ha)*, which currently requires the Commission to cooperate with any Commonwealth legal aid body for the purpose of providing statistical or other information, and inserting a new subsection that permits, but does not require, the Commission to cooperate with a Commonwealth body for such purposes.

Clause 6: Amendment of s. 11—Principles on which Commission operates

This clause amends section 11 of the principal Act, which describes the principles on which the Commission operates. Paragraph *(c)* of this section requires the Commission to have regard to the recommendations of any Commonwealth body established for the purpose of advising on matters pertaining to the provision of legal assistance. This paragraph is removed.

Clause 7: Substitution of s. 13

Section 13 of the principal Act provides the Commission with a power of delegation but prohibits the Commission from delegating the power to expend money from the *Legal Services Fund*. Clause 7 repeals this section and substitutes a new section that does not include this prohibition. The substituted power of delegation is in a standard form and is consistent with the Director's power of delegation, which is inserted by clause 8.

Clause 8: Insertion of s. 14A

This clause inserts a new section, which provides the Director with the power to delegate any of the Director's powers or functions to a particular person or committee. The delegation must be in writing. The written instrument may allow for the delegation to be further delegated. The delegation may be conditional, does not derogate from the delegator's power to act in a matter and can be revoked at will.

Clause 9: Amendment of s. 15—Employment of legal practitioners and other persons by Commission

Section 15 of the principal Act deals with employment matters. Section 15(8) currently requires the Commission to make reciprocal arrangements with other legal aid bodies for the purpose of facilitating the transfer of staff, where such an arrangement is practicable. Clause 9 amends this section by removing subsection (8) and substituting a provision that allows, but does not require, the Commission to make such arrangements.

Clause 10: Amendment of s. 17—Application for legal assistance

Clause 10 of the principal Act amends section 17, which deals with applications for legal assistance. The amendment removes the requirement that an application for legal assistance be verified by statutory declaration.

Clause 11: Amendment of s. 27—Agreements between State and Commonwealth

Section 27 of the principal Act deals with agreements between the State and Commonwealth. Clause 11 amends this section by deleting subsection (1), the wording of which reflects earlier funding arrangements, and substituting a new subsection that allows the State or the Commission to enter into agreements or arrangements with the Commonwealth in relation to the provision of legal assistance. The Commission can only enter into such arrangements with the approval of the Attorney-General. Although the section does not limit the matters about which the agreements or arrangements may provide, subsection (1a) does suggest that the agreements or arrangements may be in relation to money to be made available by the Commonwealth or the priorities to be observed in relation to such money in the provision of legal aid.

Clause 12: Statute law revision amendments

Clause 12 and the schedule set out further amendments of the principal Act of a statute law revision nature.

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

STATUTES AMENDMENT (MOBIL OIL REFINERIES) BILL

The Hon. R.I. LUCAS (Treasurer) obtained leave and introduced a bill for an act to amend the Oil Refinery (Hundred of Noarlunga) Indenture Act 1958 and the Mobil Lubricating Oil Refinery (Indenture) Act 1976. Read a first time.

The Hon. R.I. LUCAS: I move:

That this bill be now read a second time.

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

Leave granted.

The objective of the *Statutes Amendment (Mobil Oil Refineries) Bill 2000* is to amend the State Government's Indenture Agreements with Mobil Refining Australia Ltd laid down in the *Oil Refinery (Hundred of Noarlunga) Indenture Act 1958* and the *Mobil Lubricating Oil Refinery (Indenture) Act 1976*.

The main amendments concern arrangements for the payment of cargo service charges on crude exports and finished fuel imports across the Port Stanvac wharf, the level of rates payable to the City of Onkaparinga and the requirement for the State to provide certain facilities.

Arrangements for cargo service charges payable on the movement of petroleum products across the Port Stanvac wharf were originally negotiated and ratified in the *Oil Refinery (Hundred of Noarlunga) Indenture Act 1958*. These arrangements were extended in 1976 to apply to the lube refinery and ratified in the *Mobil Lubricating Oil Refinery (Indenture) Act, 1976*. The original rationale for these wharfage charges was to compensate the State for income foregone through the Port of Adelaide when the refinery was constructed, but also to provide an incentive to Mobil for refining in South Australia.

In 1994, the Government agreed to abolish the charges payable on imports of crude oil and condensate unloaded at Port Stanvac in return for a commitment from Mobil to a $50 million, three year investment program that has now been completed. However, a charge remains on the outward loading of crude oil and condensate from the marine facilities at Port Stanvac. Application of this charge is effectively preventing Mobil from obtaining an economic return from one of its competitive strengths, namely its deep-water facilities. This could be achieved by receiving shipments of crude in very

large crude tankers and redistributing any surplus to other shallow water refineries in the region, including Altona in Victoria. However, continued application of the charge on outward movement of crude makes this scenario uneconomic.

The Government has therefore agreed that cargo service charges payable on outward loading of crude oil from the marine facilities at Port Stanvac will be abolished.

The Indentures also require payment of cargo service charges on imports of finished petroleum products unloaded by Mobil at Port Stanvac. The original intent of this charge was to discourage the use of Port Stanvac as a terminal facility and encourage local refining. However, the charge is preventing Mobil from optimising production and delivering a product mix that maximises value-added earnings for the Adelaide refinery and the State.

It is difficult to justify the retention of this import charge. Mobil owns, operates and maintains its marine facilities and does not receive any services from the State Government in return for the charges paid. Few if any other industries are required to pay what amounts to a State tax on their imports. Removal of all cargo service charges would enable Mobil to optimise its operations at Adelaide refinery and improve its overall competitiveness.

The Government has therefore agreed to also abolish cargo service charges payable on finished fuel product imports at Port Stanvac.

The Bill also amends the amount of local government rates payable to the City of Onkaparinga in respect of the refinery site and the refinery, and introduces a cap on future increases. Rates payable to the Council under the Indenture Acts are currently over $1 million per annum and this is placing Adelaide Refinery at a competitive disadvantage to other Australian refineries. Furthermore, the amount currently being charged is higher than the rates paid by other industries in the local area, and throughout the State. If the refinery was rated using the standard formula used for other City of Onkaparinga properties, substantially lower rates would be payable.

The current rating formula was negotiated as part of the 1976 Indenture Act, to facilitate the Council approvals required to establish the lubricating refinery. This was at a time of significantly greater oil industry profitability. The cost penalty that Mobil is presently incurring is not sustainable in the current more competitive environment.

The new amounts as set out in the Bill represent the culmination of a long process of consultation and negotiation during which a number of options were considered for arriving at a fairer and more equitable level of rates. At the end of the day the Government had to find a compromise that all parties could live with. The Government believes that the total rates package which also includes the commitment of substantial new funding to the region for community projects and the provision of Government funded staff to work on development issues important to the local Onkaparinga community and valued at around $600,000 over three years, represents such a compromise. Both Mobil and the Council have had to give considerable ground on what were their preferred positions.

The complete removal of cargo service charges with respect to the Port Stanvac refinery and the negotiated reduction in local government rates further highlights the Government's commitment to create a competitive business climate in South Australia.

In return for the agreed changes to cargo services charges and local government rating, Mobil has agreed to waive the requirement in the current Indentures for the State to provide certain facilities, including the provision and maintenance of a railway connecting Adelaide Refinery to the South Australian railway system and obligations to supply electricity.

Mobil also made a commitment to commission major improvement studies of Adelaide Refinery, involving local and international experts, targeting break-through opportunities. A number of projects have been implemented as a result of this commitment.

The new Indenture Agreements will be greatly beneficial to the State. South Australian industrial activity is likely to be increased by added ship handling and storage activities at Port Stanvac. The changes will also contribute to an improvement in the national and international competitiveness of Adelaide Refinery, thus improving its long-term viability and economic contribution to the State.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Interpretation

These clauses are formal.

PART 2

AMENDMENT OF THE OIL REFINERY (HUNDRED OF NOARLUNGA) INDENTURE ACT 1958

Clause 3: Amendment of s. 5—Local government rates

This clause amends the original Indenture Act by setting out a revised set of figures for the amounts payable by Mobil to Onkaparinga Council in lieu of council rates in respect of the 2000/2001 financial year and subsequent years for the fuels refinery. From the 2004/2005 financial year onwards, the amount will be calculated using the existing formula, but cannot exceed the amount payable in the previous financial year as increased by CPI (Adelaide) increases (if any) in the 12 months ending on 31 March in that financial year.

Clause 4: Amendment of the Indenture

This clause amends the original Indenture by firstly striking out clause 5, being the clause that sets our the State's obligations to provide certain housing, road, rail, water and electricity services and facilities, and secondly, by striking out those provisions that require Mobil to pay the State certain service charges on the loading and unloading of fuel at Port Stanvac.

PART 3

AMENDMENT OF MOBIL LUBRICATING OIL REFINERY (INDENTURE) ACT 1976

Clause 5: Amendment of s. 5—Local government rates

This clause amends the council rates section of the 1976 Indenture Act for the lube refinery in the same way as set out in clause 3 of the Bill in respect of the fuels refinery.

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

STATUTES AMENDMENT (TRANSPORT PORTFOLIO No. 2) BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a bill for an act to amend the Civil Aviation (Carriers' Liability) Act 1962, the Harbors and Navigation Act 1993, the Motor Vehicles Act 1959 and the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this bill be now read a second time.

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

Leave granted.

The *Statutes Amendment (Transport Portfolio No. 2) Bill 2001* makes a number of amendments to the *Civil Aviation (Carriers' Liability) Act 1962*, the *Harbors and Navigation Act 1993*, the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961*.

Amendments to the Civil Aviation (Carriers' Liability) Act 1962

The amendments to the *Civil Aviation (Carriers' Liability) Act 1962* ('the State Act') will enable a monetary penalty to be imposed by the courts where a corporate air carrier fails to have acceptable passenger insurance in place.

The State Act is part of a long-standing Commonwealth-State legislative scheme which works by applying the Commonwealth *Civil Aviation (Carriers' Liability) Act 1959* as part of the law of South Australia. The Commonwealth Act deals with the legal liability of commercial air carriers for various kinds of losses, such as loss of property or physical injury, suffered by their customers. In particular, the Commonwealth Act prohibits carriers from carrying passengers by air unless an acceptable contract of insurance is in force in relation to the carrier. If a carrier intentionally contravenes this prohibition, the carrier is guilty of an offence punishable by a maximum term of two years' imprisonment.

However, section 4B(2) of the Commonwealth *Crimes Act 1914* allows a court convicting a natural person of an offence against a law of the Commonwealth to impose in respect of the offence an appropriate fine instead of, or in addition to, a term of imprisonment. If a body corporate is convicted of an offence, section 4B(3) allows a court to impose a fine of an amount not greater than 5 times the maximum fine that could be imposed by the court on a natural person convicted of the same offence. As many air carriers are bodies

corporate, it is desirable that these provisions of the Crimes Act be available to the courts when carriers are convicted of offences against the provisions of the Commonwealth Act that apply in South Australia by virtue of the State Act ('the applied provisions'). To maximise the enforcement powers available and ensure that, as far as possible, the same obligations and processes apply at State and Commonwealth levels, the Bill provides that the Commonwealth Crimes Act and a number of other specified Acts of the Commonwealth apply to offences against the applied provisions.

Another feature of the scheme is that the Civil Aviation Safety Authority (CASA) can apply to a court for an injunction to restrain a carrier from engaging in carriage, if it has reason to believe that the carrier has engaged, or will engage, in carriage without proper insurance. This is a powerful mechanism for ensuring that carriers comply with the law. At present, the State law does not confer this power on any other authority.

In 2000 the High Court handed down its decision in *R v Hughes*. This is one of a series of decisions handed down by the Court in recent years in relation to the *Corporations Law*, another Commonwealth-State legislative scheme. That decision highlights the need to distinguish between State and Commonwealth authorities and the powers that these authorities exercise under the laws of another jurisdiction. As the Act presently stands, the State has no power to apply for an injunction—only CASA can do so. It is necessary to provide an avenue by which the State can seek an injunction if it becomes aware that an air carrier proposes to trade without proper insurance under the applied provisions. The amendments address this by giving the Minister power to apply for an injunction.

The amendments contained in the Bill have been designed to enhance the effectiveness of the existing scheme and to overcome any constitutional difficulties with its enforcement. The amendments are technical and do not alter the objects or the substance of the existing scheme. The core obligation to carry the required insurance, and the mechanisms available to ensure that carriers do so, remain in place.

Amendments to the Harbors and Navigation Act 1993

Authorised persons to issue expiation notices

The *Harbors and Navigation Act 1993* does not empower persons appointed under the Act as authorised persons to issue expiations notices. As a consequence I, as Minister responsible for the Act, have to use the provisions of the *Expiation of Offences Act 1986* to authorise each government-employed authorised person to issue expiations notices for alleged offences against the Harbors and Navigation Act. This means that two separate administrative processes must take place, rather than a single process of appointment.

Section 5(3)*(c)* of the Expiation of Offences Act allows a statute to confer directly the power to issue expiation notices. The Bill therefore makes specific provision in section 14 of the Harbors and Navigation Act to allow an authorised person to issue expiation notices.

Creation of an offence of allowing an unlicensed person to operate a vessel

Section 47(3) of the Harbors and Navigation Act makes it an offence for a person to operate a recreational vessel unless he or she holds an appropriate certificate of competency or has been exempted from the need to hold such a certificate.

While the unlicensed operator of the vessel may be either prosecuted or the offence expiated, there is no provision in the Act to hold the owner of the vessel accountable for allowing use of the vessel by an unlicensed person. This has become a frequent offence, particularly with the increasing popularity of personal watercraft. This practice could have lethal consequences.

To overcome this problem, the Bill amends the Act to create an offence of causing, suffering or permitting an unlicensed person to operate a recreational vessel.

Time within which a prosecution may commence

Section 88 of the Harbors and Navigation Act requires a prosecution for an offence to be commenced within 12 months of the offence allegedly occurring. This is inconsistent with the provisions of the *Summary Procedure Act 1921* which imposes a time limit of six months for expiable offences and two years for non-expiable offences.

The Bill repeals section 88 of the Harbors and Navigation Act. As a consequence the time within which an offence against the Act is to be prosecuted will be prescribed by section 52 of the Summary Procedure Act.

Amendments to the Motor Vehicles 1959

Excluding probationary licence holders from acting as qualified passengers

The Bill amends section 75A of the *Motor Vehicles Act 1959* to prohibit probationary licence holders, who may be persons resuming driving after a period of disqualification for offences, from acting as qualified passengers for learner drivers. (A qualified passenger is the holder of a licence accompanying a person who is driving subject to learner's permit conditions.)

The need for this amendment has arisen because of the introduction of the new 'probationary licence' category by the *Motor Vehicles (Miscellaneous) Amendment Act 1999*, as part of nationally consistent road reforms.

Section 75A of the Motor Vehicles Act deals with learner's permits for motor vehicles. In particular, section 75A(3)*(d)* requires that a person who is subject to learner's permit conditions must, when driving a vehicle on a road, be accompanied by a holder of a licence authorised to drive that vehicle sitting beside the learner driver (a qualified passenger). In the case of a motor bike, a qualified passenger must accompany the learner by sitting on the bike or in a sidecar attached to the bike. Provisional licence holders, however, are specifically excluded from this role. Prior to the recent changes, provisional licence holders included both inexperienced drivers who had not yet qualified for an unconditional driver's licence and persons returning to driving after a period of licence disqualification.

A holder of the new probationary licence may be a person resuming driving after a period of disqualification for offences such as drink driving, or failing to stop and give assistance after an accident in which a person is injured or killed. It is clearly not appropriate for a learner driver to be accompanied by the holder of a probationary licence. The amendment prohibits a probationary licence holder from acting as a qualified passenger.

Refund of fees for issue of motor driving instructors' licences

Some doubt exists as to the ability of the Registrar of Motor Vehicles to refund a proportion of a motor driving instructor's licence fee where the licence is surrendered before the full licence term has expired. The Bill amends section 98A to entitle a person to a proportional refund of a motor driving instructor's licence fee when the licence is surrendered.

Ability of the nominal defendant to recover from the driver or owner of an uninsured vehicle

Currently the Motor Accident Commission only has limited powers to recover money from drivers of motor vehicles where bodily injury or death has occurred, and the driver has behaved recklessly or was under the influence of a drug or intoxicating liquor.

Section 124A(1) of the *Motor Vehicles Act 1959* provides that where a driver of a vehicle insured under the compulsory third party (CTP) scheme drives irresponsibly or under the influence of a drug or alcohol, and causes or is involved in an accident, the insurer can recover from the driver 'any money paid or costs incurred by the insurer'.

Section 116 deals with injuries caused by an incident involving a vehicle not insured under the CTP scheme. Section 116(7) empowers the nominal defendant to recover money expended in meeting a claim for death or injury from the driver or a person liable for the acts or omissions of the driver. However, that section gives the driver a defence to an action for recovery where the vehicle was being used at the relevant time by or with the consent of the owner, and the driver did not know, and had no reason to believe, that the vehicle was an uninsured motor vehicle.

It is anomalous that a driver of an uninsured vehicle is provided with a more generous defence than an insured driver, by which he or she may escape civil liability for what could be quite reckless driving behaviour.

This inconsistency needs to be remedied. If a person has driven with reckless indifference as to the safety of others and has caused injury or death, the insurance status of the vehicle is of little consequence in determining the person's liability.

The Bill proposes to remedy this situation by extending the same exposure to personal liability to drivers of vehicles that are uninsured as applies to drivers of vehicles that are insured.

Retention of images of licensed drivers

The Bill addresses issues related to the storage of photographic images of driver's licence holders.

A photographic image of the licence holder was introduced in South Australia in 1989. At the time, Parliament expressed concerns about privacy issues relating to the capture of images—and later, when digital imaging technology was introduced government policy

required that the images not be retained. Currently the terms of the contract between Transport SA and the licence manufacturer require that all photographic images must be destroyed after 60 days.

Recently, this approach has been questioned following the findings of the New South Wales Independent Commission Against Corruption (which commenced in 1999) into the 'rebirthing' of stolen motor vehicles and the conduct of staff of the New South Wales Road Traffic Authority. The Commission found that the proof of identity documents used to obtain fraudulent registration of stolen vehicles, which included drivers' licences, were also fraudulently obtained.

In addition to finding that fraudulently obtained licences were a significant factor in the laundering of stolen motor vehicles, ICAC determined that fraudulent driver's licences were also a factor in commercial fraud, the avoidance of licence sanctions, access by under-aged persons to licensed premises and the purchase by under aged persons of alcohol or tobacco products.

Subsequently, the Registrar of Motor Vehicles in South Australia has identified that current practices relating to the destruction of photographic images, presents a similar weakness in the process in South Australia—especially when a duplicate driver's licence is issued. It is considered that if the image of the original holder of the driver's licence is available to the issuing officer, then a visual check can be made that the applicant for a duplicate licence is in fact the original licence holder.

Since last year New South Wales, Western Australia and the Northern Territory have moved to provide for the permanently storage of digital images of driver's licence holders on their databases. Concurrently, to address concerns relating to privacy, New South Wales and Western Australia both introduced legislation to strictly control the circumstances under which staff and other agencies may access stored images. Meanwhile, the experience in New South Wales has confirmed that these measures relating to the retained image have been successful in realising their objective—the prevention of frequent attempts to obtain fraudulent licences.

Accordingly, in the light of the changed circumstances since 1989, the Bill prepares for the permanent retention of images of driver's licence holders by incorporating specific provisions to ensure that the confidentiality of the images and to narrowly prescribe the circumstances under which they may be accessed.

Specifically, the stored images will only be available to the Registrar of Motor Vehicles for the following purposes:

- for inclusion on licences, learner's permits and proof of age cards; and
- to assist in identifying a person applying for a licence, learner's permit, proof of age card or registration of a motor vehicle; and
- in connection with the investigation of a suspected offence against the *Motor Vehicles Act 1959;* and
- for the purposes of any legal proceedings arising out of the administration of the *Motor Vehicles Act 1959* or the *Road Traffic Act 1961*; and
- for a purpose prescribed by the regulations.

Police will not have access to the retained images.

Amendments to the Road Traffic Act 1961

Defect notices

Section 160 of the *Road Traffic Act 1961* currently allows a defect notice to be issued only where the vehicle does not comply with vehicle standards and would constitute a safety risk if driven on the road. The use of the word 'and' means that a notice cannot be issued where a deficiency in the vehicle would constitute a safety risk but is not covered by the vehicle standards. This would be the case, for example, for general rust on the vehicle body. This also creates the situation where a motorist may be prosecuted under section 112(1)*(b)* for driving a vehicle that 'has not been maintained in a condition that enables it to be driven or towed safely', but a defect notice cannot be issued in relation to the vehicle.

Clearly, to ensure the safety of the community and all road users, the legislation needs to enable a defect notice to be issued wherever a vehicle has not been maintained to a safe driving standard. Accordingly, the Bill amends section 160(4a) and 160(5) to replace references to the vehicle standards with references reference to 'deficiencies'. A definition of 'deficiencies' is inserted which states that for the purposes of section 160 a vehicle has deficiencies if the vehicle does not comply with the vehicle standards, if the vehicle has not been maintained in a condition that enables it to be driven or towed safely, if the vehicle does not have an emission control system fitted to it of each kind that was fitted to it when it was built, or if an emission control system fitted to the vehicle has not been maintained in a condition that ensures that the system continues operating essentially in accordance with the system's original design.

The amendment will enable enforcement officers to issue a defect notice where a vehicle fails to comply with the vehicle standards or otherwise if the vehicle has not been maintained to a safe standard for use on roads. The categories of major defect and minor defect will continue to apply.

The Bill also addresses an anomaly in the current Act which renders a police officer or Transport SA inspector unable to affix a defective vehicle label to a vehicle with a minor defect. To correct the oversight the Bill amends section 160(5a)*(b)* to enable enforcement officers to affix defective vehicle labels for both major and minor defects.

These amendments are in line with the *National Road Transport Reform (Heavy Vehicles Registration) Regulations* and the *Administrative Guidelines: Assessment of Defective Vehicles* approved by Transport Ministers. These documents create uniform national procedures for dealing with vehicle defects and allow for jurisdictions to attach labels for minor defects and to create an offence of unauthorised removal of a defect label under local law.

Finally, the Bill also empowers police officers or Transport SA inspectors to vary a defect notice where appropriate. Currently police officers and inspectors extend the 'grace period' to allow drivers to continue use their vehicles on roads. This is particularly aimed at assisting rural and regional road users, particularly farmers, where an extended period off the road due to a defect notice would cause significant disadvantage. It is felt that this power should be explicitly provided for in the Act and consequently the Bill empowers a police officer or Transport SA inspector to vary a defect notice.

I commend the Bill to honourable members.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for commencement of the measure by proclamation.

Clause 3: Interpretation

This clause is the standard interpretation provision included in statutes amendment measures.

PART 2

AMENDMENT OF CIVIL AVIATION (CARRIERS' LIABILITY) ACT 1962

Clause 4: Amendment of s. 3—Interpretation

This clause inserts a definition of 'state authority' for the purposes of proposed new section 7A(5).

Clause 5: Amendment of s. 7A—Administration of Commonwealth/State scheme as Commonwealth Act

Paragraph *(a)* amends section 7A(2)*(b)* so that, in the application of Commonwealth laws to offences against the Act, it is clear that those Commonwealth laws apply as State laws.

Paragraph *(b)* amends section 7A(2)*(b)* by specifying that, for the purposes of the application of Commonwealth laws to offences against the Act, the offences are to be considered as being offences against Commonwealth law, not State law.

Paragraph *(c)* inserts four proposed new subsections into section 7A.

Proposed new subsection (3) ensures that where there is a reference in a Commonwealth law to other provisions of that law, or provisions of other Commonwealth laws, those other provisions apply as laws of South Australia.

Proposed new subsection (4) sets out the most important Commonwealth laws that apply as State laws to offences against the Act.

Proposed new subsection (5) ensures that State authorities have the power to enforce the Act, as well as Commonwealth authorities.

Proposed new subsection (6) enables the Minister to seek an injunction restraining a carrier from engaging in carriage when the carrier does not have an acceptable contract of insurance, and provides that a reference in section 41J of the Commonwealth Act to a Commonwealth authority will be taken to include a reference to the Minister, so that the provisions in relation to the application for an injunction by CASA under that section will also apply to the Minister when the Minister seeks an injunction.

PART 3

AMENDMENT OF HARBORS AND NAVIGATION ACT 1993

Clause 6: Amendment of s. 14—Powers of an authorised person

This clause amends the principal Act to empower authorised persons to give expiation notices for alleged offences against the Act.

Clause 7: Amendment of s. 47—Requirement for certificate of competency

This clause creates a new offence of causing, suffering or permitting an unqualified person to operate a recreational vessel and fixes a maximum penalty of $2 500 and an expiation fee of $105.

Clause 8: Repeal of s. 88

This clause repeals section 88 of the principal Act which requires a prosecution for an offence against the Act to be commenced within 12 months after the date of the alleged offence. The repeal will result in the time limits within which offences against the Act must be prosecuted being those prescribed by section 52 of the *Summary Procedure Act 1921*.

PART 4

AMENDMENT OF MOTOR VEHICLES ACT 1959

Clause 9: Interpretation

This clause inserts a definition of 'photograph' for the purposes of the Act.

Clause 10: Amendment of s. 75A—Learner's permit

This clause amends the principal Act to prevent holders of probationary licences from acting as qualified passengers for holders of learner's permits.

Clause 11: Insertion of s. 77BA

This clause inserts in the principal Act new section 77BA to limit the purposes for which the Registrar may use photographs of persons taken or supplied for inclusion on driver's licences or learner's permits to the following:

- for inclusion on licences, learner's permits and proof of age cards;
- to assist in determining the identity of persons applying for a licence, learner's permit, proof of age card, duplicate licence or permit or registration of a motor vehicle;
- in connection with the investigation of a suspected offence against the Act;
- for the purposes of any legal proceedings arising out of the administration of the Act or the *Road Traffic Act 1961*;
- for a purpose prescribed by the regulations.

The new section also imposes a duty on the Registrar to ensure that photographs are not released except in accordance with a request of a person or body responsible under the law of another State or a Territory of the Commonwealth for the registration or licensing of motor vehicles or the licensing of drivers, where the photograph is required for the proper administration of that law.

Clause 12: Amendment of s. 81B—Consequences of contravening prescribed conditions, etc. while holding learner's permit, provisional licence or probationary licence

This clause makes a minor amendment to the definition of 'relevant prescribed conditions' in section 81B of the principal Act which was inserted by the *Road Traffic (Alcohol Interlock Scheme) Amendment Act 2000*. The amendment is consequential on amendments made to that section by the *Statutes Amendment (Transport Portfolio) Act 2001* (No. 17 of 2001).

Clause 13: Amendment of s. 98A—Instructors' licences

This clause amends the principal Act to provide for a proportion of licence fees paid for the issue of a driving instructor's licence to be refunded on surrender of the licence.

Clause 14: Amendment of s. 116—Claim against nominal defendant where vehicle uninsured

Section 116 of the principal Act gives the nominal defendant a right of recovery against the driver of an uninsured motor vehicle or a person liable for the acts or omissions of the driver where the nominal defendant has paid a sum to satisfy a claim or judgment in respect of death or bodily injury caused by or arising out of the use of the vehicle and the driver was wholly or partly liable for the death or bodily injury. The amount recoverable is at the discretion of the court and the defendant has a defence if able to prove that the vehicle was being used by or with the consent of the owner and the defendant did not know and had no reason to believe that the vehicle was uninsured.

This clause amends the section to make the right of recovery absolute where the driver—

- drove the vehicle, or did or omitted to do anything in relation to the vehicle, with the intention of causing the death of, or bodily injury to, a person or damage to another's property, or with reckless indifference as to whether such death, bodily injury or damage results; or
- drove the vehicle while so much under the influence of intoxicating liquor or a drug as to be incapable of exercising effective control of the vehicle; or
- drove the vehicle while there was present in his or her blood a concentration of .15 grams or more of alcohol in 100 millilitres of blood.

In cases not involving such behaviour on the part of the driver the discretion of the court to award such sum as the court thinks just and reasonable in the circumstances is to be preserved, as is the defence, but the defence is not to be available if the driver—

- drove the vehicle while not duly licensed or otherwise permitted by law to drive the vehicle; or
- drove the vehicle while the vehicle was overloaded, or in an unsafe, unroadworthy or damaged condition.

PART 5

AMENDMENT OF ROAD TRAFFIC ACT 1961

Clause 15: Amendment of s. 160—Defect notices

This clause amends section 160 of the principal Act to make the powers given to members of the police force and inspectors under that section to a stop and examine a vehicle and issue formal written warnings and defect notices exercisable when a vehicle has deficiencies or there is reason to suspect that a vehicle has deficiencies.

For the purposes of the section, a vehicle has deficiencies if—

- it does not comply with the vehicle standards; or
- it has not been maintained in a condition that enables it to be driven or towed safely; or
- it does not have an emission control system fitted to it of each kind that was fitted to it when it was built; or
- an emission control system fitted to it has not been maintained in a condition that ensures that the system continues operating essentially in accordance with the system's original design.

For the purposes of the section, a vehicle is not maintained in a condition that enables it to be driven or towed safely if driving or towing the vehicle would endanger the person driving or towing the vehicle, anyone else in or on the vehicle or a vehicle attached to it or other road users.

The clause also amends the section to require defective vehicle labels to be affixed to all vehicles in relation to which defect notices are given, to empower members of the police force and inspectors to vary defect notices, and to make it an offence for a person to obscure a defective vehicle label without lawful authority.

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

CORONERS BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 2409.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for the bill and for the government amendments which I will move during the committee consideration of the bill. When he spoke in support of the bill on 3 July, the Hon. Ian Gilfillan indicated that he would be moving amendments to give effect to recommendations 13 to 17 of the Royal Commission into Aboriginal Deaths in Custody. A number of members who spoke on the bill on 23 October indicated that they would give consideration to the amendments once they had had a chance to examine them.

I advise members that, while I have not yet been given an opportunity to consider Mr Gilfillan's amendments, and on that basis do not know to what extent they seek to implement the recommendations, it is the government's view that, to the extent that it is appropriate, the relevant recommendations have been implemented. I will, of course, give due consideration to the amendments. In saying this, I should make clear that it is the government's strong view that the state Coroner should not be given a policing role in relation to the implementation of recommendations made by the Coroners Court.

A number of the royal commission recommendations to which the Hon. Mr Gilfillan's amendment referred seek to do this. Mr Gilfillan also asked a number of questions on the bill. Having noted the similarities between the existing and proposed legislation, Mr Gilfillan asked, first, why the government has introduced a new bill rather than amending the 1975 act, and, secondly, why I have in recent years sought to codify so much of the common law and whether there is some underlying philosophy behind the codification process.

As to the honourable member's first question, the government took the view following consultation with parliamentary counsel that it would be in the public interest to draft a new bill rather than attempt further amendments to the existing act. So it was just a matter of judgment by parliamentary counsel and by my officers, and, ultimately, my decision that we should have a new bill because it was easier to see it in context as a whole than to further amend the 1975 act.

In relation to the second question raised by the Hon. Mr Gilfillan, although there has been some codification of the common law, with respect, it would be not be accurate to attribute any particular philosophy on codification to the way I as the Attorney-General have approached law reform in this state. Codification of the common law under this government has occurred only where it has been appropriate, and that is the approach which I will continue on the issue of codification. That is the way in which I propose doing it, that is, one looks at the common law in South Australia, makes a decision that it is in need of reform, and if it is in need of reform then draw on very largely the model Criminal Code, but not necessarily rely only on the model Criminal Code as the solution to all the issues which might be raised in the course of considering the codification issue.

The honourable member has also raised two questions relating to clause 34 of the bill. Clause 34 prohibits, except in limited circumstances, a person from divulging information about another person which is obtained in the course of the administration of the Coroners Act. The Hon. Mr Gilfillan has queried why the government has included clause 34 in light of existing restrictions relating to the disclosure of information, specifically sections 238 and 251 of the Criminal Law Consolidation Act. The nature of the investigations carried out both prior to and during a coronial inquest means that a great deal of confidential information of a personal, professional or commercial nature is obtained by the State Coroner, and under the proposed legislation will be obtained by the Coroner's Court from persons and organisations who are completely innocent of any wrongdoing and who may have played only a minor, indirect role in the subject matter of the inquest. Some of this information may never be presented as evidence.

The government believes, and I would think that members of the public would agree, that information relating to a person which is not presented as evidence in open court or is not otherwise of a public nature should not, as a general rule, be divulged to the public at large or the media. For this reason clause 24 prohibits a person from divulging information about a person obtained in the course of administering the Coroners Act unless the person to whom the information relates consents to the information being disclosed, disclosure is required or authorised by law, or there are other legitimate reasons for doing so. It relates to the unauthorised disclosure of all information about a person no matter what the motive for doing so or how trivial the information may appear to be.

This can be contrasted with section 251 paragraph (c) of the Criminal Law Consolidation Act which provides that a public official commits an offence by using information obtained by virtue of his or her public office, but only where he or she does so with the intention of securing a benefit for himself or herself, or for another person, or causing injury or detriment to another person. Section 238 further limits the application of section 251 by defining when a public official acts improperly. Relevantly, a public official will not be taken to have acted improperly unless the official's act was such that in the circumstances of the case the imposition of a criminal sanction is warranted or was of a trivial nature and caused no significant detriment to the public interest. The offence created by section 251 is narrow in its application and applies to serious misuse of information only. This is deliberate. A breach of section 251 carries a maximum penalty of up to seven years imprisonment.

The Hon. Mr Gilfillan has also asked whether, in light of clause 34 and section 51 of the Freedom of Information Act, there is any possibility of anyone obtaining any information at all, no matter how harmless, from the Coroner's Court. The answer to this question is yes. The Coroner's Court is like all courts in this state, open and accessible to the public, except, of course, in the context of the Youth Court, dealing in many circumstances with young offenders, and with adoption issues and children in need of care. So that qualification needs to be made.

Clause 19 of the bill provides that, subject to certain limited exceptions, coronial inquests must be open to the public. Clause 37 ensures that, where appropriate, members of the public can apply to the court to inspect or obtain copies of the records of the court relating to inquests. In relation to FOI, records of the State Coroner's Office and Coroner's Court will be accessible according to the ordinary FOI Act principles.

When speaking to the bill on 23 October the Leader of the Opposition asked me to comment on a proposal of the Law Society that provisions similar to sections 29 and 30 of the Victorian Coroners Act be included in the state's legislation. Essentially, sections 29 and 30 of the Victorian Act provide the next of kin of a deceased with a right to object to a post-mortem or exhumation and, if their objections are overruled by the Coroner, a right of appeal to that state's Supreme Court. The Supreme Court may make an order prohibiting a post-mortem if it is satisfied that it is desirable in the circumstances to do so. I can indicate to the Council that I am not in favour of including similar provisions in the South Australian legislation, for a number of reasons.

Post-mortems are in the public interest and serve broad public purposes. In the coronial context they are necessary to enable the State Coroner or the Coroner's Court to determine the cause and circumstances of reportable deaths. This is a public interest function. Post-mortems are an essential part of this process. Post-mortems should be performed when the public interest requires. I do have confidence completely that the Coroner and the Coroner's Court have and will exercise their respective powers appropriately in this regard.

It should be noted that in his inquiry into the retention of body parts after post-mortems the Solicitor-General found that there was no systemic illegality or unethical behaviour in the conduct of post-mortems in South Australia, and that I must say is quite reassuring.

Clause 22 of the bill expressly limits the grounds on which the State Coroner or the Coroner's Court may order a post-mortem. The State Coroner may do so only for the purposes

of determining whether an inquest is necessary or desirable. The court may do so only for the purposes of an inquest. Inquests may be held only in relation to reportable deaths. I think it is accurate to say that there is general agreement from honourable members that the definition of reportable death, in clause 3 of the bill, is appropriate.

The State Coroner advises that, as a matter of practice, he takes the wishes of the deceased's family into consideration when determining whether or not to order a post-mortem. His office employs a number of social workers to help the deceased's family through what is a most dramatic period in their lives. I take a similar view in relation to section 30 of the Victorian act, which provides a similar appeal regime in relation to exhumations. I would also add that the State Coroner can issue a warrant for an exhumation only with the consent of the Attorney-General.

Importantly, in terms of seeking redress to the courts over a decision regarding a post-mortem or exhumation, the next of kin may, in accordance with the Supreme Court rules, seek judicial review by the Supreme Court of a decision by the State Coroner or the Coroner's Court to order a post-mortem or exhumation. I believe the safeguards against improper use of the power to order post-mortems or exhumations, and the existing review mechanisms which apply to the exercise of these powers, are adequate and appropriate. I understand that the Hon. Mr Gilfillan's amendments may include provisions similar to sections 29 and 30 of the Victorian act. If these amendments are proposed I will give them due consideration. However, at this stage, I am not inclined to support the inclusion of an appeal regime which relates specifically to post-mortems and exhumations for the reasons I have just given.

This bill is important and I hope that we will be able to make reasonable progress on it, so that it can be passed by both houses before the end of the session. I look forward to receiving the amendments of the Hon. Mr Gilfillan as soon as possible. I thank honourable members for their indications of support for the bill.

Bill read a second time.

CRIMINAL LAW CONSOLIDATION (OFFENCES OF DISHONESTY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 2410.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for this bill. It is a complex piece of legislation but, nevertheless, a very important reform to the common law. On the last bill I made responses to the Hon. Mr Gilfillan's observations in his second reading contribution on the Coroner's Bill. I repeat them now. The work of the Model Criminal Code Officers Committee arose out of the then Standing Committee of Attorneys-General in the early 1990s having a view that there ought to be a review in modern times of the criminal law with a view to endeavouring to reach some consensus at least on how a criminal code should look if it were to be codified.

That Model Criminal Code Officers Committee, on which I and my predecessors have been represented by Mr Matthew Goode, a senior legal officer in my office, has met on a regular and frequent basis to look at the whole of the law relating to crime. In some states, there is already a criminal code; in other jurisdictions, such as South Australia, there is not. There is, of course, fierce debate as to whether the common law should be relied upon or whether there should be codification. There are arguments for and against both.

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: That was common law. The common law of England became the law of South Australia at the point of colonisation. As I have indicated previously, some of our criminal law goes back to even the 13th and 14th centuries. It has been developed over centuries and—

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: We want to look to the future, and it is important that we do. The point that I think needs to be made is that I have taken the view during my term as Attorney-General that we would not rush headlong into codification of every part of the criminal law, but we would look at the criminal law to determine which parts need to be codified. The Hon. Chris Sumner, I think it must have been in about 1992 or 1993, brought in a codification of the laws relating to public offences. Subsequently, I brought in other parcels of reforms to codify different parts of the criminal law in this state. This is one that is very important, because it substantially reforms the law relating to dishonesty. As honourable members would already be aware, from the contribution that I made in introducing this bill, there are significant anomalies and significant problems with the way in which the current law relating to dishonesty, theft and fraud related offences is now framed.

The Hon. T. Crothers: What about computers?

The Hon. K.T. GRIFFIN: There is a piece of legislation yet to come to the parliament relating to computer offences. Obviously, that is a development that the current law can deal with but does not deal with as adequately as we might like. We can cast our minds back to last year or the year before, when I introduced legislation to deal with contamination of food in the context of deliberate contamination of products in respect of which there were common law offences which would cover it, but we believed there was a need for a comprehensive package of legislation that dealt with it.

The one issue that has been raised is one about which I do not yet have an answer for the Hon. Mr Gilfillan, and that is the issue of aggravated robbery. I undertake to provide that answer in the committee stage consideration of the bill. I think that was the only issue that the Hon. Mr Gilfillan—

The Hon. T. Crothers interjecting:

The Hon. K.T. GRIFFIN: We can deal with that in committee. Having looked at *Hansard*, the Hon. Mr Gilfillan's observation was that it was more a matter of curiosity than anything else that he would like to know the answer to that. I hope that I can satisfy his curiosity when we reach the committee consideration of this bill.

I should also say that there will be some amendments with respect to this bill as a result of public consultation. Media interests have made representations about payola, about the breadth of it, and some aspects of the drafting. Those amendments, hopefully, will be on file if not tonight then tomorrow morning. But we will not rush the committee tomorrow, because I think it is fair that everyone has an opportunity to consider those amendments.

The Hon. T. Crothers: Do you consider the fact that, because of globalisation, there is a need for us maybe to be more—

The PRESIDENT: Order! The interjection is out of order. The appropriate time for this is during the committee stage.

The Hon. K.T. GRIFFIN: The issue of globalisation and the movement of people and goods, both electronically and

physically, certainly is an issue that has to be addressed. One of the other issues that was focused upon here was the issue of problems that petrol stations had with people filling their tank and not paying for it. Under the law of theft, that was not clearly within the definition of theft, because one had to prove the intent to deprive permanently the owner of that product.

Be that as it may, I am happy to deal with the other issues in committee, including the issue raised by the Hon. Mr Gilfillan. As I said in relation to the Coroners Bill—and I say it in relation to this, and I hope that it can be accommodated in the context of the other legislation also—we do try to progress a lot of this legislation as soon as we can so that it can be passed before the end of the session. I again thank honourable members for their contributions.

Bill read a second time.

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

A quorum having been formed:

STATUTES AMENDMENT (ROAD SAFETY INITIATIVES) BILL

In committee.

(Continued from 23 October. Page 2417.)

New clause 5A.

The Hon. DIANA LAIDLAW: I am not sure whether it is parliamentary or proper to alert the Hon. Terry Cameron that this bill is on, but we have had a quorum called and people have sought to contact him by phone and are running around the parliament seeking him. If he does hear that the bill is on, would he please come to participate in this debate? I know that he wishes to say something and I am not sure that I can do much more.

I know that we have the numbers, but I am conscious that, in terms of the amendment that I am moving, the Hon. Terry Cameron raised with me this issue of negligent and careless driving leading to death, in a question in the Legislative Council on the first day we resumed in September. I move:

New clause, page 5, after line 14—Insert:
Amendment of section 45—Negligent or careless driving
5A. Section 45 of the principal act is amended—
(a) by inserting 'negligently or' after 'vehicle';
(b) by inserting at the foot of the section the following penalty provision:
Penalty: If the driving causes the death of another—
(a) for a first offence—$2 500 or imprisonment for six months; and
(b) for a subsequent offence—$5 000 or imprisonment for one year.
If the driving does not cause the death of another or grievous bodily harm to another—$1 250.;
(c) by inserting after its present contents, as amended (now to be designated as subsection (1)) the following subsections:
(2) In considering whether an offence has been committed under this section, the court must have regard to—
(a) the nature, condition and use of the road on which the offence is alleged to have been committed; and
(b) the amount of traffic on the road at the time of the offence; and
(c) the amount of traffic which might reasonably be expected to enter the road from other roads and places; and
(d) all other relevant circumstances, whether of the same nature as those mentioned or not.
(3) In determining whether an offence is a first or subsequent offence for the purposes of this section, only the following offences will be taken into account:
(a) a previous offence against subsection (1) which resulted in the death of another or grievous bodily harm to another and for which the defendant has been convicted that was committed within the period of five years immediately preceding the commission of the offence under consideration;
(b) a previous offence against section 46 of this act or section 19A of the Criminal Law Consolidation Act 1935 for which the defendant has been convicted that was committed within the period of five years immediately preceding the commission of the offence under consideration.

The amendment relates to a new offence of negligent and careless driving and fills a gap in the existing offences in South Australia. Under the Road Traffic Act we have an offence of driving without due care and attention, which attracts a maximum fine of $1 250 and can also attract a minimum period of disqualification. The offences then jump from driving without due care and attention under the Road Traffic Act to the Criminal Law Consolidation Act and an offence of causing death or injury by reckless driving, in which case there is a maximum fine of $35 000 for causing bodily harm or $35 000 for causing death, and a range of terms of imprisonment for maximum periods of 10 to 15 years, plus disqualification for minimum periods of five to 10 years.

So, there is a very big leap in terms of the offences with which the police can charge a person who has killed someone on the road through their actions. This matter has been raised publicly through the media generally, and it was raised with me by the Hon. Terry Cameron in the first question at the resumption of this sitting of parliament, and also by the Hon. Angus Redford. It has been further debated in the Liberal Party room and discussed in cabinet.

I highlight that the new offence and grades of penalties provided for in this amendment address death arising from this new offence of negligent or careless driving. In that instance, for a first offence the maximum fine would be $5 000 or imprisonment for one year, and for a subsequent offence $7 500 or imprisonment for 18 months. There is a further part to this penalty system for this new offence; that is, if the driving causes grievous bodily harm to another. In that instance, for a first offence the fine would be a maximum of $2 500 or imprisonment for six months and for a subsequent offence the maximum fine would be $5 000 or imprisonment for one year.

I indicate that in all such instances the court would also have the discretion of imposing a fine and disqualification. Again, that would be in terms of the maximum period and at the discretion of the court, taking into account all factors that related to the charge.

Honourable members may remember that the media interest and interest raised in this place by my party and, possibly, by the Labor Party as well, arose from the tragic death of a young school child who was legally crossing at a green light with two fellow students and was struck by a van driven by a person who later admitted having seen the red light but nevertheless decided to proceed. It was explained that he did not see the children and that it was raining. On those and other grounds, the Director of Public Prosecutions did not proceed with a charge of reckless and dangerous driving but, rather, careless but not negligent driving under the Road Traffic Act, which act does not at the present time provide for any term of imprisonment to be considered by the court. This matter was heard and the driver was sentenced last

Friday and received a penalty of a period of loss of licence and a fine.

When addressing this matter in answer to a question from the Hon. Terry Cameron in September, I made the statement that I believe that this matter has been drawn to our attention by the Director of Public Prosecutions highlighting a gap in our current legislative provisions between the Road Traffic Act and the Criminal Law Consolidation Act, and we must, as a parliament, address this matter of negligence. If we do not, we are essentially saying to motorists—who are, incidentally, protected road users, unlike pedestrians or cyclists, because they are protected by the shell of a vehicle—that there can be inattention on our roads; that a motorist need not brake before a traffic light and be cautious entering a zone before a set of traffic lights, an intersection or a pedestrian crossing; and that a motorist need not drive slowly past a bus, even though that may restrict their vision of the road network (as was the case in the incident concerning the Loreto Convent student).

If we do not act as I have outlined in the amendment that I have moved, we would also be saying that one would not necessarily need to have sight of the whole road and that, in all of those circumstances, one could kill somebody but it would be relatively excusable in terms of the range of offences and penalties that we have in two acts at the present time. I say 'relatively excusable' because there can be a charge of careless driving but the charge does not take into account the result of that conduct. The Criminal Law Consolidation Act has for many years required that the conduct also takes into account the result of that conduct. I simply argue, on behalf of the government, by way of the amendment that I have moved, that the conduct of negligent or careless driving should also take into account the result of that conduct if it leads to grievous bodily harm or death.

Finally, in moving and speaking to this amendment, I highlight that much thought was given to the issue of grievous bodily harm, and I have had a lot of discussion with the Attorney about it. We did not wish to introduce an offence which, if a person suffered any form of injury arising from a motor vehicle accident—for example, whiplash or long-term headaches—must be dealt with by the Motor Accident Commission and not necessarily as a criminal offence. Therefore, we have very specifically required that it must be grievous bodily harm, not any form of injury, before a criminal offence could be prosecuted—where a driver is negligent or careless and causes death or grievous bodily harm to another. 'Grievous bodily harm' is well understood within the law, as I understand, and can be assessed quite adequately through the legal processes, from the police who would first lay such a charge, to the court.

I think this amendment not only responds to the gap in the law that the Director of Public Prosecutions has highlighted but, if passed by the Legislative Council and parliament generally, it will send a very important message to all road users that it is a privilege to have a drivers licence, not a right. Drivers must take care and respect the fact that they are protected road users in that they are behind the wheel in the body of a car. They must remember that there are many other road users at the time that they are driving that vehicle. There are also times when a driver will be a pedestrian and they should respect the fact that the rights of other road users are equal to the rights of those in a motor vehicle. You cannot be negligent, cause grievous bodily harm or death and simply get minimum penalties, as is the case today, whereby the conduct alone is taken into account but not the result of that conduct.

The Hon. CAROLYN PICKLES: The opposition supports the amendment. However, I have a number of questions that I would like to ask the minister. In relation to the offence, is it the minister's intention—

The Hon. Diana Laidlaw interjecting:

The Hon. CAROLYN PICKLES: We understood that. I tried to point out that it was customary to go to other parties before there was a speaker from your party, but you did not seem to understand. I strongly support the amendment, but I have one question. Is it the minister's intention that each time there is an injury causing grievous bodily harm that there may be a move towards prosecution and, if so, can the minister detail what kind of procedure the police might use to initiate a prosecution, and what safeguards might there be?

Also, I draw the minister's attention to the particular accident that has been referred to in relation to the government's move to amend this legislation. The accident occurred on Portrush Road, which is in the area where I live. I would like to draw to the minister's attention the fact that the bus stop is in a very dangerous position. I would like the minister to give an undertaking that she will look at that bus stop which is just in front of the pedestrian crossing and which means that there is a blind spot for any driver coming out with a bus in front of them. This is what occurred in this instance.

There were three young women crossing the road in front of a bus that had stopped at a red traffic light when this accident occurred. All that is needed to make it safer is to move the bus stop to the other side of the crossing. I have had representations from the bus drivers union, the PTU, that this should be the case. I ask the minister to undertake that she will have some of her officers look at that particular location in relation to this issue.

I have raised some other issues in writing about the problems on Portrush Road and the schools on that road, such as Loreto Convent, and I trust that the minister will respond to me in the fullness of time. The question has been raised with me as to what process the police will go through to initiate a prosecution. It will not be in every single case that there will be grievous bodily harm because, presumably, the police have some motivation to move towards a prosecution.

I take this opportunity to say that every sympathy is extended to the family of this young girl who, I understand, was the only daughter of a couple living in England. It is a particularly tragic case. It is not the normal response of the Labor Party to produce legislation on the run, as some people have accused the government of doing, but I think that in this case there was a gap in the legislation. There is no differentiation between an accident that might only cause damage to vehicles or a minor injury to a person. I am mindful of the very poor behaviour of some motorists in relation to people crossing at pedestrian crossings that are activated by lights on particularly busy roads.

This is a very busy road, opposite a shopping centre, with huge numbers of very heavy vehicles travelling beyond the speed limit on most occasions. It really is a very dangerous area. I would like the minister to give an undertaking that she will look at the location of that bus stop because I think that, had that bus stop been on the other side of the traffic lights, the accident probably would not have occurred.

The Hon. T. CROTHERS: The Leader of the Opposition touched on the question, in part, that I wish to canvass. Members will recall that, when we were addressing this bill yesterday, I talked about the accident prone Sturt Highway. Unfortunately, late yesterday three more people were killed

on that road. I wish to ask a question, having read the case very carefully last Friday about the Loretto Convent schoolgirl who had come out from England to stay with her aunt. I think she was 13 years old and she was hit by a driver and killed.

Part of the driver's defence in this case, as I recall it, and it was accepted by the presiding officer of the court, was that the lights were partly hidden (and the Leader of the Opposition has touched on this) from his view. That was one of the reasons that apparently gave rise to the slowness of his reaction in respect of killing this poor unfortunate 13 year old who was a visitor to our country. There are other situations where lights are hidden. Over zealous councils and greenies, with respect to trees, such as in the Campbelltown area for instance, where they refuse to cut down trees to the extent that lights are partly hidden—

The Hon. T.G. Cameron: Why don't you introduce a bill to declare your neighbour's trees significant so that they can't be cut down?

The Hon. T. CROTHERS: One of them is significant—and I have a story to tell about that later. It is not just trees; it is signs and those sorts of things. I support what the minister is saying, but it appears to me that we are passing something for which there is no defence. It is a clear-cut, mandatory, 'You do this and for a first offence you will get this fine.' I would think that there may well be cases where some poor pedestrian has been killed, maybe because of the weather conditions, because of signs being erroneously placed by overzealous councils or, as in the case of my council, where it is so frightened of its own position being undermined and then being booted out of office by the green zealots in our midst—

The Hon. T.G. Cameron: Are you sucking up to the minister by criticising councils?

The Hon. T. CROTHERS: Certainly not. I am referring to the loony tunes in our midst in respect of environmental matters. The Leader of the Opposition did ask the question, in part, but there can be other things that can block one's vision. I am supporting the bill, but I would like the minister to answer that. In spite of the jocularity of the so-called former opposition spokesperson for transport on my right, my question is serious and I would ask that the minister treat her answer in the same fashion.

The Hon. T.G. CAMERON: I rise to indicate my total support for the amendment standing in the name of the minister. Included in the bill, and with the subsequent passage of the bill with Labor support, it will be the best part of the bill—your new amendment. There are other parts of the bill, as I have already indicated, that I have some problems with, but I have no problems with this amendment.

The Hon. SANDRA KANCK: I think that this is a sensible amendment. We have discovered a gap in the law and I think it is very opportune that we insert this amendment at this time.

The Hon. NICK XENOPHON: I too indicate my support for the amendment. I have spoken to two families who have lost children due to negligent and dangerous driving. They have been dissatisfied with the processes and the penalties applied. In another case, the prosecution did not proceed.

I think this highlights the point that this is anomalous, and the government ought to be congratulated for moving these amendments and proceeding in this direction. I think we ought to keep an open mind as to whether there ought to be tougher penalties down the track. I think that that is something that ought to be looked at in the context of this particular offence, but at least this is a step in the right direction and I think that it will give some solace to those families who have lost family members in such circumstances that the parliament has at least acknowledged that the law is anomalous and needs to be changed.

The Hon. DIANA LAIDLAW: I would like to respond to all of the contributions and thank honourable members generally for their support. I indicate to the Hon. Nick Xenophon that my first wish was to see higher penalties than are provided for in this bill but, having spoken to the Attorney at some length about some concerns that he had about the application of this provision—although I did highlight that New South Wales already has a similar provision which it introduced last year in very similar circumstances—the Attorney and I came to a compromise on the maximum fine, imprisonment and licence disqualification—

The Hon. Nick Xenophon interjecting:

The Hon. DIANA LAIDLAW: It was between $500, $1000, $2000 and $5000. It was of that order, in terms of the various grades. As I recall, the Hon. Angus Redford wanted higher penalties. The biggest issue for me was to get the offence onto the statutes book, notwithstanding some misgivings from others. I quite agree that the penalties can be considered further, if we need to, at a later stage. The offence is here thanks to the support of honourable members. The issues raised by both the Hon. Carolyn Pickles and the Hon. Trevor Crothers are important. I highlight that I have reason to be out Portrush Road way on Friday and I will personally have a look at this situation, as well as ask officers to attend from the Passenger—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: I respect that, but I was specifically asked to address this one. The PTB will look generally, and it does on a regular basis, at the position of bus stops, and it is difficult especially where there are articulated buses, with the entry and exit, and the allowance that is needed to take into account people's driveways, shopping centres, roads, various clearances, shops and crossings—there are a lot of matters. We also find sometimes that people may use a bus but do not like to have the bus stop outside their place, and then others do not like the buses altogether, or they do not like the customers who use the buses, and there is always a lot of controversy about the location of bus stops. But notwithstanding that, the PTB will certainly undertake an assessment of this bus stop and so will I, and generally. I give that undertaking to the Hon. Mr Crothers, and I will raise that with Transport SA in terms of maintenance of the arterial road system and traffic lights.

The Hon. T. Crothers: I think it is more the council.

The Hon. DIANA LAIDLAW: Taking up the point of the honourable member, I will also raise it with the Local Government Association and draw it to its attention in terms of the new offence and its responsibilities to make sure that the sight lines are—

The Hon. T. Crothers: If the lights are hidden from view, does that then mean that the local government people are guilty of an offence?

The Hon. DIANA LAIDLAW: If I have understood the question correctly, in any crash at any time resulting in injury or otherwise the police will take into account the circumstances and the evidence, and they would do so under the offences that are already on our statutes, whether it be careless driving or dangerous and reckless driving. They would take into account the evidence and the circumstances

before issuing the offence, and equally so with the Director of Public Prosecutions, and that was the case in the Loretto Convent death because the police charged with a higher offence and then, when assessed by the DPP, without the offence that we are proposing here today, went for the road traffic offence, and the lesser offence, of simply careless driving, and that is what really enraged the general public and led to this matter being addressed here and across the media.

I think it is fair just to say to the Hon. Carolyn Pickles, who specifically raised how this matter would be prosecuted, I have a statement here that I can read so I get all the terms correct. A prosecution would proceed under the amended section 4 only if the circumstances and the evidence warranted it, that is, if the driving was actually negligent or careless. The police and/or the Director of Public Prosecutions already assess the circumstances of crashes when they investigate them and lay charges only where the evidence warrants it. In this regard the only expansion of the circumstances covered by section 45 is to add negligent driving, that is, if the driving was reckless or dangerous and a serious injury was to result the prosecution would likely be progressed under section 19A of the Criminal Law Consolidation Act, as already occurs.

In addition, the higher penalties only relate to grievous bodily injury and death. Certainly death is not an arguable matter, but grievous bodily injury is well understood through the legal processes and the police prosecution and defence section. Grievous bodily harm is defined as serious physical injury, defined variously in different criminal statutes, but usually including injury, endangering life or causing permanent damage.

The Hon. T. CROTHERS: There is just one thing I omitted to add, namely, that up until very recently councils were exempt from any charges in respect of breaches of the law. That matter changed about a week or two ago as a consequence of a decision of the High Court.

The Hon. Diana Laidlaw: A couple of months ago.

The Hon. T. CROTHERS: A couple of months ago was it, yes. Well, it was changed and I do not know how many of the councils are aware of that, and, indeed, I do not know whether the Local Government Association has circularised the councils in respect of that matter. I certainly found with my council at Campbelltown that the lack of knowledge by some of the councillors and others was absolutely appalling. I am just wondering, minister, whether it should be drawn to their attention, where there are any bus stops or any sets of lights involved, whether they should also be warned in these terms.

For the first time in the history of local government in this state they are now subject to just about every potential breach of the law that there is in this state, instead of as happened very often, when people would try to prosecute councils they would find that they were exempt from prosecution. Can the minister give me that undertaking? I am more than happy with what she said so far in respect of the matter, but I would be even happier if councils are made aware of the full extent of the necessity to make sure that things are according to Hoyle in their council areas.

The Hon. DIANA LAIDLAW: The honourable member is right to refer to the High Court decision, which is historic.

The Hon. T. Crothers: It is very wide-ranging.

The Hon. DIANA LAIDLAW: Yes. It overcomes an issue that has been on our statute book since New South Wales was settled, I think, and that is that any government—

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Yes, in the UK, that is true. But the UK dealt with it some time ago and the Australian jurisdiction did not. My understanding is that the Australian Solicitor-General has given an opinion which is being considered at the federal government level, because the High Court decision applies equally to all agencies—Transport SA, local councils, it is very broad—and what it essentially means is that it gets rid of the nonfeasance provisions and councils cannot simply claim that because they have done nothing they therefore are not liable.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Not guilty, yes. Whether it is from a pothole in the road or a footpath, a bridge structure or tree trimming the ramifications are enormous.

New clause inserted.

Clauses 6 and 7 passed.

Progress reported; committee to sit again.

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

A quorum having been formed:

GOVERNMENT ADVERTISING (OBJECTIVITY, FAIRNESS AND ACCOUNTABILITY) BILL

Adjourned debate on second reading.

(Continued from 4 July. Page 1845.)

The Hon. R.I. LUCAS (Treasurer): For those avid readers of *Hansard*, I commenced my contribution on this matter, I think, on 4 July, which is a long time ago. I will briefly repeat the points that I made on that last occasion. The prospective prohibition about the use of public money for the government advertising information program has no threshold on it. The point that I was making was that literally hundreds of information programs are undertaken by the government. They are not all big programs and, as I said, probably the tourism budget is the biggest. In terms of overall whole of government advertising, the budget and the annual *Directions* program are probably the two biggest whole of government programs.

Tourism, as I said, is the biggest in-house program, I guess, but there are literally hundreds of other information programs, ranging from the very small to the modest sized expenditure programs. That in itself, I think, ought to alert members (and in particular, I guess, the Labor Party, which, through Mike Rann, has indicated its support for this measure) that it is not just a small number of significant sized programs that would be caught under the umbrella of this legislation; there is a range of other problems that then flow on from that. I will not go through all the detail, but in some areas of the bill it refers to the need to do appropriate market research before them; in some areas it talks about doing appropriate cost benefit analyses before them. Again, if it is a big program, one can understand why one might do that—and, certainly, within government that is encouraged, although it is not required at every one of them.

In relation to a smaller program, such as some bus posters, a web site construction and maybe a leaflet, or something of that order, the cost of market research for something like that would probably be more than the cost of the information program itself. In particular, the Leader of the Australian Democrats has talked about an alternative model, which is where some independent panel has used an appropriate government information program, then gives it a tick

beforehand. Again, the impracticality of that, I hope, is apparent if it is meant to apply to all information programs, no matter what size.

I think that, if members want to sensibly look at these things rather than giving a knee-jerk public relations or political response, they may well have to look at something like a cut-off or a threshold or something like that to make it physically or practically operational for whenever one gets into government. I can understand that, from the Democrats' viewpoint, that is not likely to be a problem. But certainly from the opposition's viewpoint, at some stage in the future, I guess, it may well be elected again. It is committed to this package that the Hon. Mr Xenophon has put down and, as I said, in practice, it is unworkable. I have made a whole series of comments about that, which I will not repeat.

I referred to the fact that the restrictions may involve restrictions on the use of ministerial photographs and government publications. Again, I highlight that literally hundreds of departmental and other publications every year have ministerial photographs on them. If they are to be banned, frankly, it is difficult to conceive the sense of such a proposition. On some interpretations of the definitions, it could be that ministerial letterheads and ministerial calling cards, should they have ministerial photographs on them, may well be restricted also because, certainly, a calling card would be part of any information program that would be put together for any product—in this case, the product would be the government and the services of the government.

Further on in my contribution I raised a whole series of issues in relation to penalties. For instance, if there is a breach and someone successfully prosecutes, a minister has to find up to $100 000 of his or her money to pay the fine and, potentially, go to gaol for these issues. As I said, unless one is a lawyer or is independently wealthy, or both, it would be unreasonable for a minister of modest financial means to be left in a situation where, as a result of this legislation, they could potentially be fined up to $100 000 of their money because there was some action by their department or agency, with or without their knowledge, that breached this provision.

Again, it is just unreasonable that these sorts of provisions should be included in the legislation. However, we note that this is Labor Party policy, clearly discussed in and wholeheartedly supported by the caucus, and future ministers of a Labor government are committed to putting their hand up for $100 000 out of their own pockets should they be found guilty if the Hon. Mr Xenophon or one of his fellow zealots in this area should decide to pursue a Labor minister in future.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: I am not sure that 'zealot' was ever described as unparliamentary. Again, I highlighted without going into detail the fundamental inconsistencies between clauses 2.2 and 2.3 of the schedule. On the one hand, clause 2.2 provides that no claim or statement should be made which cannot be substantiated, then 2.3 provides:

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

Clause 2.3 envisages a scheme where comment, opinion and analysis are evidently to be allowed, yet the earlier provisions in the clause make quite clear that opinion and comment, unless they can be substantiated in some way, are not allowed to be provided. There are some fundamental inconsistencies in the drafting. Clause 3.1 provides:

> Information campaigns should not intentionally promote, or be perceived as promoting, party political interests.

How is a judge or court going to determine what is perception of promoting party political interests? From the views that the Hon. Mr Xenophon or his representatives have expressed in other forums, I know that the Hon. Mr Xenophon has a particularly unique view about party political interests. What most people might understand to be government policy or action, or a minister undertaking and implementing government policy and action, the Hon. Mr Xenophon may well perceive as promoting a party political interest, and there will be significant problems with the interpretation of that.

There are then two absolute doozies. Clause 4.1, an extraordinary provision relating to the distribution of sensitive material, provides:

> Generally, material may only be issued in response to individual requests, enclosed with replies to related correspondence or sent to organisations or individuals with a known interest in the area.

That is saying that in a sensitive area members should generally send information to people only if they have asked for it. That, in effect, means that no government would be able to generally distribute a leaflet in a particular area—for example, the budget information document, which is distributed throughout the state—because that has not been individually requested by 700 000 households in South Australia. There potentially would be a problem under the Xenophon-Rann legislation. Clause 4.1 also provides:

> As a general rule, publicity touching on politically controversial issues should not reach members of the public unsolicited except where the information clearly and directly affects their interests.

Again, the onus will be on the minister—

The Hon. Caroline Schaefer: Thank God: no more letters from Ron Roberts!

The Hon. R.I. LUCAS: No, it does not affect the Hon. Ron Roberts; it only affects the government and ministers. That is the point that I am going to make in a minute. This is cleverly drafted legislation that allows the Labor Party and Independents to get off the hook but seeks to shaft the government and Liberal ministers.

The Hon. T.G. Cameron: This might be a good time to pass this bill!

The Hon. R.I. LUCAS: Only if you had the view that we were going to lose. We do not have that view: we think that it will be very close. So, if a minister, for example, were to distribute information unsolicited to people and the Hon. Mr Xenophon or someone was to seek to take action, and ultimately the court agreed with the Hon. Mr Xenophon that this had been unsolicited and did not clearly and directly affect the interests of the particular constituent, then the potential maximum penalty for the minister is up to $100 000 out of his or her own pocket and/or gaol.

Again, in my view that is unreasonable. As I said, I think that the only person in South Australia who believes that Mike Rann will implement this when in government is the Hon. Mr Xenophon because, God bless his cotton socks, he believes Mike Rann. The last area that I wanted to address was that particular area and also as it relates to clause 3.3, as well as how it unfairly impacts on the government as opposed to Independents such as the Hon. Mr Xenophon, the Democrats and the Labor Party. Clause 3.3 provides:

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

That is the Rann-Xenophon policy position: you should not attack or scorn the views of others in opposition parties or groups. As I said, this has been very cleverly drafted by the Hon. Mr Xenophon, because when he first drafted this I highlighted this problem and he has chosen not to address it. In every parliamentary term the opposition parties, looking at the lower house, have available to them about $2 million worth of global allowance expenditure. They will be untouched—

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: No, I have raised these a number of times. They will have access to untrammelled use of that $2 million worth of public expenditure and be untouched by this legislation. As I stated last time, I have some examples of the sort of information being distributed by the Labor Party and the Democrats. I do not have any here of the Hon. Mr Xenophon but I am looking to get examples of publicly funded expenditure from the Hon. Mr Xenophon's officers in relation to this area, because he has made some extraordinarily unfair criticisms of the government in relation to being addicted to gambling revenue and a variety of other things like that, and he has used that in publicly funded correspondence, in press releases and others, with people who have been exposed to the sorts of views like that which the Hon. Mr Xenophon has put publicly and in correspondence.

I will refer to some of these taxpayer funded Labor Party newsletters, which are distributed unsolicited, I might say. They have not been individually requested by their constituents. I will just work my way through them. The first is a newsletter from the *Northeastern News*, 'A newsletter from your local Labor MP, Jack Snelling.' It has a big banner headline stating 'Olsen's tax: The family budget sting', and statements such as:

> The Liberals' poll tax slug. Your family home will be taxed with. . .

and then there is an attack on the emergency services levy at the time. It has lovely big glossy photographs of Jack Snelling, publicly funded in these newsletters, and such statements as:

> Local Labor MP Jack Snelling has slammed the budget for its tax on family measures. This budget hits hardest those who can least afford it.

And so on. On page 3, 'Tax hike threat on ETSA sale' is an extraordinary reinterpretation of the government's position: in some way the Liberal government is going to introduce higher taxes as a result of the ETSA sale. Somehow he managed to contrive including that particular story and headline into his newsletter.

I refer to a copy of Gay Thompson's *Reynell News*. The headline is, 'Olsen's backflip on sale of ETSA betrays every South Australian.' The article says: 'Olsen believes South Australia's assets are his to sell. They are not. And especially when he deliberately hid the plans from South Australians before last October's state election. Premier Olsen has announced the sale of almost every government business enterprise,' etc. There are a number of similar statements made throughout the Gay Thompson newsletter.

'John Hill, Labor MP for Kaurna.' I note that in the last parliament MPs were expressly forbidden from describing in their global newsletters their political affiliation, Labor or Liberal. They were meant to be MP for Kaurna and MPs for everybody, but I note that members such as Mr Hill, Mr Snelling and others specifically designate themselves in publicly funded literature as 'the Labor member for' an area. That is obviously not of concern to the Hon. Mr Xenophon and the Hon. Mr Rann. I am not surprised that it is not of concern to Mr Rann. 'John Hill, Labor MP for Kaurna'; 'Budget 1998. For whom, Mr Olsen?'; '30 more schools to go'; 'Public transport fees rise'; 'More than $100 a year for some commuters'; and 'New emergency services tax', etc. Again, there are big glossy photographs of the Labor members, of course: that is okay. There is a big glossy photograph on the other side. This is Mike Rann: it has nothing to do with the electorate of Kaurna.

The Hon. T.G. Cameron: So that is what their $25 000 goes on.

The Hon. R.I. LUCAS: The Labor MPs have $2 million dollars over four years available. Then on page 2, in Kaurna, a long way from the electorate of Ramsay, is a big photo of Mike Rann—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. R.I. LUCAS: —and, 'This state budget continues to punish families instead of attacking spending on consultants and bosses.' It makes several statements, a number of which are certainly challengeable. I would put it more strongly than that, but the kindest I could say is that they are challengeable. It talks about ripping $230 million out of hospitals in the past four years. We have actually spent $400 million more. Admittedly, this is a different time cycle, but the numbers would have been similar. We have spent more than $400 million more on hospitals and health than four years ago but Mr Rann continues to claim that we have ripped $230 million out of hospitals. I have literally dozens of these examples.

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: The point that I am making is that the legislation you are supporting will stop the government from doing this but will allow Labor, Independents and Democrats to spend $2 million of taxpayer funding in any way they want, with photos and heaping scorn on the opposition party. The government will not be able to heap scorn on the Labor party—

Members interjecting:

The Hon. R.I. LUCAS: No, the government cannot heap scorn on the Labor Party but the Labor Party can spend $2 million of taxpayers' money heaping scorn on and attacking, in an unfair, intemperate way, the government of the day. The Democrats can do the same; No Pokies members and Independents can do the same as well.

This is very cleverly drafted legislation and it is no wonder that Mr Rann hopped up on the podium with the Hon. Mr Xenophon and said, 'Me, too. This is terrific,' because he will do anything that he can—and this has dragged on for a little while, obviously—in the last year or so of this parliament to try to stop what the government is trying to do in terms of sharing information about its programs, as every other government has done. He knew that this legislation would allow him and Labor members to spend their $2 million over four years attacking government programs, with photographs and heaping scorn on the opposition—or on the government, as it turns out. They can have their photographs and they do not have to back up their information with facts.

All of the requirements in the legislation on government advertising very cleverly exclude the Labor party, and the Hon. Mr Xenophon himself would not be bound by these requirements. How unfair is it that a member comes into this chamber, drafts legislation to tie the hands of the government in relation to information programs, yet says, 'That is okay.

We—and, indeed, the Labor Party, the Independents and the Democrats—do not have to be bound by the same rules'? I am not sure whether the Hon. Mr Xenophon knows how to spell 'hypocrisy' but, certainly, that is the description that I would give this legislation and its unfair, inequitable impact on government advertising compared with advertising by the Labor Party and others.

There are many other areas of the legislation which I guess we will need to address in detail when we get into the committee stage. As I have expressed on a number of occasions to the Hon. Mr Xenophon now, I believe the legislation to be fatally flawed. He needs to think through the practicality of this and he needs to take off the rose-coloured glasses and talk to people such as the Hon. Mr Cameron who have had some experience with the Hon. Mr Rann. He should listen to people who say, 'Do not believe everything that Mr Rann tells you; do not believe that he is going to stand up and introduce legislation and support legislation such as this.'

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: You say that the Hon. Mr Xenophon is not that gullible, but he stood up, on a Sunday night—as I said, I nearly fell over when I saw it—making a joint press policy announcement with Mike Rann. They were very pally on this Sunday night on the news, jointly launching their policy on fairness in government advertising. He should have a word to Mr Cameron and with other members who have worked with and are aware of the Hon. Mr Rann and his approach to these issues. He should take wise counsel from others—he does not need to listen to me: he very rarely listens to me. But he occasionally listens to the Hon. Mr Cameron, and the Hon. Mr Cameron has worked with Mr Rann probably more than any member in this chamber. The Hon. Mr Cameron also knows the strengths and weaknesses of Mr Rann probably more than any member in this chamber. While I have not discussed this issue with the Hon. Mr Cameron, I would be very surprised if his advice to Mr Xenophon was that he believes that Mr Rann will actually do what he said he would on that Sunday night in relation to this legislation.

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

ADJOURNMENT

At 9.35 p.m. the Council adjourned until Thursday 25 October at 11 a.m.