HOUSE OF ASSEMBLY

Tuesday 18 October 1994

The SPEAKER (Hon. G.M. Gunn) took the Chair at 2 p.m. and read prayers.

SODOMY

A petition signed by 55 residents of South Australia, requesting that the House urge the Government to criminalise sodomy, was presented by Mr Rossi.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Deputy Premier (Hon. S.J. Baker)—

Office of Information Technology—Report, 1993-94.
Director of Public Prosecutions—Report, 1993-94.
Electoral Act—Regulations—Electoral Advertisements.

By the Treasurer (Hon. S.J. Baker)—

Casino Supervisory Authority—Report, 1993-94.
State Supply Board—Gaming Machines Act 1992—Report, 1993-94.
Police Superannuation Board—Report, 1993-94.

By the Minister for Industrial Affairs (Hon. G.A. Ingerson)—

Industrial Court and Commission of South Australia—Report, 1993-94.
Workers Compensation Review Panel—Report, 1993-94.

By the Minister for Industrial Affairs, for the Minister for Industry, Manufacturing, Small Business and Regional Development (Hon. J.W. Olsen)—

History Trust of South Australia—Report, 1993-94.
Libraries Board of South Australia—Report, 1993-94.

By the Minister for Housing, Urban Development and Local Government Relations (Hon. J.K.G. Oswald)—

HomeStart Finance Ltd—Report, 1993-94.
West Beach Trust—Report, 1993-94.
Corporation By-laws—
Brighton—No. 12—Garbage Removal.
East Torrens—No. 18—Moveable Signs on Streets and Roads.

By the Minister for Mines and Energy (Hon. D.S. Baker)—

Soil Conservation Council—Report, 1993-94.

By the Minister for the Environment and Natural Resources (Hon. D.C. Wotton)—

Clean Air Act—Regulations—Exemptions.

By the Minister for Emergency Services (Hon. W.A. Matthew)—

South Australia Police Department—Report, 1993-94.

MODBURY HOSPITAL

The Hon. M.H. ARMITAGE (Minister for Health): I seek leave to make a ministerial statement.

Leave granted.

The Hon. M.H. ARMITAGE: It gives me great pleasure to announce that the Government has approved the endorsement of Healthscope Limited as the preferred tenderer for building a 65 bed medical, surgical and obstetric private hospital at Modbury and to manage both the public and the private hospitals. This is a good result for the local community as there will be major upgrading of key components of the public hospital, while at the same time Healthscope will build surgical suites that will be used by both public and private patients. There is still much negotiation to be done before the contracts are ready for signature, which we expect will occur about mid-December, but the basic outlines are now agreed.

Among the new public hospital facilities being negotiated are construction of a new 22 bed public obstetrics unit; upgrading of the accident and emergency unit of the public hospital; refurbishing of the fifth floor as a 23 bed nursing ward for low-dependency patients; upgrading of the high dependency unit and coronary care unit in the public hospital by establishing six intensive care unit beds and six coronary care unit beds; upgrading of the sterilising facilities for the collocated public and private operating theatres; and, improved car parking. The agreement for a management contract with Healthscope has answered the conditions requested by the Modbury Hospital Board, such as: no sale of property and buildings; maintenance of service levels; open book accounting; service quality agreements; retention of teaching, research and staff training; and appropriate mechanisms to protect public patient services and the public interest.

The health budget will save more than $6 million a year through this proposal to manage the public hospital while at the same time providing upgraded facilities and services for public patients at Modbury Hospital. Privately funded patients will also now have a modern hospital in the region where there was no hospital before. Another $1.5 million in estimated tax revenue will come to the State Government, principally through payroll tax. Healthscope has a very good track record in the area of providing health services.

Staff will retain their jobs, either by joining Healthscope, by taking a TSP or by being redeployed. No job is under threat. Staff who join Healthscope will retain continuity of long service leave and holiday entitlements, and under the transfer agreement being negotiated with the UTLC will be given an additional incentive payment of between $2 500 and $10 000 depending upon length of service. The Government will retain control of the hospital assets (land, buildings and equipment) and will have tight control of the standard of care offered. If there is a breach of agreement with respect to care of public patients, the agreement can be terminated at any time. The Government could then appoint new private sector managers or continue under public sector management.

The contracts will ensure that standards of care are maintained. The Federal Government has just signed similar contracts with private operators for the complete provision of health care, with the private sector having control of assets as well as management services for two of its repatriation general hospitals in Perth and Brisbane. Public patients will be treated in exactly the same way as they are now at the same standard of care or better and, of course, for free. If we were not to go down this track the Government would have less money to provide for other health services in South Australia, and the people of the Modbury region would not have the range of increased facilities and services offered by this proposal. There can be no serious objection to what is a win-win situation for all involved.

WATER QUALITY

The Hon. S.J. BAKER (Treasurer): I seek leave to make a ministerial statement.

Leave granted.

The Hon. S.J. BAKER: On behalf of the Minister for Infrastructure, I wish to make a ministerial statement on the Hills water position. In response to yesterday's story in the *Advertiser* concerning water available to households in the Adelaide Hills, the EWS State Water Laboratory yesterday conducted urgent tests on supplies in the Adelaide Hills. The *Advertiser* story identified concerns with the levels of three metals, namely aluminium, copper and iron, in the water which is sourced from the Murray River via the Mannum-Adelaide and Murray Bridge-Onkaparinga pipelines. The results of testing have confirmed that unfiltered mains water supplied to communities in the Adelaide Hills meet the health related guidelines recommended by the National Health and Medical Research Council—contrary to the claims in yesterday's newspaper story.

The average levels found in mains water are: soluble aluminium .09 milligrams per litre; copper .13 milligrams per litre (although the average copper from two samples taken inside dwellings was 2.3 milligrams per litre); and iron 1.6 milligrams per litre. New national drinking quality guidelines recommend levels of copper less than 1.5 milligrams per litre. There are no recommended guidelines on health grounds for iron. Having said this, I understand the possible concern over levels of aluminium in drinking water given recent speculation about unproven links between the consumption of aluminium (and I must say soluble) and Alzheimer's disease. For this reason the State Water Laboratory paid particular attention to aluminium levels finding that levels in water samples were substantially below the recommended limit of .2 milligrams per litre contained in draft guidelines.

It is important to note that the *Advertiser's* analysis of the water test results fail to draw the clear distinction between aluminium as found in suspended clay from the River Murray water and acid soluble aluminium which can be absorbed by the human body. The *Advertiser's* test took the total aluminium content of the water sampled and then compared it with the water quality guideline of .2 milligrams per litre for acid soluble aluminium, and that is clearly an invalid comparison. With regard to copper, the levels mentioned in the *Advertiser* came from samples taken inside households. The advice I have received is that these higher levels are likely to have come from the copper pipework inside the house and not the mains supply itself.

Again, it is important to realise that the State Water Laboratory test results for copper in the mains supply at an average of 0.13 mg per litre is much less than the recommended maximum level of 1.5 mg per litre. EWS scientists at the State Water Laboratory, which is an institution of national and international stature, are confident of the safety of the water supplies to these communities. They, in turn, are in frequent contact with the South Australian Health Commission from which they take advice on public health issues. We are assured by officers of the Health Commission that water supplies in the Adelaide Hills are safe and reliable.

Finally, the Government has previously announced plans to accelerate the provision of filtered water to these areas and, although filtering will not eliminate the presence of copper from household plumbing, people living in Hills communities, as well as those in the Barossa and Murray River towns, can expect greatly improved water quality, with filtered water expected to be supplied to Hills communities by the end of 1997.

CRIME STATISTICS

The Hon. W.A. MATTHEW (Minister for Emergency Services): I seek leave to make a ministerial statement.

Leave granted.

The Hon. W.A. MATTHEW: Today I have tabled the Police Annual Report, which I am pleased to advise reveals an encouraging downward trend in crime in South Australia. The report reveals that violent offences decreased by 8.9 per cent and property offences, including larceny and breaking and entering, were down 5.6 per cent. Overall, offences reported or becoming known to police have dropped by 2 086 offences. Other highlights from the report include: rape and attempted rape, down 36.6 per cent; other sexual offences, down 15.6 per cent; attempted murder, down 38.3 per cent; breaking and entering, down 4.6 per cent; larceny/illegal use of motor vehicles, down 17 per cent; illegal interference of motor vehicles, down 19.4 per cent; and larceny from motor vehicles, down 6 per cent.

These crime statistics are encouraging, but there is still a long way to go. This reduction in crime levels throughout the State across most categories complements the Government's commitment to place more police on the beat and to making our streets safer. There has been a major focus during the past 10 months on increasing the number of operational police. Areas previously highlighted include replacement of the former STA Transit Squad by 72 uniformed police, with 39 transit police having now graduated from Fort Largs Police Academy and a further group presently in training.

There has also been the redeployment to operational duties of 67 police working as speed camera operators. Cameras will eventually be operated by members of the Police Security Services Division, formerly SACON Security, and this process will be completed during 1995. In addition, there has been the redeployment of five police from Government House guard duties. These duties are now undertaken by members of the Police Security Services Division.The redeployment of these police enabled the opening of the new Aldinga Police Station. The closure of the Novar Gardens police mechanical workshop by January 1995 will result in 28 more police being given operational duties. The public can rest assured that the fight against crime is intensifying in South Australia.

WORKCOVER

The Hon. G.A. INGERSON (Minister for Industrial Affairs): I seek leave to make a ministerial statement.

Leave granted.

The Hon. G.A. INGERSON: I wish to make an important statement concerning WorkCover which affects employers and workers in South Australia. Last Friday, the WorkCover Board met to consider the funding position of the WorkCover scheme. The board received an independent actuarial assessment of outstanding claims liabilities for the year ending 30 June 1994. The board has advised me that the independent actuary has assessed outstanding claims liabilities as at 30 June 1994 at $744 million. This means that the WorkCover scheme has an unfunded liability of approximately $111 million. This represents a deterioration in 1993 of $116 million. The scheme is now only 86.6 per cent fully funded whereas, supposedly, it was fully funded some 12 months ago. For the assistance of members, I have attached to this statement an information sheet which explains the key factors underlying this actuarial assessment.

The Liberal Party, whilst in Opposition and since coming to Government, has consistently questioned the validity of assertions by previous Labor Government Ministers that the WorkCover scheme had returned to a fully funded position. This independent actuarial report to 30 June 1994 is the first opportunity that this Government and this Parliament has had to test these assertions. Changes which the Liberal Government has made to the WorkCover system came into effect from 1 July this year. This actuarial report for the year 1 July 1993 to 30 June 1994 is, therefore, the first true picture of Labor's legacy. That legacy is a $111 million unfunded liability for the WorkCover scheme. This appalling state of affairs confirms exactly what the Liberal Party has claimed for the past three years: that Labor Governments have failed to provide any real structural reform to the WorkCover scheme and have relied upon recession induced unemployment to artificially claim full funding.

The State Liberal Government was elected to clean up the financial mess created in South Australia by successive Labor Governments. As in so many other areas of public administration, this Government has commenced the task of reforming WorkCover. The Government is embarking on reform to WorkCover in an environment where the actuarial assessment has forecast a further 2.5 per cent per annum increase in outstanding claims liability over the next five years to $898 million unless the cost of the scheme is fundamentally curtailed; that is, an unfunded liability in excess of $260 million per annum in five years, which can lead only to significant increases in the levy.

Some inroads into reducing the costs of the WorkCover scheme can be made by improving occupational health and safety in the workplace and improving the management of claims. The Government is committed to achieving these objectives and has already announced significant policy initiatives for this purpose. However, the independent actuarial report makes clear that these initiatives alone are not sufficient. Claims numbers rose only slightly in 1993-94 to 40 600, which remains well below the peak of 56 500 in 1989-90. Employers and employees have responded to the Government's Stop the Pain prevention drive and to other initiatives, but this will not be enough. Better occupational health and safety will not be enough to restore the scheme to full funding.

It is now apparent that the WorkCover scheme will achieve a genuine fully funded status only if structural legislative change is made to benefit levels. The actuary's report shows that these legislative factors, which are outside the control of WorkCover's direct administration but within the control of this Parliament, are placing intolerable pressures on the costs of the scheme. These pressures, unless addressed, will be long lasting and further erode South Australia's competitive position with other States. The benefit levels for workers compensation in South Australia are by far the most generous of any scheme in Australia, and it is now beyond dispute that this State can no longer afford to be so generous.

In most interstate schemes, claimants have left the WorkCover system by the end of year 3, either returning to work or transferring to social security benefits. Our current legislation allows an injured worker to continue to receive income maintenance until retirement. A worker seriously injured at the age of 18 years could receive compensation until retirement at 80 per cent of pre-injury income. No other State scheme has this provision. In every other State, the continuing cost burden for injured workers who are unable to return to work transfers to the Commonwealth. South Australia is effectively subsidising the national social security scheme and Medicare, and we are not being compensated by the Commonwealth for this. Initial estimates show that ceasing entitlements at five years could allow the levy rate to be reduced to 2.1 per cent. If payments were ceased at three years, the levy could be reduced further to 1.9 per cent. This represents a reduction of estimated liabilities of between $400 million and $500 million. These calculations dramatically highlight the costs linked to South Australia's present benefit structure.

In March 1995, the WorkCover Board will determine the average levy rate for 1995-96. The board has advised me that, based on the actuary's report, present benefit levels and performance, the board would be forced to increase rates to between 3 and 3.3 per cent to place the scheme back into a fully-funded position. This outcome would be serious for South Australia's economy and is unacceptable to the Government. Employers in South Australia are already paying a levy which is the highest in Australia.

It is now time for the community and this Parliament to take a hard look at our workers compensation arrangements. We must not let the gains being made in other areas of our economy be eroded by an unaffordable workers' compensation scheme. We must take action now for the good of South Australia. In making the choice between existing arrangements and necessary change, the views of the community, and especially key stake holders—employers, workers and providers—will be paramount in determining the new scheme. The unacceptable financial position of the WorkCover scheme and its causes should be so self-evident to all responsible members of this Parliament that the necessary legislative reform, which the Government will introduce later this year, should be enacted immediately. This Government has taken the challenge of economic, industrial and social reform very seriously. With the assistance of this Parliament and the goodwill of the industrial community, the challenge of creating a viable and competitive scheme will have to be met.

QUESTION TIME

HOSPITAL FUNDING

The Hon. M.D. RANN (Leader of the Opposition): Will the Premier intervene to ensure that new funding arrangements, which are driving South Australia's public hospital system towards crisis point, are resolved in a way that does not compromise patient care, and will he now stand by his promise to the people of South Australia before the last election that funding to public hospitals will be increased and not cut? Prior to the last election, the Premier promised that there would be no cuts to hospital funding and that an extra $6 million a year would be allocated to the public hospital system. The Premier promised that all savings generated from greater efficiencies would be retained within the health system to provide, among other things, increased funds for direct patient services. As well, the Premier is on record as describing aspects of our first rate public health system as not only third rate but third world. It has been reported that, because of Liberal Government cuts to the health budget, hospitals are now faced with a choice between significant budget overruns and massive cuts to patient services.

The Hon. S.J. BAKER: I rise on a point of order, Mr Speaker. The normal reason for an explanation is to clarify the question. We are now getting into a second reading debate.

The Hon. M.D. RANN: I can understand the Deputy Premier's sensitivity on this issue.

The SPEAKER: Order! The Leader will resume his seat. Is the Deputy Premier withdrawing leave? If he is not, I point out to the Leader of the Opposition that he is making a long explanation. The Chair has been fairly lax in allowing the honourable member to continue. I ask him to wind up his explanation.

The Hon. M.D. RANN: Thank you, Sir; and I am sure the same rigour will be applied to the Premier's response.

Members interjecting:

The SPEAKER: Order! The Chair has been impartial in dealing with members. I ask the Leader of the Opposition to withdraw his reflection on the Chair.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition; if he continues, he will be named. I ask that he withdraw.

The Hon. M.D. RANN: I withdraw, and I indicate that I have finished my question.

The Hon. DEAN BROWN: First, we know who plunged the hospital system here in South Australia into a state of chaos. We are all aware who built up an enormous waiting list within the public hospital system. During the election campaign I promised to put additional finance into tackling that waiting list, and we have done that. In this year's budget, $6 million is specifically allocated to tackle the waiting lists left to the Liberal Government by the former Labor Government. We also know the extent to which it was the Labor Government of South Australia that signed such an unsatisfactory Medicare agreement with the Federal Government—a Medicare agreement that left South Australia over $20 million short. Just imagine for one moment what we could do with our health system here in South Australia if only the South Australian Labor Government had signed a Medicare agreement similar to that signed by the New South Wales and Victorian Governments.

We as a Government were left in an entirely unsatisfactory position, that is, locked into a Medicare agreement forced upon us by the former Government, which left South Australia significantly short. There is a very important lesson there, because it was the then shadow Minister for Health (now Minister for Health) who, at the time that agreement was being signed, issued a public warning that South Australia was going to miss out badly. And lo and behold, we did, and we all knew at the time that we were missing out. Why did they sign it? Because they wanted to do a deal before the Federal election. That is what it was all about—short-term political gain for the Labor Party at Federal level before the last Federal election of 1993. And it was South Australians, particularly sick South Australians, who ended up on the short side of that.

We know that there are difficulties in the public hospital system and we are tackling them. The Minister this afternoon made a ministerial statement about how he is trying to achieve an improvement in efficiency and reduction in the operating costs whilst still delivering the same service—a $6 million saving for the same service.

Members interjecting:

The SPEAKER: Order! The member for Mitchell is out of order.

The Hon. DEAN BROWN: The interesting thing will be whether the Labor Party Opposition members in South Australia support this measure or whether they are dragged off by their union cronies coming out in opposition to this proposal. It will be a very interesting test case. The other important initiative that the South Australian Liberal Government has introduced is casemix, which brings about very significant savings here in South Australia. In fact—

Members interjecting:

The SPEAKER: Order! The Minister for Health. The honourable Premier.

The Hon. DEAN BROWN: It was unfortunate that the former Labor Government did not adopt casemix as some other States did, last year or the year before, because it would have meant that we could have achieved those savings and those improved efficiencies that much sooner here in South Australia. But the former Labor Government had no idea about how to manage anything whatsoever. Of course, we have suffered as a consequence. So, we acknowledge the difficult funding situation in the hospitals. We (and the Minister in particular) are working with the Health Commission to work through those problems with the hospitals involved and, in particular, we are striving to achieve a significant saving whilst at the same time, where there is a need for additional financial assistance, such as giving $6 million extra to tackle the waiting list, we have done so.

PUBLIC SECTOR SICK LEAVE

Mrs HALL (Coles): Will the Premier report to the House the latest information the Government has received about the incidence of sick leave within the State public sector?

The Hon. DEAN BROWN: The Government has been working hard with the public sector in South Australia to come up to international benchmarks, and sick leave is one area concerning which we have worked hard with the public sector. I am delighted to say that something like a third of Government agencies in South Australia have a level of sick leave that is equal to or less than the five days full-time equivalence one would expect as a benchmark to be applied within Government.

I commend the public sector in South Australia for the excellent way in which it has cooperated with the new Government to strive to achieve improved standards. The average number of sick days lost per year for the public sector in South Australia is now 6.1, and that compares with an across-the-board average of something like 10.8 days per year. So, the public sector in South Australia is almost half the across-the-board sick leave average in this State, indicating that the standard has lifted significantly over recent years. I am delighted to say that there has been a further improvement in the past year.

In fact, I looked at my own department to see how it came out, and I was delighted to see that under its new leadership the Department of Premier and Cabinet was the best department in the whole of Government, with a mere 3.3 days lost through sick leave for 1993-94. They say to me that they just love coming to work; they do not wish to be away; and they are keen to be part of the rebuilding of this State under the new Government.

I commend particularly that third of the public sector which already has reached the benchmark. However, I commend the whole of the Public Service for the excellent standards it is starting to achieve in this regard, and we look

forward to working with it further to improve on those standards.

WOMEN'S AND CHILDREN'S HOSPITAL

Ms STEVENS (Elizabeth): Will the Minister for Health guarantee that craniofacial surgery will not be rationed at the Women's and Children's Hospital as a result of his budget cuts to the hospital? Will he personally explain to the families of children waiting for craniofacial surgery how this is one of the inefficiencies at the Women's and Children's Hospital which has been—

The SPEAKER: Order! The honourable member is commenting. I suggest she ask her question and then explain.

Ms STEVENS:—revealed by casemix funding?

The Hon. M.H. ARMITAGE: I am delighted to address the matter of the Women's and Children's Hospital and the savings target it has been given, because there has been some publicity in relation to this matter in the last couple of days. In particular, I will address a number of matters referred to in the paper this morning dealing with the savings target that we have given that hospital.

First, I point out that the Women's and Children's Hospital Board has agreed to a number of strategies to achieve its financial target (made much more difficult, incidentally, because of recent wage increases granted). It was said that the gynaecology ward at the Queen Victoria Hospital site would close. This ward was running at approximately 50 per cent occupancy, so the decision was made by management—and should have been made in the interests of better bed management quite independent of any budget reduction, because as taxpayers we cannot afford to have wards only 50 per cent occupied.

In other hospitals it is more the rule than the exception that antenatal and gynaecological patients are in the same area. As far as not opening the winter ward at the Adelaide Children's Hospital site is concerned, it is now mid-October and, as the rural members of Parliament would know only too well, there has not been any rain in South Australia so we do not believe that it is unreasonable to close that winter ward. The reduction in pharmacy hours will involve closure of the hospital pharmacy after 6 p.m., and I am told that it will not impact on client services at all. I have some correspondence from the Women's and Children's Hospital Board indicating that it has devised a plan to meet its financial target, and I would like to discuss a couple of the recommendations that the board has made.

One of the recommendations is that an analysis of all services in the hospital be undertaken to determine whether they have a high priority in respect of the vision and philosophy of the hospital and, if this is not the case, whether they are essential to our casemix effort; in other words, if it is not essential, do not do it. I am sure the taxpayers of South Australia would be thrilled about that.

The Hon. M.D. Rann interjecting:

The Hon. M.H. ARMITAGE: I am coming to that. The board also recommends that pooling of clerical resources in divisions be enhanced in order to reduce relief costs. I am sure the taxpayers of South Australia would not want to pay for extra staff. It further recommends that preferments against benchmarks in environmental services be reviewed. I am sure the taxpayers would not want to fund things that are not benchmarks. Another recommendation is that an analysis of why obstetric costs are high in comparison with other hospitals be undertaken. I am sure taxpayers would not want to fund higher cost services than are necessary. Then we see a recommendation that interstate high cost pathology services be charged out or reduced. In other words, one way in which that hospital will meet its budget target is by charging people who come from interstate for the services. This refers to their tests that come from interstate, and that is totally appropriate. There is no way the taxpayers of South Australia would want us to do anything else about that. The board also recommends that increased casemix throughput targets be established for paediatric medicine and paediatric surgery: again, a very positive recommendation.

Strategies are in place to which the board has agreed and which will see its targets met. If those targets are met, and the board believes they will be, there will be no reduction in services: that has always been the case. So, the answer to the question is 'Yes'. Late last week I was at the Australian Cranio-Maxillo Facial Foundation meeting. Mr David David was quite specific in coming up to me (because he and I both spoke at the meeting) and was most enthusiastic about casemix. Mr David David, who is recognised as the Australian expert (indeed, one of the world experts), in cranio-facial surgery, said to me, 'We are thrilled with casemix and we have made changes that will guarantee more efficiencies.' For instance, he said, they no longer do X-rays when patients first come into the surgery because it is not necessary; they can do them after a clinical assessment, and that do them on day two. They are finding that they are actually saving $167 per patient. Mr David David said to me, as I was leaving his meeting, 'We are enthusiastic about casemix. What we are doing in the unit fills your bill exactly—it is your system.'

STAMP DUTY

Mr EVANS (Davenport): As the Treasurer has today given notice of his intention to introduce a Bill covering certain stamp duty amendments, will he say whether there are any moves by the Government to review stamp duty on the transfer of moneys between superannuation funds?

The Hon. S.J. BAKER: I am pleased to report that we will be debating such an issue in the Parliament very shortly. Tomorrow I will be introducing a Bill that will rationalise the processing of superannuation funds. As members may well recognise, when moneys are transferred from one superannuation fund to another, which inevitably takes place with a change of employment, unless they are transferred in cash form they are subject to *ad valorem* stamp duty. Consistent with discussions we have had with our interstate counterparts and with national practices evolving in this area, we will put a cap on the cost of that transfer and, rather than involving an *ad valorem* duty, we will put a maximum of $200 on the transfer of superannuation funds.

Not only is this niggling little thing, which has been around for a number of years and not dealt with, being sorted out this time but also we have addressed the situation involving people who, having gone through the trauma of a marriage breakdown, have been required to present the transfer of a title on land and property which has been subject to stamp duty, that duty being refunded once the decree *nisi* is issued. It is about time that that process was circumvented as it wastes time and energy and upsets a lot of people. Under this Bill we will ensure that, when the court has ruled that there is an irretrievable breakdown, it will be possible to grant the exemption from stamp duty that previously came into force only when the divorce had been granted. There are two

initiatives in that Bill which I am sure all members will applaud.

QUEEN ELIZABETH HOSPITAL

Ms STEVENS (Elizabeth): Will the Minister for Health confirm that activity levels at the Queen Elizabeth Hospital have increased by 14 per cent in the first quarter of 1994-95 but that his Government has required a savings target at that hospital of $7.8 million; and will he guarantee that no patients will be turned away from the QEH as a result of the impossible position in which he has placed the hospital's management and staff?

The Hon. M.H. ARMITAGE: Unfortunately, the member for Elizabeth gets facts slightly wrong, and perhaps that is because her information comes from the newspapers. In fact, the Queen Elizabeth Hospital savings target is $1.8 million, which is 1.5 per cent of the 1993-94 gross budget. That is the savings target.

Members interjecting:

The SPEAKER: Order!

The Hon. M.H. ARMITAGE: We find that the Queen Elizabeth Hospital is rolling up its $1.85 million budget cut with a number of other unfunded cost pressures such as wage increases and, indeed, increased activity. I will say that the member for Elizabeth has the increased activity correct, and I am absolutely delighted that the Queen Elizabeth Hospital has a greater throughput, because the Queen Elizabeth Hospital will now be able to access the throughput pool. That is the whole point of what we have done under casemix funding: we have expected hospitals to act according to benchmarks—we have benchmarked all the hospitals, and they all know where they stand—but we have said that if additional work is done they will be able to access the throughput pool. That is exactly what will happen.

The information involving the increase of 14.1 per cent, which is 891 admissions over the previous year to date, is correct. Occupied bed days increased while available bed days, excluding same day areas, decreased. This is a prime example of everything that makes the casemix funding system so appropriate for managing our health care in South Australia. The previous Minister for Health, who held the seat of Elizabeth before he hightailed it off to Canberra when he saw the people he was surrounded by in Parliament here—

Members interjecting:

The Hon. M.H. ARMITAGE: When I mention 'surrounded by', I note an interjection from the Deputy Leader. There is absolutely no question that the former Minister for Health would have been surrounded by his colleagues, because he would have been sitting in either the Opposition Leader's or the Deputy Leader's seat. Not only did the previous State Minister for Health say it but also Neal Blewett in his valedictory speech commended the Governments of Australia which are going down the casemix line. Thus far the only two States that have been courageous or smart enough to do it are Victoria and South Australia.

BURDEKIN REPORT

Mr ROSSI (Lee): Will the Minister for Health outline the South Australian Government's position on the Burdekin report in light of Mr Burdekin's criticism of South Australian mental health services last night on the ABC *Lateline* program?

The Hon. M.H. ARMITAGE: On the ABC's *Lateline* program last night, Mr Brian Burdekin attacked State Governments in general, including the South Australian Government, over the provision of mental health services in relation to his now well known Burdekin report. That was particularly disappointing for a number of reasons which I will enumerate. However, the Burdekin report, which was released 12 or 13 months ago, was a review of the past and, accordingly, the fact that it is so scathing of mental health services is a direct indictment of what the previous Government of South Australia did over the past 10 years.

An honourable member interjecting:

The Hon. M.H. ARMITAGE: I am about to tell you what we have done. Indeed, his comments in relation to South Australia were quite misleading and, in particular, I will briefly address three of Mr Burdekin's assertions. He indicated that South Australia, Tasmania and Western Australia have made little progress. I will not speak for Tasmania and Western Australia, but South Australia has done a lot. The specialist psychiatric hospital at Hillcrest has been closed except for the forensic and psycho-geriatric units. We already have opened a 20 bed psychiatric ward at the Lyell McEwin Health Service, and the Noarlunga Health Service already is taking patients. A northern community health team has been established with 35 staff. An extended-hour team has been formed in the north, and southern community teams are being increased by 18 positions.

The integration of acute mental health care with general hospitals will be associated with the development of community services. The realignment report, which pointed out that the previous Government had a number of financial pipe dreams about how it would fund this, nearly doubles the program expenditure on community services this financial year. It also outlines that the devolution of services could lead to an increase in active clients in community care from 9 000 to 13 000 over the next four years.

The most important point I make about that, because it is a litany of which South Australia can be proud, is that I am informed that Mr Burdekin was briefed yesterday on all those developments and clearly chose to ignore them in his comments last night on *Lateline*—which is nothing short of intellectual chicanery. He also said that there were no services in the country area. Currently, there are about 23 mental health positions in the country, and over the next four years community teams in the country will be expanded with an extra $1 million each year, which will provide funding for at least 50 new mental health professionals in the country—20 of them this financial year. A planning officer has been appointed to progress the strategy.

Telepsychiatry has been installed at Glenside Hospital to use video conferencing technology after a very successful trial in Whyalla, and SAMHS is exploring opportunities to better equip country GPs. Mr Burdekin also said that there has been no funding for suicide prevention. Again, this is totally wrong because only in the week before last I helped launch a video which will help GPs detect suicide potential. The video was funded by the State Government's primary health care initiatives program. Whilst the health promotion unit of the Health Commission is undertaking an activity scan of initiatives relating to the prevention of youth suicide, early data highlights a range of projects on suicide prevention at the Laura Hospital Primary Health Care Unit, which is running a project called 'Balancing Life at Years 11 and 12'. The Lower North Community Health Service runs public workshops on suicide. CAMHS will be running an early

detection and intervention program for mental health programs in schools, and so on.

It is quite clear that Mr Burdekin simply ignored the facts that he was given in the briefing yesterday which, as I said before, I find disappointing. I also found disappointing on the *Lateline* program last night Mr Burdekin's supposed solution which, after all his deliberations on the problems in mental health, is for more resources. What a damp squib! We all have hundreds of people coming through our doors on a regular basis needing more resources, but unfortunately, because of the financial disaster left to us, those resources are not there. What the Government is after and what Mr Burdekin quite clearly has the opportunity and intellectual capacity to provide—and I ask him to do so as Human Rights Commissioner—are practical solutions to the problem. In that way we will be able to have a creative use of present resources, which is clearly what the South Australian Government is doing at the moment.

The SPEAKER: Order! Before calling the member for Elizabeth, whose conduct to this stage has been exemplary, I point out that she has continued to interject after asking her question. I ask her on this occasion not to continue interjecting.

HOSPITAL FUNDING

Ms STEVENS (Elizabeth): Does the Minister for Health still claim that there is no problem whatsoever with funding agreements for public hospitals? If so, why was he forced to amend the agreements to address the concerns of health unit boards and to extend the deadline for signing the agreements? Last Tuesday, in response to a question about funding agreements between the Health Commission and public hospitals, the Minister said:

> Friday is still three days away and it was the day that we set for signing of the service agreements. I do not think there is any problem whatsoever.

However, in a statement issued at the weekend by the Minister and the Hospitals and Health Services Association, it was announced that the Health Commission had agreed to amend the agreements to include a clause addressing the concerns of the boards of health units regarding the adequacy of funding and the consequences of budget overruns, and to extend the deadline for signing the agreements.

The Hon. M.H. ARMITAGE: The Government has a number of ways to tackle health. One is to be consultative and another is to be dictatorial. This Government obviously listens to the people of South Australia and is only too happy to be consultative. It was our advice that the agreements which we had drawn up were perfectly valid; however, the Hospitals and Health Services Association wished to include some other clause, and we were happy to do that. That is advice that came to me late Thursday afternoon. Clearly, the Government wanted to ensure that the clause provided by the Hospitals and Health Services Association was a valid, legal clause, so the Government had to put it to Crown Law.

An honourable member interjecting:

The Hon. M.H. ARMITAGE: At that stage there were not, and there still are not. Accordingly, we said that we were unlikely to get the opinion back to the Hospitals and Health Services Association of South Australia within 24-hours. Early on Friday morning a decision was made to fax people to inform them that they had another week. A meeting was held with the Chief Executive Officer and the President of the Hospitals and Health Services Association (Mr Grant Petras), and there were negotiations between the H&HSA and officers of the Health Commission. The issues were resolved and the association, following satisfactory agreement of those issues, was able to recommend that health services sign the agreement. I again predict that there will be no problem, and the revision of services in the country continues.

HOMESTART

Mr CONDOUS (Colton): What is the latest information the Minister for Housing, Urban Development and Local Government Relations has received on the performance of HomeStart in assisting low income earners into home ownership? Does the program carry the same order of risk for the Government as its interstate counterparts?

The Hon. J.K.G. OSWALD: I refer members to the annual report of HomeStart which I tabled at the beginning of Question Time. In it, members will quickly find that HomeStart in this State is not at risk, unlike its New South Wales counterpart. It comes out with a very strong bill of health. The South Australian Audit Commission also had a careful look at HomeStart and compared it with the interstate operation. It also confirmed that HomeStart has a very successful core business. It has made surpluses every year since its inception and has established a capital base that exceeds the Reserve Bank's guidelines for home lending institutions. As reported in the annual report this afternoon, HomeStart Finance achieved a surplus of $16.7 million for the past financial year and anticipates continued strong demand as interest rates rise.

HomeStart is successful because it serves a niche in the home lending market for the low-start, capital indexed loan that meets the needs of low to moderate income home buyers. Repayments are initially based on income and are increased once a year in line with inflation. Let the figures speak for themselves: since September 1989, HomeStart has assisted 17 000 Australian households to achieve home loans and has injected more than $1 billion in loans into this State's economy. In 1993-94 alone, HomeStart helped 3 262 households, mostly first home buyers, and maintained a competitive variable interest rate, which currently runs at 8.75 per cent.

In an environment of increased competition and accountability, HomeStart continues to achieve the State's social objectives while maintaining a sound financial position. Currently rumours are circulating in the media and the finance market that HomeStart has some question mark over it. I can assure the House that that is definitely not the case, and every study into HomeStart has established that. However, if they continue, I will bring in another organisation and will continue to establish the fact in the eyes of those using HomeStart that it is strong, viable and very much part of the housing finance market in this State.

PUBLIC SECTOR WAGES

Mr QUIRKE (Playford): I direct my question to the Treasurer. Is it still Government policy not to supplement further the budget of any department or agency, including the State's hospitals, for any wage increases under the national or State wage decisions or enterprise bargaining agreements?

The Hon. S.J. BAKER: The honourable member is quite correct: the statement was made in May and confirmed in the budget that there would be no supplementation in this State, and that is the position that prevails.

BLUE LAKE

The Hon. H. ALLISON (Gordon): Can the Minister for the Environment and Natural Resources advise the House when the final version of the Blue Lake management plan will be released in the South-East? Can he also advise on the pollution discovered adjacent to the old Mount Gambier gasworks site and the potential impact of that pollution on the soil and the ground water?

The Hon. D.C. WOTTON: The draft Blue Lake management plan was released in August 1993. Considerable consultation took place with interested parties during the development of the plan. I can advise the House that the final plan will be released in early November. One of the key strategies outlined in the plan relates to past activity that may have caused ground water pollution. The following statement appears on page 26 of the draft document:

> Few potential polluters have investigated or monitored the pollution plumes to see how big they are and where they are going. The threat that any pollution poses to the lake can be determined only once this information is collected.

The plan goes on to list the steps that should be taken in addressing this strategy, and they include the following:

> Polluters will conduct soil and ground water sampling and testing on the site. The testing will (if possible) establish the size, shape and levels of contamination within the soil and ground water. The polluters will also define the ground water flow system beneath and adjacent to the site.
>
> Polluters will then assess the risk of any ground water pollution affecting the water quality in the Blue Lake. A ground water clean-up strategy may be required. The need to clean up polluted or contaminated ground water should be assessed on a case-by-case basis.

I can report to the House that some organisations in Mount Gambier have already taken action in regard to these matters. For example, the South Australian Gas Company has been proactive in establishing the extent of contamination located beneath its old gasworks site in Krummel Street, Mount Gambier.

The history of this site is that a gasworks was established there by the Colonial Gas Company in 1891. Coal gas was produced at the site until 1962. The liquid by-products of coal gasification were disposed of on-site into drainage wells. This practice ceased more than 30 years ago when a tempered liquid propane plant was installed. In 1973, the Gas and Fuel Corporations of Victoria acquired the Colonial Gas Company. A few years later, in 1977, the South Australian Gas Company acquired the Mount Gambier gas operations from Gas and Fuel.

Work carried out by the South Australian Gas Company to date in response to the strategies outlined in the Blue Lake management plan include the following: a number of test bores have been sunk at various locations and depths within the site. These bores have confirmed the existence of coal gas by-products in the soil and underlying ground water. At this stage there is no evidence that contamination has moved beyond the property boundary. However, further wells are currently being drilled along the eastern side of the property to ascertain how far the plume of polluted ground water has moved. The results of this investigation should be available by the end of December.

The Gas Company recently carried out testing of the Blue Lake water in conjunction with the EWS Department, and from the results obtained it is confident that the past disposal practices carried out by the Colonial Gas Company at Krummel Street are not having any impact on water quality. The Government also has in place a Blue Lake monitoring program, which is continually being reviewed. To date contaminants associated with activities undertaken at the gasworks site have not been detected.

Finally, when the results of the latest investigation program are known, the Gas Company will hold discussions with officers from the Department of Environment and Natural Resources on remediation and management strategies for the site. This site assessment program is only one example of the environmentally responsible attitude being displayed by Mount Gambier industry. Adoption of the Blue Lake management plan by the Mount Gambier community will, I am sure, ensure that the water quality, aesthetics and environmental significance of the Blue Lake are protected.

WAGE DECISION

Mr CLARKE (Deputy Leader of the Opposition): I direct my question to the Minister for Industrial Affairs. Will the Government be supporting a flow on of the national wage case decision with an $8 weekly wage increase for workers before the State wage case, which begins this Thursday? If not, what submission will it put before the commission?

The Hon. G.A. INGERSON: I find it quite amazing. I understand the State wage case starts tomorrow. I think the Deputy Leader should wait and see what proposition the State Government puts before the commission. We have—

Members interjecting:

The Hon. G.A. INGERSON: Fancy the honourable member opposite's jumping up and down and making a noise when he stabbed his mate in the back right alongside—

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: Fancy the Deputy Leader's coming into this House when we know full well that this very man said to his mates, 'I will not stand for the position of Deputy Leader.' He even did a deal with the current Leader.

Members interjecting:

The SPEAKER: Order!

The Hon. G.A. INGERSON: Yes, I know all about how this gentleman has knifed his mates in the back, with the help of the member for Giles.

Members interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition and the member for Hart will come to order.

The Hon. G.A. INGERSON: The poor member for Playford, who had been promised by the Deputy Leader that he would vote for him, was stabbed in the back.

The SPEAKER: Order! I would bring the Minister back to the relevance of his answer.

The Hon. G.A. INGERSON: Our position will be very clearly put on Thursday in the State wage case. The Deputy Leader, if he wishes to go down there, will find out the position being taken by the Government.

Mr Clarke interjecting:

The SPEAKER: Order! The Deputy Leader of the Opposition is out of order.

Members interjecting:

The SPEAKER: Order! The member for Peake and the member for Custance are out of order.

Members interjecting:

The SPEAKER: Order! I suggest to the member for Custance that he pay attention and not interject.

OKAYAMA GOODWILL MISSION

Mr VENNING (Custance): I apologise, Sir, I was temporarily distracted. Is the Minister for Youth Affairs aware of the Okayama goodwill mission that will visit certain areas of South Australia, beginning this Thursday, and can he explain how South Australia benefits from visits of this type?

The Hon. R.B. SUCH: We are always delighted to have visits from overseas. In this case, at the invitation of the Premier, we have a group of 20 young people coming from Okayama in Japan to spend a week here, including a visit to the electorate of Custance. Part of the visit will involve a tree planting ceremony at Peace Park and a visit to Bungaree Station, which is in the electorate of Custance, and it will conclude with a dinner at the Red Ochre Grill.

The purpose of the visit is to promote goodwill between both countries and to give the 20 young people who are visiting an opportunity to experience South Australian culture, look at the countryside and meet other young people from South Australia. The visit is being hosted by Youth SA, and it is the culmination of a 10-year link between Adelaide and Okayama. We look forward to the visit, which will start this Thursday, and I encourage members, wherever possible, to support it and make these young people welcome.

HOUSING TRUST CREDIT POLICY

Ms HURLEY (Napier): How does the Minister for Housing, Urban Development and Local Government Relations reconcile the Housing Trust's new credit policy, which threatens customers with eviction and gaol terms, with his Government's stated intention to reduce the number of prisoners held in our gaols for failure to pay fines? In a document entitled 'Some Questions and Answers about the Trust's Credit Policy' the following explanation of legal action is supplied:

> If the customer is not a tenant, legal action means that they will also receive a summons to attend a court hearing. In this case, the court will make an order for the repayment of the debt (again, in their absence, if they do not attend), and if they do not comply with the order they will be in contempt of the court and may face a gaol term.

The Hon. J.K.G. OSWALD: A by-election must be on. The only time I am ever asked questions about the Housing Trust by the Opposition is when a by-election is on, I presume so that they can fill up those grubby little newsletters that circulate at these times.

Members interjecting:

The SPEAKER: Order!

The Hon. J.K.G. OSWALD: Let me put a few facts on the record. First, the honourable member talks about evictions. I remind the House that under the Mayes and Crafter ministries, in 1992-93 the Housing Trust commenced evictions on 732 people, which happened to be—

Members interjecting:

The Hon. J.K.G. OSWALD: They can look glum. That happened to be a 97.8 per cent increase over the previous year. And there's more.

Members interjecting:

The SPEAKER: Order! There are too many interjections. The Chair has been very tolerant this afternoon, but it will have to take further action if the interjections continue. The honourable Minister.

The Hon. J.K.G. OSWALD: In 1993-94, there was a further 40 per cent increase with 1 028 evictions being commenced. So the honourable member, who represents the Opposition, cannot sit there holier than thou, with 732 evictions being commenced in one year and 1 028 the next under her Party's Administration, and then run to the media for the benefit of a by-election and start accusing this Government of instigating evictions. That is what it is all about. What a hypocrite! If the honourable member keeps on in this way, she will soon gain a reputation in this place of being a hypocrite who distorts the facts.

Members interjecting:

The SPEAKER: Order! I warn the member for Hart.

The Hon. J.K.G. OSWALD: Let me put on the record some facts in this case that are correct. The Auditor-General has put considerable pressure on the Housing Trust Board because, at the moment, $13 million worth of debt to the Housing Trust is accruing because of the non-payment of debt. That $13 million could build 135 new trust dwellings, redevelop several suburbs, or provide private rental assistance for 26 000 people or all maintenance services on more than 15 000 dwellings a year. So we are talking about an enormous amount of money.

The Housing Trust is now saying to tenants, 'If you are having trouble paying your debt, go to your regional manager, and we will attempt to design a program to repay your debt.' The trust will not mind if tenants enter into an arrangement, which could involve a few dollars a week over a couple of years, but it wants the tenants to make the effort to pay back some of their debt, as $13 million is not an inconsiderable amount of money. The trust will not immediately evict a tenant who misses two payments within six months. Let me say this quite clearly, as these accusations have been put around as part of this scurrilous campaign for the by-election: the trust will not immediately evict a tenant who misses two payments within six months.

As I have just tried to impress upon members opposite, customers can make arrangements to pay off their debt. If they cannot make a payment by the due date, they can enter into a new arrangement. If they do not make any further payments quickly and if the original arrangement is broken, the Housing Trust will follow up the position to see whether it can recover the debt. If the two arrangements regarding the same debt are broken within a period of six months, the trust will consider what action it will take, but every effort will be made to give tenants the opportunity to pay their debt. This can be done simply by reporting to the regional manager's office, and everyone will be considered on a one-to-one basis.

It is absolute hypocrisy for the Opposition to peddle this line of eviction of tenants when, as I demonstrated a few minutes ago, it has practised it. The trust is not about evictions: it is about helping tenants. In cases of domestic violence, those tenants are given priority housing and certain exemptions apply. This Government will protect its tenants. The campaign that is being waged by the Opposition at the moment has no basis.

PUBLIC SECTOR PURCHASING PROCEDURES

Mr ASHENDEN (Wright): My question is directed to the Treasurer. What action has the Government taken to improve working relationships with suppliers of goods and services to the public sector? As the Government is the largest business in South Australia, it is important to ensure that its purchasing arrangements produce the best possible deals and savings for the taxpayer.

The Hon. S.J. BAKER: I have pleasure in reporting that an exercise called Meet the Buyers, which was held in Adelaide from 27 to 28 September, was a huge success: there was standing room only. The seminar was divided into three segments consistent with the Government's aim to bring the public and private sectors together in a more meaningful, constructive and cooperative fashion. Federal and State Governments and local government were combined under this umbrella. The three segments were: doing business with Government; doing business with defence; and business development opportunities. The seminar was attended by 2 215 people, 2 100 local companies, 114 interstate companies, and one international company, and there have been a number of revisits. Small employers were overwhelmingly represented: 60 per cent of businesses with less than 20 employees came along to see how they could do business with the Government, because in the past they have found it very difficult, and we intend to do business with them in the future.

The seminar was an outstanding success. The feedback from both buyers and suppliers has been positive, and another seminar will be organised for next year. Some of the people who came along for the first time will be able to present their wares during the interim period, and we believe that we will have some success stories to quote to the conference next year. It was a very positive step. I congratulate the Department for State Supply for its involvement in the organisation of this event. I believe that with the continuation of this sort of spirit not only will we achieve greater cooperation between the two sectors but also we will get our goods at the right price.

HOUSING TRUST CREDIT POLICY

Ms HURLEY (Napier): My question is directed to the Minister for Housing, Urban Development and Local Government Relations.

An honourable member interjecting:

The SPEAKER: Order!

Ms HURLEY: Which consultants were engaged to draft or make recommendations for the new Housing Trust credit policy; what experience have these consultants had in developing public housing policy; and what is the cost of the consultancy?

The Hon. J.K.G. OSWALD: The question contains considerable detail I do not have with me; I will get the honourable member a considered reply for when the House next sits.

CRYSTAL BROOK HOSPITAL

Mr KERIN (Frome): Will the Minister for Health inform the House why a women expecting twins was not allowed to have the twins delivered at the Crystal Brook Hospital? Some members might be aware of the publicity surrounding the Sarah Davies case. I am sure the House would join me in congratulating the Davies family and welcoming their new son and daughter, Carson Peter and Chelsea Louise, who were born in Adelaide last week and who, thankfully, are well.

The Hon. M.H. ARMITAGE: I am pleased that Mr and Mrs Davies have had a successful outcome to this twin pregnancy, because it is just such an outcome that predicated the decision which meant that they would not be able to have their babies at the Crystal Brook Hospital. As the member for Frome said, recently a lot of publicity about this matter has been generated, and a decision was made on purely clinical grounds that this delivery should not occur where there was not appropriate neonatal care. I should like to read from a letter which I have received from Dr Peter Marshall, who is the Director of Neonatal Medicine at the Flinders Medical Centre and who is also the paediatrician on the Obstetric and Neonatal Clinical Program Committee, which advises the Health Commission on these sorts of matters. Amongst other things, he said:

> Country general practitioners are expected to handle normal pregnancies, that is, pregnancies that are predicted to produce healthy, full-term offspring without any major complications. The care of a pregnancy with twins is not low risk normal obstetrics. The peri-natal mortality—

by that he means stillbirths and neonatal deaths of twins—

> is approximately 10 times greater than the overall State peri-natal mortality. The requirements for moderate to high risk pregnancies such as twins to be managed in a country centre are a ready available obstetrician—

and in this case the GP had more than necessary skills—

> and a paediatrician.

The paediatric service was not there. Further, I should say that the Medical Defence Association of South Australia regards the care of pregnancy of twins as an area of practice involving a significantly greater than usual risk of complications. It considers it is essential that deliveries be managed by appropriate specialist medical practitioners in a centre where the necessary support facilities are readily available. The member for Hart would know only too well the dilemmas hospitals can face from neonatal disasters. For example, the Le Fevre Hospital, a private hospital, is under immense financial pressure due to a $7.2 million claim because of a neonatal problem. I do not believe that that is a risk to which public hospitals ought to be exposed.

STATES' RIGHTS

Mr ATKINSON (Spence): Does the Premier still have great concern about the proposed Commonwealth legislation to render unenforceable sections 122 and 123 of the Tasmanian criminal code, given that the Leader of the Federal parliamentary Liberal Party has now committed his Party to support the Commonwealth legislation?

The Hon. DEAN BROWN: If the honourable member looks at my ministerial statement, he will see that at that stage I made clear that we had not seen the legislation and we would wait until we saw it. The legislation has come in in a general sense: it is not specific. As I pointed out to the House at the time of my ministerial statement, the issue of privacy was resolved in South Australia many years ago. The issue of States' rights was looked at, and frankly the State Government, so far at least, does not believe that there is a case for us to take action in the High Court.

Mr Atkinson: You are no longer concerned.

The Hon. DEAN BROWN: I highlight to the honourable member that I have made quite clear that two issues are involved. As a Party and as a Parliament, we have resolved one of those issues, but the Government has not decided—at this stage, at least—to challenge the States' rights aspect. That does not mean for one moment that we are not concerned about the general principle whereby the Federal Government, using its constitutional powers through external treaties, believes that it can virtually override a State Government in any area it likes. Even constitutional lawyers are now

expressing grave alarm at the way in which the Federal Government has virtually written off any meaningful States' rights whatsoever.

I am very surprised at the member for Spence, as a member of a State Parliament, particularly coming from South Australia, given that the Federal Government virtually pays no regard whatsoever to what goes on in South Australia: it looks purely to the population centres of the eastern seaboard, where it knows it needs to try to attract votes to win the next Federal election. So, it tends to write off completely States such as South Australia, Western Australia, the Northern Territory, Tasmania and, perhaps to a lesser extent, Queensland. Of course I am concerned about States' rights. I have made statement after statement, but it is one matter to have a concern and another to challenge this in the High Court, knowing that in the High Court the chance of success is small indeed.

I am the first to admit that the Federal Government, using its external treaties powers, can legally do a number of things which it is currently doing. But that does not say that it is not a gross breach of the original intent of the constitution and a most unfortunate twist in the power between the States and the Commonwealth whereby those powers have moved substantially in favour of the way the Commonwealth uses them. I would have thought that the honourable member opposite—in fact I would have hoped that the whole Labor Party—would join the Liberal Government in this State in standing up and saying that the abuse of the constitutional powers by the Federal Labor Party has gone too far.

HOUSING TRUST ACCOUNTS RECEIVABLE SYSTEM

Mrs KOTZ (Newland): I direct my question to the Minister for Housing, Urban Development and Local Government Relations. It was recently announced that a new accounts receivable system has been introduced by the Housing Trust. Will the Minister advise the House what benefits, if any, there will be to the Housing Trust and to South Australia?

The Hon. J.K.G. OSWALD: The successful completion of the new accounts receivable system for the South Australian Housing Trust is significant for a number of reasons. The system provides the basis for a major improvement in service and a real increase in efficiency. For the first time, customers of the trust will receive consolidated financial statements similar to those provided by other service providers and retail outlets. The project has provided an opportunity to introduce major new software technology to South Australia. The project has demonstrated the potential benefits of bringing together private and public sector expertise. Amdahl Australia used its new Huron technology in the Housing Trust project. The Huron product is owned by Antares Alliance, which is 80 per cent owned by Amdahl and 20 per cent owned by EDS.

The Huron environment provides: a rapid development of new systems—demonstrated by the accounts receivable project—which, with the same staff resource, would have taken 18 months using conventional systems but has taken only four months to implement; full access to data held in existing systems; and portability across different computing platforms. The total cost of the project over five years, including the development consultancy, trust staff costs, software licences and maintenance, is $1.6 million at net present value. The estimated savings, including salaries and transactions costs, over the same period are $4.8 million at net present value. The accounts receivable system was project managed by Amdahl and developed jointly by Amdahl and the South Australian Housing Trust, making it possible to reconcile several out-dated debtor systems.

The collaborative efforts of Amdahl and the Housing Trust are a good example of what private sector technology and public sector expertise can produce. Amdahl must be commended for the quality of its work for taking the initiative to place its Huron software on the local market but especially for proposing to establish a key software development and support centre in Adelaide which will have the potential to support a major software export component business both interstate and overseas.

Huron Asia-Pacific Director Stephen Liscoe came to Adelaide from Sydney especially for today's demonstration of the system. This is the kind of development that this Government is encouraging, and I commend both Amdahl and the Housing Trust for the work that has been done, which will result in savings for the trust and new business opportunities for Amdahl.

HEALTHSCOPE

Ms STEVENS (Elizabeth): In view of his statement that Healthscope, the Government's choice to manage the Modbury Hospital, will practise open book accounting, will the Minister for Health release full details of the tender by Healthscope to manage the hospital, so that the public interest in this proposal can be protected?

The Hon. M.H. ARMITAGE: That is what open book accounting means; that, if people have particular concerns or anxieties, they will be able to look at these matters. We have absolutely no reason to want to keep anything under cover and we have nothing to hide, because the taxpayers of South Australia will benefit to the tune of $6 million plus. That is obviously a great benefit when, as part of the contract details that I read out in my ministerial statement, we are guaranteeing the maintenance of services and maintenance of jobs. In other words, as I said before, it is a win-win situation. One of the dilemmas has been that until last week, with two tenderers interested in this process and now having named one successful tenderer, we were unable to make many of those matters as public as we would have liked, literally for commercial confidentiality.

Although the members opposite have never run a business and have no idea about these sorts of matters—and well may the member for Elizabeth laugh; school teachers do not do these sorts of things—in the commercial world, where people are actually looking at competing with someone else, they try to get as much detail as they can about every aspect of their opponent's tender or potential tender so they can undercut that with their deal. Clearly, that is unfair dealing. Until we were able to name the one successful tenderer, which we have now done, many of those matters were part of the commercial sensitivity of a normal deal.

We are now confident that the directors of Healthscope, who have run hospitals throughout Australia and who have a number in South Australia, will be involved immediately. In fact, I understand the South Australian Manager is going out there on Wednesday and Thursday to discuss these matters with the board and staff, etc., so all the matters about which people are concerned will be clarified. But let me emphasise that there is nothing to hide, because the services are maintained and the taxpayer of South Australia benefits

by $6 million.

GRIEVANCE DEBATE

The SPEAKER: The question before the Chair is that the House note grievances.

The Hon. FRANK BLEVINS (Giles): I want to talk today about rural petrol prices and the lack of action so far by this Government in doing something about them. I had the great good fortune to break a holiday I was having recently to drive down to Canberra and, apart from seeing what a terrible toll the drought was wreaking on our rural towns, it was clear to me (if I did not know it already) that road transport is one of the most significant costs to rural producers and, indeed, to all country residents. It is no secret that people outside the metropolitan area are having a great deal of difficulty at the moment, and the prices that primary producers have to take are not good, so we have to do something to assist where we can make a case for doing it in a rational manner.

I do not believe that people in the country want subsidies for the sake of subsidies, but I believe that, where action can be taken that will assist rural people, it ought to be taken. One of the areas where I believe there is considerable scope is on the question of road transport costs. I have long argued that costs of transport within country areas ought to be reduced; that road transport in country areas does not have the same cost to the nation as do urban motorists, and there is very little recognition of this. I was pleased to see an article in the *Australian* last month headed 'All roads lead to lower rural petrol prices', which referred quite extensively to a report by the Business Council of Australia.

The Business Council of Australia is not an organisation that we normally associate with assistance to non-metropolitan people; it is essentially an organisation of big business. Nevertheless, it had an analysis done and came up with the (to me) not too surprising result that fuel in country areas was overpriced by about 20 cents a litre. As I say, those of us who live in the country, who have had some dealings with road pricing, etc., would agree that that is a fair assessment. Our fuel is severely overpriced for the amount of wear and tear that occurs on our rural metropolitan roads. This article was in the *Australian* of 12 September, and I commend it to everyone in the House; the library will provide it and I will provide a copy.

Where it fell down was with the solution. The Business Council of Australia says, 'Reduce by 10 cents and increase by 10 cents in the metropolitan area and that will solve the problem.' On paper it might, but where it falls down is that any reduction in the price of fuel in non-metropolitan areas is not passed on to the consumer. It is kept by the oil companies who, I would argue, at the moment are the biggest thieves in Australia, and it may well be kept by certain retailers. But in South Australia we have already attempted that. When I had some influence in this area I ensured (and the Labor Government backed me up) that our fuel excise in country areas was about half what it is in metropolitan areas: 4.5¢ approximately compared to 9¢. None of that 4.5¢ was passed on to any consumer within non-metropolitan Adelaide.

That 4.5¢ went to swell the profits of the oil companies and maybe certain retailers. I note in the few seconds left to me that on my recent visit to Kimba the price of fuel was 85.9¢ a litre. I point out that this fuel is bought at 4.5¢ a litre less than in the metropolitan area.

The SPEAKER: Order! The honourable member's time has expired. The member for Colton.

Mr CONDOUS (Colton): This morning when I opened the *Advertiser* and read page 3 I became very annoyed to see that the Corporation of the City of Glenelg had instigated an enormous increase in licensing fees for tables and chairs outside eateries and hotels. This State for many years has promoted itself as the Athens of the south, and our *al fresco* dining has been strongly encouraged, especially by the Adelaide City Council in the city where it started. In fact, it set a standard that was envied by the rest of Australia: South Australia set the standard for outdoor dining in this country. I feel very strongly about this issue for small business and the traders of Glenelg at a time when both the State and Federal Governments have made enormous commitments—the State, of course, with some $4 million and the Federal Government with some $11 million—to clean up the Patawalonga, a move that I support most wholeheartedly, because not only did Glenelg need to be instructed in the virtues of non-pollution but also my electorate was copping it when the water flowed north.

This Government has made an enormous commitment to tourism. It established the new ferry service from the Glenelg jetty to Kangaroo Island—something that I believe will be of enormous benefit to the City of Glenelg and tourism generally in South Australia. Yet we see in the paper this morning that, while the City of Adelaide charges between $20 and $60 a year as a licence fee for outdoor dining, Norwood some $30 to $50 and Lygon Street in Victoria (one of the most popular outdoor eating locations) some $80, Glenelg, where people can use the outdoor facility for only some five months of the year because of the inclement weather, has decided to charge an annual licensing fee of $500 a year. That is absolutely preposterous.

Instead of capitalising on the Mediterranean climate during the summer months and encouraging proprietors to put out tables and chairs so they can promote outdoor dining, the Glenelg council is destroying tourism. What it does not understand is that this cost being imposed through an annual licensing fee has to be passed on to the consumer public: in other words, our community will pay more for a cup of coffee or glass of beer at Glenelg than anywhere else. Already the management of the Ramada Grand has indicated in the press that in all probability it will take the tables and chairs back inside the building.

I think the Minister for Tourism should immediately speak to the Mayor of Glenelg, Brian Nadilo, to try to bring some sanity into this ridiculous situation created by the Glenelg council. I cannot understand how a body that has the opportunity to create a holiday atmosphere and to allow people to enjoy outdoor dining in one of South Australia's premier seaside tourist resorts can go to the trouble of trying to price its traders out of the tourism market. I find this absolutely vulgar at a time when we, as a State Government, are trying to do everything possible to encourage people from interstate and overseas to visit Glenelg. For instance, tourists can get on the ferry and go across to enjoy a day on Kangaroo Island and, when they come back from that trip, they can wine and dine in the wonderful establishments that are run by so many capable traders in Glenelg.

I find this decision by Glenelg council to be absolutely ludicrous, and it is something that I believe must be addressed straight away. If Glenelg cannot address it let us take it out of its hands and bring it into the Parliament—something I do not encourage—because we have a responsibility to the hundreds of thousands of people who visit this State and the seaside suburb of Glenelg. I ask the Minister for Tourism to take immediate action, to discuss the matter with Glenelg council and come back within the next week with an answer. I believe that this is a very serious matter for the tourism industry in South Australia.

Ms HURLEY (Napier): The Minister for Housing, Urban Development and Local Government Relations, in answer to a question I asked about Housing Trust credit policy, talked about an increasing level of evictions over the past few years. This was a misinterpretation of my question—I think a deliberate misinterpretation. I have no objection, nor does anyone I believe on this side of the House, to proceedings being taken against tenants who make no attempt whatsoever to pay their rent. I have no problem with proceedings being taken against disruptive tenants.

Mr Atkinson: Yes, and our Government improved that.

Ms HURLEY: As my colleague said, the previous Government improved that situation. All of us with Housing Trust areas in our electorates know the problems that are caused by disruptive, noisy tenants and support action being taken against those people. That is undoubtedly the reason for the increase in the rate of evictions.

However, I want to talk about these tighter credit controls now being introduced by the Liberal Government and the tighter guidelines being put in place. The Minister assures us that there will be no problem with this, that people will be treated as individuals and according to their circumstances, and that an eviction will not happen to people who do not deserve it. I want to tell the Minister that it has happened, is happening now and will probably happen more often in the future.

I give an example of one case that occurred recently. A woman came to my office: she was widowed very early this year, she had two children and was about to be evicted on the Wednesday of the following week. She had had problems with debt at the time her husband had died. She went to the Housing Trust and there was an agreement whereby she would pay a certain amount every fortnight. She faithfully completed that payment and there was no problem with it right up to the time she came to see me. The Housing Trust had started eviction proceedings because in May she had secured a temporary casual job and, as a result, earned slightly more income.

The Housing Trust, when it found out about this job, increased her rent by some $20 or $30 a week. This woman omitted to fill in a rental review form and the Housing Trust continued, from May until last month, to assume that she needed to pay the increased rent and eviction proceedings were begun on that basis. Even when I contacted the Housing Trust and informed it of the situation, that it was a matter of only a few days' work, it was prepared to proceed to evict this woman and her children on the Wednesday of the following week. That meant that this woman had nowhere to go. She would have been out on the street.

To give credit to the Minister, when I contacted his office, explained the matter and lodged my objection, the eviction notice was withdrawn on the Friday before my constituent had to leave. Members can imagine her anguish and suffering, having recently been widowed and having had to cope with the problems that involved, as well as having two young children and being about to be evicted. You cannot tell me that the system is foolproof, that families will not be evicted because they run into trouble with a bit of debt. The tightening up of these guidelines ensures that this situation will happen more and more. Members opposite will find that in their electorates this will happen. In fact, in the previous week I had been contacted by a woman with four children who was about to be evicted, but she had moved out before I could get on top of the case and ascertain what had happened.

We have to ask ourselves, as a society, whether we want an agency of our Government to take actions that will make families, such as the one I have discussed, homeless. We on this side are totally against that happening. Those who live in rebated Housing Trust accommodation and who run into financial trouble are unlikely to be able to survive in the rental market. The question I want answered is, 'Where will these evicted tenants go if they cannot afford to live in Housing Trust accommodation?'

Mr LEWIS (Ridley): Whilst there are matters I wish to draw to the attention of the House in a short time, in the first instance I would like to disabuse the member for Napier about feelings there are on this side of the Chamber concerning the kind of question she asked today and the remarks she has just made. I remind her that it is not the intention of any Government agency to make people homeless. The circumstances to which she referred today were very adequately addressed by the Minister. It is people's own behaviour and attitude that makes them homeless, ultimately, if that is to be their fate.

There is a means at their disposal, as spelt out by the Minister, by which they can obtain the assistance of the trust's counselling officers and of other financial counsellors made available to them through the Department for Family and Community Services, as well as courses they could do at TAFE. As a last resort, they can go to the trust and ask, if they happen to be dependent upon pension income of some kind or other, to have that income garnisheed to meet their rent before they receive it, or they can make any other such arrangement as seems appropriate to them after they have taken advice on how best to deal with it.

The member for Napier needs to remember that we as a society cannot send a signal to any one of our citizens, regardless of how difficult are their circumstances, which would indicate to them that it is okay if they slip behind in their rent by one week, then two weeks and three, four or five weeks and simply go on letting it slip. It will not be simply a handful, a couple of score, a couple of hundred or even a couple of thousand—eventually, if it is okay for one person or a thousand people to do it, it will be okay for everyone to do it, and then who will pay the piper? Where will we find adequate accommodation? People must be made to understand that they are responsible for their own actions and that there is a limit to the level that those actions, if undertaken irresponsibly, can be tolerated.

In the final analysis, they have to accept that responsibility. Nobody is being callous and nobody is being insensitive; indeed, the only people who were insensitive about this matter were those with the opportunistic attitudes first taken by former Labor Ministers in this place who allowed so many hard cases to develop as a result of their own sloppy and indifferent administration.

The next point I wish to make arises out of the unfortunate debate that has been raised in the course of consideration of water quality in the Adelaide Hills. Most of what has been put on the front or other pages of the *Advertiser* in recent days is not factual in terms of the risk to public health. As pointed out my the Minister, the aluminium to be found in that water is so tightly locked up in colloidal clay molecules that it cannot be released and would not, in any circumstance, cause any ill-health to anything. It is simply unavailable to the organic process. Likewise, any heightened levels of copper are not a consequence of the source of the water supplied but a consequence of the manner in which the ratepayer chooses to distribute that water through their own dwelling once they receive it through the meter.

I will not go on at length in respect of that matter, because I want to draw the attention of members to the family farm aid concert to be held on 30 October to assist those people who are suffering drought in this State. There is no doubt about it—rainfall this year is probably at an all time low right across the State and, if there was to be any resolution of it for Saviour's sake, it would have occurred last weekend. The opposite occurred, and we are most certainly now in drought. Cash-strapped families out there will be hurting like most people in this place never thought possible. It will be worse than was the case for most people during the Great Depression. I want to thank everyone who has been involved in the development and preparation for that concert which, as I say, will be on 30 October.

Mr De LAINE (Price): I will briefly mention a very praiseworthy and worthwhile initiative taking place in my electorate between now and Christmas. On Friday 7 October I attended the launch of the '1 000 jobs by Christmas' initiative set up by the Port Adelaide Football Club in cooperation with the Department of Employment, Education and Training and the Port Adelaide Community Employment Service.

An honourable member: Are all the jobs legal?

Mr De LAINE: Of course they are legal. The initiative was launched by the Federal Minister for Employment, Education and Training (Hon. Simon Crean) on Friday 7 October and got off to a very good start. A steering committee, which has been set up and chaired by the Port Adelaide Football Club President (Greg Boulton), has a wide range of expertise. The members of the committee include my colleague the member for Hart, the Hon. Bob Gregory (a former State Minister of Industrial Affairs in this State), Rod Sawford (the Federal member for Port Adelaide) and me. As the name suggests, the initiative is to generate 1 000 jobs in the local Port Adelaide area by Christmas this year. All new jobs will be counted for the tally, including full-time, part-time, casual and temporary employment.

Unfortunately, unemployment in the Port Adelaide area is well above the State's average, especially among the youth of our community, so this initiative is very welcome indeed. The partnership with the Port Adelaide Football Club offers a unique opportunity for the Commonwealth Employment Service to work closely with the local community to help get people back to work. The Port Adelaide Football Club has a corporate membership base that holds numerous employment opportunities and, in addition, will actively canvass all local employers to see whether further jobs can be created.

The Port Adelaide Football Club recognises the tremendous support it has received over many years from local residents of Port Adelaide and, in return for that marvellous support, it wishes to put something back into the community to assist in creating jobs for those faithful supporters and their children and grandchildren. The steering committee believes that, with a concerted effort and a lot of hard work, the 1 000 jobs target can be achieved by Christmas, and I wish the participants well in this regard. The *Portside* Messenger newspaper will run a weekly barometer showing a progressive total of jobs created right up to Christmas. Other physical barometers will be set up in prominent positions around the Port Adelaide area to do the same job. Some jobs created will obviously be filled by people living outside the Port area, but they will be included in the overall tally as the club realises that many of its supporters nowadays live outside the Port area.

Mr Atkinson: Always did.

Mr De LAINE: That is true, but more so today. Follow up work will be done to investigate where temporary or part-time jobs are found so that these jobs possibly can be expanded to become permanent and full-time jobs. An interesting aside was that the President announced at the launch that, if the Port Adelaide Football Club is successful in joining the AFL, which it is tipped to do, and with the addition of poker machines coming on stream down there, these two initiatives will create an extra 50 jobs within the club. That is a tremendous effort in addition to the jobs already there. I voted against poker machines going into clubs, but I admit this is a terrific result, although it causes problems in other areas.

The initiative by sporting clubs such as the Port Adelaide Football Club has taken the politics out of job creation. This is good given that it tackles youth unemployment. Although my colleague the member for Spence will not agree, it was fitting, given this initiative, that the Port Adelaide Football Club took the premiership this year. This is a pilot scheme and, if it is successful, as I am sure it will be, it could be duplicated in other areas around Australia for the benefit of local communities. I congratulate the Port Adelaide Football Club on its initiative and also thank DEET and the CES for their involvement.

Mr SCALZI (Hartley): Many members would be aware that this is Carer Awareness Week in South Australia. It is important to give recognition to the hard work and thousands of voluntary hours that many carers give to the community. I was fortunate, with the member for Norwood and the Hon. Mario Feleppa from another place, to attend the carers of non-English speaking background seminar yesterday in the Norwood Town Hall. It brought home what carers do in our community and the hardship they go through. It is important to recognise the contribution that they make not only emotionally but also economically to the people for whom they care. There are about 1.5 million family carers in Australia, 50 per cent of whom are in full-time or part-time employment. A recent Commonwealth/Victorian State Government report found that the value of work done by female carers for the sick, the aged and the disabled amounts to $6 billion annually. The report found that 33 per cent of carers were never absent from their responsibilities for more than four hours, while some had not had a break for years.

The report also found that 72 per cent of carers are women, and I believe that in the year that we are celebrating the Centenary of Women's Suffrage we should recognise the valuable work that women do in the home in caring for loved ones. This work is not always recognised because it is not part of paid work. Many carers lose their income when forced

to give up work early, and others are forced to retire early. Compared to most households, carers have lower incomes and are more likely to depend on Government benefits as their main source of income. Many carers do not openly identify themselves as such, even though this role dramatically changes their lives. Many carers suffer psychological problems associated with the caring role. The report also found that 36 per cent of carers often feel depressed, compared with 21 per cent of the general population; and that 54 per cent of carers report feeling anxious, compared with 24 per cent of the general population. Carers who work suffer extra stress. Many former carers have severe difficulties when the caring role is over.

In 1993 the Australian Bureau of Statistics survey of disability, ageing and carers revealed that South Australia had the highest rate of disability and resultant handicap than any other State. Of the 300 800 South Australians with a disability, 241 600 have a handicap which limits their ability to perform one or more tasks associated with self care, mobility, verbal communication and school employment. Regardless of the severity of the handicap, the vast majority of people who are frail, aged or have a disability reside within households. Of the 42 100 people with a profound handicap, 29 500 reside in their household. It is important to recognise that these people are cared for by people in their own home, and by their loved ones, friends, relatives, and so on. By doing so, they relieve the State of the real cost of looking after these people.

Yesterday, at the non-English speaking background seminar, many of the carers gave their story. One such man was 73 years of age. He was from an Italian background and could not speak English. He asked me to read his story. As others said yesterday, it was very touching. These people worked hard in the early years and, with their children integrating into society, in many instances they are left isolated. To look after someone 73 years of age, and in this case it was a gentleman, it is very hard because the family of these people often have their own lives to contend with and are not always there to assist them. It is important that we recognise this work.

CONVEYANCERS BILL

Received from the Legislative Council and read a first time.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

Conveyancers are relied upon by consumers to provide an expert service in relation to the conveyance of real estate. The sale or purchase of real estate can often be the single most important financial transaction a consumer makes and a high degree of reliance is placed upon the conveyancer's skills and expertise. In many instances, consumers place funds in the trust accounts of conveyancers and high standards of probity must be maintained in relation to those funds.

Although the occupation of non-solicitor conveyancing (landbroking) has been in existence for over one hundred years in this State, it is not until relatively recent times that conveyancing as a profession has taken a more professional approach. This is due to a number of factors including the development of competency based standards, the establishment of the Australian Institute of Conveyancers and the pressures placed upon the profession to gain a more competitive edge in the current economic climate.

Conveyancing is undergoing enormous change in Australia. In the past year conveyancers in this State and in Western Australia have seen their national ranks grow with the introduction of non-solicitor conveyancers in the Northern Territory and in New South Wales. Interest has also been expressed in introducing similar measures in Victoria and Queensland. It is possible that through the mechanism of mutual recognition we will eventually see non-solicitor conveyancing in all States and Territories. The Government has concerns about mutual recognition and, in particular, about ensuring that standards are maintained in the State. The work being done by the Institute in relation to competency standards will go a long way towards this goal.

The changing nature of conveyancing through the introduction of such innovations as electronic conveyancing and the moves towards community titles means that conveyancing is a dynamic as well as a growing profession. The Institute has played a significant role in seeking change and accountability in the profession. The profession can be regarded as one with a high degree of sophistication and is one which is clearly committed to the maintenance of high standards of skill and behaviour. The local Division of the Institute is extremely keen to become more involved in the maintenance of these standards and sees a clear role for itself to work with Government in establishing entry standards and in resolving consumer issues. The Bill provides a scheme of regulation which can accommodate such a role. One of the reasons that the Legislative Review Team was asked to give priority to this Bill was because the Institute made representations to the Government for it to play a more significant part in the regulation of the profession. The Government is satisfied that the Institute can fulfil a useful role in maintaining standards in the profession and in protecting the interests of consumers.

As indicated in relation to land agents, the Legislative Review Team considered it appropriate to retain a scheme of regulation but it did not consider that the current scheme could be maintained. This Bill also provides for the registration of conveyancers and a recognition of the public interest component necessary in relation to standards for conveyancers. Similarly the Bill introduces mechanisms allowing for the involvement of industry in the active enforcement of the duties of conveyancers including the monitoring of trust accounts.

The Bill introduces a system of registration for conveyancers. This system will be far more streamlined and efficient than the current licensing system and, as with land agents, will require an applicant to meet certain criteria before being granted registration. It is also envisaged that the administration costs associated with a registration system will be less than for a licensing system allowing resources to be utilised for other purposes.

The Bill proposes that corporations will be entitled to register as a conveyancer and the present system of regulation which provides considerable accountability upon corporations will be continued.

It is proposed in the Bill that the Commissioner have the power to delegate specific matters under the Act to industry organisations by means of a written agreement. This is a new and significant development. Government will be working with industry to develop appropriate complaint resolution procedures and codes of conduct for conveyancers to ensure that a balance exists between the rights of consumers and the responsibilities of conveyancers. It is hoped that a great deal of surveillance of conveyancers can be delegated to the Institute after appropriate procedures have been negotiated.

A new provision is introduced into the Bill requiring conveyancers to have professional indemnity insurance. The Institute was particularly keen to have such insurance made compulsory as it sees it as a necessary component of ensuring the highest possible standards in the profession.

The Bill contains broad and extensive disciplinary provisions, including a power to discipline a conveyancer for a breach of an assurance that he or she may have entered into, at the request of the Commissioner for Consumer Affairs, under the provisions contained in the *Fair Trading Act 1987*.

The substantive provisions of the existing legislation relating to trust accounts have been retained and an additional power has been given to the Commissioner to appoint a person as temporary manager of the business of the conveyancer to transact any urgent or uncompleted business of under the circumstances prescribed in the Bill. This management provision reflects a similar provision contained in the *Legal Practitioners Act 1936*.

On 12 May 1994 the Conveyancers Bill was introduced to Parliament for the first time for the purpose of public exposure and to facilitate further public comment during the recess of Parliament. The Bill has now been widely circulated for comment and the Legislative Review Team has received a number of submissions on this Bill.

A number of minor amendments have been made to the Bill as a consequence of the consultation process. These include an amendment to clause 18 to make it clear that an administrator may be appointed to administer an agent's trust account in situations where the agent has acted contrary to the Act. In situations where for example a conveyancer has been operating as a conveyancer without a policy of professional indemnity insurance or has had his or her registration suspended as a consequence of disciplinary proceedings an administrator may be appointed to administer the agent's trust account. This amendment has also been incorporated into the Land Agents Bill 1994.

Another amendment which has been made to the Bill is to clause 59. This clause has been amended to include a provision which in effect extends the period of time in which prosecutions can be commenced from two years to five years. It is proposed that the approval of the Minister must be obtained for proceedings for an offence against the Act, which are intended to be commenced at a later time than two years and up to five years (inclusive) from the date on which the offence is alleged to have been committed. This amendment has also been incorporated into the Land Agents Bill 1994, the Land Valuers Bill 1994 and the Land and Business (Sale and Conveyancing) Bill 1994.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

A conveyancer is defined as a person who carries on a business that consists of or involves the preparation of conveyancing instruments for fee or reward, excluding a legal practitioner. A conveyancing instrument has the same meaning as "instrument" in the *Real Property Act* (*ie* "every document capable of registration under the provisions of any of the Real Property Acts, or in respect of which any entry is by any of the Real Property Acts directed, required, or permitted to be made in the Register Book").

Director of a body corporate is given a wide meaning to encompass persons who control the body corporate. Under the Bill directors of a body corporate may be disciplined, or prosecuted for an offence, alongside the body corporate.

Clause 4: Commissioner to be responsible for administration of Act

PART 2

REGISTRATION OF CONVEYANCERS

Clause 5: Conveyancers to be registered

It is an offence to carry on business as a conveyancer or to hold oneself out as a conveyancer without being registered.

Clause 6: Application for registration

An application for registration as a conveyancer must be in the form required by the Commissioner and must be accompanied by the relevant fee.

Clause 7: Entitlement to be registered

The requirements for registration of a natural person as a conveyancer are as follows:

A natural person—

- must have the educational qualifications required by regulation; and
- must not have been convicted of an offence of dishonesty; and
- must not be suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; and
- must not be an undischarged bankrupt or subject to a composition or deed or scheme of arrangement with or for the benefit of creditors; and
- must not have been the director of a company that has, within five years of the application for registration, been wound up for the benefit of creditors.

The requirements for registration of a company as a conveyancer are as follows:

A company—

- must not be suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; and
- must not be being wound up or under official management or in receivership; and

directors of the company—

- must not have been convicted of an offence of dishonesty; and
- must not be suspended or disqualified from practising or carrying on an occupation, trade or business under a law of this State, the Commonwealth, another State or a Territory of the Commonwealth; and
- must not have been the director of a company that has, within five years of the application for registration, been wound up for the benefit of creditors.

A company is not entitled to be registered as a conveyancer unless the memorandum and articles of association of the company contain stipulations so that—

- the sole object of the company must be to carry on business as a conveyancer;
- the directors of the company must be natural persons who are registered conveyancers (but where there are only two directors one may be a registered conveyancer and the other may be a prescribed relative of that conveyancer);
- no share in the capital of the company, and no rights to participate in distribution of profits of the company, may be owned beneficially except by—
  - a registered conveyancer who is a director or employee of the company; or
  - a prescribed relative of a registered conveyancer who is a director or employee of the company; or
  - an employee of the company;
  - not more than 10 per cent of the issued shares of the company may be owned beneficially by employees who are not registered conveyancers;
  - the total voting rights exercisable at a meeting of the members of the company must be held by registered conveyancers who are directors or employees of the company;
  - no director of the company may, without the prior approval of the Commissioner, be a director of another company that is a registered conveyancer;
  - the shares in the company beneficially owned by any person must be—
    - redeemed by the company; or
    - transferred to a person who is to become a director or employee of the company or to the trustee of such a person; or
    - distributed among the remaining members of the company,

  in accordance with the memorandum and articles of association of the company,
    - in the case of shares beneficially owned by the person as a registered conveyancer who is a director or employee of the company or as a prescribed relative of such a conveyancer—on the conveyancer ceasing to be a registered conveyancer or a director or employee of the company;
    - in the case of shares beneficially owned by the person as the spouse of a registered conveyancer—on the dissolution or annulment of their marriage or, in the case of a putative spouse, on the cessation of cohabitation with the registered conveyancer;
    - in the case of shares beneficially owned by a person as an employee of the company—on the person ceasing to be an employee of the company.

Clause 8: Duration of registration and annual fee and return

A registered conveyancer must pay an annual fee and lodge an annual return. The conveyancer's registration is liable to cancellation for non-compliance.

Clause 9: Requirements for professional indemnity insurance

Conveyancers must take out professional indemnity insurance as required by regulation.

PART 3

PROVISIONS REGULATING INCORPORATED CONVEYANCERS

Clause 10: Non-compliance with memorandum or articles

A registered conveyancer that is a company is guilty of an offence if the stipulations required to be included in its memorandum and articles are not complied with.

Clause 11: Alteration of memorandum or articles of association

A registered conveyancer that is a company is guilty of an offence if it alters its memorandum or articles so that they do not comply with the requirements of Part 2.

Clause 12: Companies not to carry on conveyancing business in partnership

Companies require the approval of the Commissioner to carry on business as a conveyancer in partnership with another person.

Clause 13: Joint and several liability

Directors are jointly and severally liable with the company in respect of civil liabilities incurred by a company that is a registered conveyancer.

PART 4
TRUST ACCOUNTS AND INDEMNITY FUND
DIVISION 1—PRELIMINARY

Clause 14: Interpretation of Part 4

DIVISION 2—TRUST ACCOUNTS

Clause 15: Trust money to be deposited in trust account

A conveyancer is required to have a trust account and to pay all trust money into it. Money includes any cheque received by the conveyancer on behalf of another. Money received in the course of mortgage financing is excluded from the concept of trust money. (Mortgage financing means negotiating or arranging loans secured by mortgage including receiving or dealing with payments under such transactions. Mortgage includes legal and equitable mortgages over land.)

Clause 16: Withdrawal of money from trust account

Money may be withdrawn from a trust account only for the purposes set out in this clause.

Clause 17: Payment of interest on trust accounts to Commissioner

Interest on trust accounts is to be paid to the Commissioner for payment into the indemnity fund maintained under the Bill.

Clause 18: Appointment of administrator of trust account

The Commissioner may appoint an administrator of a conveyancer's trust account if the Commissioner knows or suspects on reasonable grounds that the conveyancer—

- is not registered as required by law;
- has been guilty of a fiduciary default in relation to trust money;
- has operated on the trust account in such an irregular manner as to require immediate supervision;
- has acted unlawfully, improperly or negligently in the conduct of the business;
- in the case of a natural person—is dead or cannot be found or is suffering from mental or physical incapacity preventing the conveyancer from properly attending to the conveyancer's affairs;
- has ceased to carry on business as a conveyancer;
- has become bankrupt or insolvent or has taken the benefit (as a debtor) of a law relating to bankrupt or insolvent debtors or, in the case of a body corporate, is being wound up, is under official management or is in receivership.

Clause 19: Appointment of temporary manager

The Commissioner may, in conjunction with appointing an administrator of a conveyancer's trust accounts, appoint a temporary manager of the conveyancer's business for the purpose of transacting urgent or uncompleted business.

Clause 20: Powers of administrator or temporary manager

The administrator or manager is given powers with respect to the conveyancer's documents and records and has any additional powers set out in the instrument of appointment.

Clause 21: Term of appointment of administrator or temporary manager

The term of appointment is a renewable term of up to 12 months but the appointment may be terminated sooner by the Commissioner or the Commercial Tribunal.

Clause 22: Appeal against appointment of administrator or temporary manager

A conveyancer may appeal against the appointment to the Commercial Tribunal within 28 days.

Clause 23: Keeping of records

A conveyancer is required to keep detailed trust account records and to provide receipts to clients. The records are required to be kept for at least 5 years.

Clause 24: Audit of trust accounts

A conveyancer's trust account must be regularly audited and a statement relating to the audit lodged with the Commissioner. The conveyancer's registration is liable to cancellation for non-compliance.

Clause 25: Appointment of examiner

The Commissioner may appoint an examiner in relation to the accounts and records, or the auditing, of a conveyancer's trust account.

Clause 26: Obtaining information for purposes of audit or examination

An auditor or examiner of a conveyancer's trust account is given certain powers with respect to obtaining information relating to the account.

Clause 27: Banks, etc., to report deficiencies in trust accounts

The report is to be made to the Commissioner.

Clause 28: Confidentiality

Confidentiality is to be maintained by administrators, temporary managers, auditors, examiners and other persons engaged in the administration of the Bill.

Clause 29: Banks, etc., not affected by notice of trust

Financial institutions are not expected to take note of the terms of any specific trust relating to a trust account but are not absolved from negligence.

Clause 30: Failing to comply with requirement of administrators, etc.

It is an offence to hinder etc. an administrator, temporary manager, auditor or examiner.

DIVISION 3—INDEMNITY FUND

Clause 31: Indemnity Fund

The Commissioner is to pay into the indemnity fund maintained under the *Land Agents Act 1994* (currently a Bill)—

- interest paid by banks, building societies and credit unions to the Commissioner on trust accounts;
- money recovered by the Commissioner from a conveyancer in relation to the conveyancer's default;
- fines recovered as a result of disciplinary proceedings;
- any other money required to be paid into the fund under the Bill or any other Act.

The fund is to be used for—

- compensation under the Bill;
- insurance premiums;
- prescribed educational programs conducted for the benefit of conveyancers or members of the public, as approved by the Minister;
- for any other purpose specified by the Bill or any other Act.

Clause 32: Claims on indemnity fund

A person may claim compensation from the fund if the person has suffered pecuniary loss as a result of a fiduciary default of a conveyancer and has no reasonable prospect of otherwise being fully compensated.

No compensation is payable if the default is that of an unregistered conveyancer and the person should have been aware of the lack of registration.

Clause 33: Limitation of claims

The Commissioner may set a date by which claims relating to a specified fiduciary default or series of defaults must be made.

Clause 34: Establishment of claims

The Commissioner must notify the conveyancer concerned of any claim for compensation and must listen to both the conveyancer and the claimant on the matter. The Commissioner must determine the claim and notify the claimant and conveyancer of the determination.

Clause 35: Claims by conveyancers

A conveyancer may make a claim for compensation from the fund if the conveyancer has paid compensation to a person in respect of the fiduciary default of a partner or employee of the conveyancer. The conveyancer must have acted honestly and reasonably and all claims in respect of the default must have been fully satisfied.

No compensation is payable if the default is that of an unregistered conveyancer and the person should have been aware of the lack of registration.

Clause 36: Personal representative may make claim

Clause 37: Appeal against Commissioner's determination

An appeal against the Commissioner's determination may be made to the Commercial Tribunal within three months by the claimant or conveyancer.

Clause 38: Determination, evidence and burden of proof

Possible reductions for insufficiency of the indemnity fund are to be ignored in determining a claim.

Admissions of default may be considered in the absence of the conveyancer making the admission.

Questions of fact are to be decided on the balance of probabilities.

Clause 39: Claimant's entitlement to compensation and interest
Interest is to be paid on the amount of compensation to which a claimant is entitled.

Clause 40: Rights of Commissioner
If a claim for compensation is paid out of the fund, the Commissioner is subrogated to the rights of the claimant against the person liable for the fiduciary default.

Clause 41: Insurance in respect of claims against indemnity fund
The Commissioner may insure the indemnity fund.

Clause 42: Insufficiency of indemnity fund
The Commissioner is given certain powers to ensure that the fund is distributed equitably taking into account all claims and potential claims, including the power to set aside a part of the fund for the satisfaction of future claims.

Clause 43: Accounts and audit
The fund is to be audited by the Auditor-General.

PART 5
DISCIPLINE

Clause 44: Interpretation of Part 5
Disciplinary action may be taken against a **conveyancer** (including any person registered as a conveyancer but not carrying on business as a conveyancer and any former conveyancer) or a director of a conveyancer that is a body corporate (including a former director).

Clause 45: Cause for disciplinary action
Disciplinary action may be taken against a conveyancer if—

- registration of the conveyancer was improperly obtained;
- the conveyancer has acted contrary to an assurance accepted by the Commissioner under the *Fair Trading Act 1987*;
- the conveyancer or any other person has acted contrary to this Bill or otherwise unlawfully, or improperly, negligently or unfairly, in the course of conducting, or being employed or otherwise engaged in, the business of the conveyancer;
- events have occurred such that—
  - the conveyancer would not be entitled to be registered as a conveyancer if he or she were to apply for registration;
  - the conveyancer is not a fit and proper person to be registered as a conveyancer;
  - in the case of an incorporated conveyancer, a director is not a fit and proper person to be the director of a body corporate that is registered as a conveyancer.

Disciplinary action may be taken against a director of a body corporate if disciplinary action could be taken against the body corporate.

Disciplinary action may not be taken if it is not reasonable to expect the person to have been able to prevent the act or default.

Clause 46: Complaints
A complaint alleging grounds for disciplinary action against a conveyancer may be lodged with the Commercial Tribunal by the Commissioner or any other person.

Clause 47: Hearing by Tribunal
The Commercial Tribunal is empowered to adjourn the hearing of a complaint to enable investigations to take place and to allow modification of a complaint.

Clause 48: Disciplinary action
Disciplinary action may comprise any one or more of the following:

- a reprimand;
- a fine up to $8 000;
- suspension or cancellation of registration;
- if registration is suspended, the imposition of conditions on the conduct of the conveyancer's business at the end of the period of suspension;
- disqualification from obtaining registration;
- a ban on being employed or engaged in the industry;
- a ban on being a director of a body corporate conveyancer.

A disqualification or ban may be permanent, for a specified period or until the fulfilment of specified conditions.

Clause 49: Contravention of orders
It is an offence to breach the terms of an order banning a person from the industry or from being a director of a body corporate in the industry. It is also an offence to breach conditions imposed by the Commercial Tribunal.

PART 6
MISCELLANEOUS

Clause 50: Delegation
The Commissioner and the Minister may delegate functions or powers under this Bill.

Clause 51: Agreement with professional organisation
An industry body may take a role in the administration or enforcement of the Bill by entering an agreement to do so with the Commissioner. The Commissioner may only act with the approval of the Minister. The Commissioner may delegate relevant functions or powers to the industry body.

An agreement must be laid before each House of Parliament and does not have effect—

(a) until 14 sitting days of each House of Parliament (which need not fall within the same session of Parliament) have elapsed after the agreement is laid before each House; and

(b) if, within those 14 sitting days, a motion for disallowance of the agreement is moved in either House of Parliament—unless and until that motion is defeated or withdrawn or lapses.

Clause 52: Exemptions
The Minister may grant exemptions from compliance with specified provisions of the Bill. An exemption must be notified in the *Gazette*.

Clause 53: Register of conveyancers
The Commissioner must keep a register of conveyancers available for public inspection.

Clause 54: Commissioner and proceedings before Tribunal
The Commissioner is entitled to be a party to all proceedings.

Clause 55: False or misleading information
It is an offence to make a false or misleading statement in any information provided, or record kept, under the Bill.

Clause 56: Statutory declaration
The Commissioner is empowered to require verification of information by statutory declaration.

Clause 57: Investigations
The Commissioner may ask the Commissioner of Police to conduct relevant investigations.

Clause 58: General defence
A defence is provided for a person who commits an offence unintentionally and who has not failed to take reasonable care to avoid the commission of the offence.

Clause 59: Liability for act or default of officer, employee or agent
An employer or principal is responsible for an act or default of any of his or her officers, employees or agents unless it is proved that the officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority.

Clause 60: Offences by companies
Each director of a body corporate (as widely defined) is liable for the offence of the body corporate.

Clause 61: Continuing offence
If an offence consists of a continuing act or omission, a further daily penalty is imposed.

Clause 62: Prosecutions
The period for the commencement of prosecutions is extended to 2 years or 5 years, with the authorisation of the Minister. Prosecutions may be commenced by the Commissioner or an authorised officer under the *Fair Trading Act* or, with the consent of the Minister, by any other person.

Clause 63: Evidence
Evidentiary aids relating to registration, appointment of an administrator, temporary manager or examiner and delegations are provided.

Clause 64: Service of documents
Service under the Bill may be personal or by post or by facsimile if a facsimile number is provided. In the case of service on a registered conveyancer, service on a person apparently over 16 at the conveyancer's address for service notified to the Commissioner is also acceptable.

Clause 65: Annual report
The Commissioner is required to report to the Minister annually on the administration of the Bill and the report must be laid before Parliament.

Clause 66: Regulations
The regulation making power contemplates, among other things, codes of conduct (which may be incorporated into the regulations as in force from time to time).

Schedule: Transitional Provisions
Transitional provisions are provided in relation to—

- licensed land brokers becoming registered conveyancers;
- the continued effect of approvals, appointments, orders and notices;

· mortgage financiers (These provisions are equivalent to those contained in the *Land Agents, Brokers and Valuers (Mortgage Financiers) Amendment Act 1993* but not yet in operation).

Mr ATKINSON secured the adjournment of the debate.

LAND VALUERS BILL

Received from the Legislative Council and read a first time.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

The *Land Valuers Bill* represents a major change from the present situation. No significant changes have occurred in relation to the regulation of the activities of valuers since the introduction of the *Land Valuers Licensing Act 1969*. However, since that time the nature of the valuing profession and the importance of the role that valuing has achieved in the business community has greatly changed. Significantly, the valuer plays a key role in the commercial sector and a great deal of reliance is placed upon realistic and soundly based valuations. To cope with this greater role, the profession has demonstrated a keen interest in moving towards higher standards of behaviour and accountability amongst its members. The profession is one which can be regarded as being remarkably stable and one which enjoys a high degree of professionalism amongst its members.

There is an extremely low incidence of complaints against valuers and formal disciplinary action has not been taken against any valuers for some time. One of the reasons for this occurring is the fact that the Australian Institute of Valuers and Land Economists maintains a high rate of membership amongst licensed valuers and that peer review aims to maintain high standards within the profession.

In reviewing the need for legislative intervention in the regulation of the activities of valuers, the Legislative Review Team established by the Government did not consider that it was necessary or desirable to continue the present system of Government licensing. Given the relatively high rate of compliance and the fact that in practical terms most valuations are done for business, the impact upon general consumers will be minimal. The majority of valuers' clients are banks, legal practitioners, finance companies and other financial intermediaries that seek a valuation for the purposes of loan assessment. It should also be noted that those parties which most often use the services of valuers are well placed to be aware of the general value of property being transacted. Any concerns such clients might have about valuations can be addressed by gaining further advice or further valuations. The Vocational Education, Employment and Training Committee in its 1993 Report on partially regulated occupations in Australia recommended that the valuing profession should be deregulated as it also considered that the risk to the general public would not be great. Ordinary consumers rarely call upon the services of valuers and there would appear to be little concern that they would be disadvantaged by the deregulation of valuers.

Other methods of maintaining industry standards are available to the valuing profession. The Institute is initiating the development of competency based standards and is working with the Trade Practices Commission to develop a code of conduct. In light of these developments it is no longer considered appropriate for the Government to continue as the regulator of the valuing profession. Government's role should be limited to providing advice and supporting the profession's moves towards greater self-determination.

The *Land Valuers Bill* introduces a system of 'negative licensing' that provides an effective regime for the protection of consumers without the significant expense a traditional positive licensing regime would involve. The Bill replaces the existing licensing system with provisions aimed at protecting persons from the unlawful, negligent or unfair practices of land valuers. Under section 5 such behaviour would be the subject of disciplinary action and a possible outcome of such disciplinary action could be that a person is barred from working as a land valuer. In addition to the disciplinary provisions contained in the Bill, the Commissioner can also obtain assurances from persons whose behaviour warrants concern under the provisions of the *Fair Trading Act 1987*. The Bill also provides for a code of conduct to be developed with the Commissioner.

On 12 May 1994 the *Land Valuers Bill* was introduced into Parliament for the first time for the purpose of public exposure and to facilitate further public comment during the recess of Parliament. The Bill has now been widely circulated for comment and the Legislative Review Team has received a considerable number of submissions on this Bill.

As a consequence of the consultation process an additional clause has been incorporated into the Bill which will make it an offence for a person to carry on business or hold himself or herself out as a land valuer unless he or she holds the qualifications required by regulation or has been licensed as a land valuer under the existing Act. In addition a further clause has been included which imposes a statutory duty upon a land valuer that is a body corporate to ensure that the business is properly managed and supervised by a natural person who holds the qualifications required by regulation or has been licensed as a land valuer under the existing Act. These provisions will have the effect of ensuring that there is a minimum educative standard for entry into the occupation of valuer.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

A land valuer is defined as a person who carries on a business that consists of or involves valuing land. The definition includes a person who formerly carried on such a business so that disciplinary proceedings may be taken against such a person.

Director of a body corporate is given a wide meaning to encompass persons who control the body corporate. Under the Bill directors of a body corporate may be disciplined, or prosecuted for an offence, alongside the body corporate.

Clause 4: Commissioner to be responsible for administration of Act

Clause 5: Qualifications required to carry on business as land valuer

A land valuer is required to hold prescribed qualifications or to have been licensed as a land valuer under the existing Act.

Clause 6: Incorporated land valuer's business to be properly managed and supervised

In the case of a body corporate, the land valuing business must be managed and supervised by a person who holds the prescribed qualifications or has been licensed as a land valuer under the existing Act.

Clause 7: Cause for disciplinary action

Disciplinary action may be taken against a land valuer if—

· the land valuer has acted contrary to an assurance accepted by the Commissioner under the *Fair Trading Act 1987*;

· the land valuer or any other person has acted unlawfully, improperly, negligently or unfairly, in the course of conducting, or being employed or otherwise engaged in, the business of the land valuer.

Disciplinary action may be taken against a director of a body corporate that is a land valuer if disciplinary action could be taken against the body corporate.

Disciplinary action may not be taken if it is not reasonable to expect the person to have been able to prevent the act or default.

Clause 8: Complaints

A complaint alleging grounds for disciplinary action against a land valuer may be lodged with the Commercial Tribunal by the Commissioner or any other person.

Clause 9: Hearing by Tribunal

The Commercial Tribunal is empowered to adjourn the hearing of a complaint to enable investigations to take place and to allow modification of a complaint.

Clause 10: Disciplinary action

Disciplinary action may comprise any one or more of the following:

· a reprimand;

· a fine up to $8 000;

· a ban on carrying on the business of a land valuer;

· a ban on being employed or engaged in the industry;

· a ban on being a director of a body corporate land valuer.

A ban may be permanent, for a specified period or until the fulfilment of specified conditions.

Clause 11: Contravention of prohibition order

It is an offence to breach the terms of an order banning a person from carrying on the business of a land valuer or being employed or engaged in the industry or from being a director of a body corporate in the industry.

Clause 12: Register of disciplinary action

The Commissioner must keep a register of disciplinary action taken against land valuers available for public inspection.

Clause 13: Commissioner and proceedings before Tribunal

The Commissioner is entitled to be a party to all proceedings.

Clause 14: Investigations

The Commissioner may ask the Commissioner of Police to conduct relevant investigations.

Clause 15: Delegation by Commissioner

The Commissioner may delegate functions and powers under the Bill to a public servant or to any other person under an agreement with an organisation representing the interests of land valuers.

Clause 16: Agreement with professional organisation

An industry body representing land valuers may take a role in the administration or enforcement of the Bill by entering an agreement to do so with the Commissioner. The Commissioner may only act with the approval of the Minister. The Commissioner may delegate relevant functions or powers to the industry body.

An agreement must be laid before each House of Parliament and does not have effect—

(a) until 14 sitting days of each House of Parliament (which need not fall within the same session of Parliament) have elapsed after the agreement is laid before each House; and

(b) if, within those 14 sitting days, a motion for disallowance of the agreement is moved in either House of Parliament—unless and until that motion is defeated or withdrawn or lapses.

Clause 17: Exemptions

The Minister may grant exemptions from compliance with specified provisions. Exemptions must be notified in the *Gazette*.

Clause 18: Liability for act or default of officer, an employee or agent

An employer or principal is responsible for an act or default of any of his or her officers, employees or agents unless it is proved that the officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority.

Clause 19: Offences by bodies corporate

Each director of a body corporate (as widely defined) is liable for the offence of the body corporate.

Clause 20: Prosecutions

The period for the commencement of prosecutions is extended to 2 years, or 5 years with the authorisation of the Minister. Prosecutions may be commenced by the Commissioner or an authorised officer under the *Fair Trading Act* or, with the consent of the Minister, by any other person.

Clause 21: Evidence

Evidentiary aids relating to qualifications and licensing under the current Act are included.

Clause 22: Annual report

The Commissioner is required to report to the Minister annually on the administration of the Bill and the report must be laid before Parliament.

Clause 23: Regulations

The regulation making power contemplates, among other things, codes of conduct (which may be incorporated into the regulations as in force from time to time).

Schedule: Transitional provisions

An order of the Tribunal suspending a land valuer's licence or disqualifying a person from holding a land valuer's licence is converted into an order of the Tribunal prohibiting the person from carrying on, or from becoming a director of a body corporate carrying on, the business of a land valuer.

Mr ATKINSON secured the adjournment of the debate.

LAND AND BUSINESS (SALE AND CONVEYANCING) BILL

Received from the Legislative Council and read a first time.

The Hon. S.J. BAKER (Treasurer): I move:

That this Bill be now read a second time.

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

Leave granted.

The *Land Agents, Brokers and Valuers Act 1973* contains a number of important provisions which regulate the conduct of persons dealing with the transfer of land. These include provisions relating to the conduct of the business of a Land Agent and provisions dealing with contracts for the sale of land or businesses.

These provisions are an important mode of regulating the behaviour of land agents and also regulating the contractual procedure involved in the purchase of what is for most people the most expensive acquisition of their life, namely the purchase of land or a business.

The Bill encapsulates these provisions in one complete package. The provisions contained in the Bill largely reflect existing provisions in the Act.

The *Land Agents Brokers and Valuers Act 1973* also contains provisions designed to regulate the conduct of rental accommodation referral businesses. These businesses provide a service relating to the availability of rental accommodation. These provisions have been removed from the substantive legislation and it is intended that they be incorporated into a Code of Conduct which will be administered under the provisions of the *Fair Trading Act 1987*. This ensures a continuation of the consumer protection currently available in the Act.

On 12 May 1994 the *Land and Business (Sale and Conveyancing) Bill* was introduced into Parliament for the first time for the purposes of public exposure and to facilitate further public comment during the recess of Parliament. The Bill has now been widely circulated for comment and the Legislative Review Team has received a considerable number of submissions on this Bill.

An amendment has been made to clause 8 of the original Bill. The clause has been amended to include a provision which will prevent a vendor who is also a qualified accountant from signing his or her own certificate of particulars, thereby providing independent scrutiny of the particulars and avoiding the potential for a conflict of interest to arise in this situation.

One of the issues raised during the consultation process was whether the Government proposed to undertake a review of the vendor disclosure statements contained in forms 18 and 19 of the Regulations under the existing *Land Agents, Brokers and Valuers Act 1973* and, by implication, the wording of clauses 7 to 12 of the Bill which reflect sections 90 and 91 of the current Act.

A Working Party was established in 1987 by the previous Government to review Forms 18 and 19 of the Regulations. The Government has been informed that this working party has met approximately monthly since 1987 and has during this time recommended some changes to sections 90 and 91 but has not conducted a major review of these sections.

In light of this fact the Government has decided to abolish the existing Working Party and to reconstitute a new committee which will include representation by relevant Government agencies and organisations such as the Law Society and the Australian Institute of Conveyancers who are currently not represented.

The new Committee will go back to basics in looking at clauses 7 to 12 and they will be required to make recommendations on major changes to access and delivery of prescribed information. This Committee will have a strict time frame in which to conduct its review and it is proposed that detailed consultations will occur with the key stakeholders on the Committee's proposals. In the interim it is the intention of Government to introduce clauses 7 to 12 and to review the wording of these provisions once the Committee has completed the review.

Explanation of Clauses

The following table compares the clauses of the Bill to the provisions of the *Land Agents, Brokers and Valuers Act 1973*.

Land and Business (Sale and Conveyancing) Bill 1994		*Land Agents, Brokers and Valuers Act 1973*	
clause 3	*Interpretation*	sections 6(1), 86(1) and (2) and 87A(1) and (2)	The relevant definitions from the general interpretation section and the interpretation sections in Part 10 Divisions 1 and 2 have been brought together.
clause 4	*Meaning of small business*	section 87A(1) "small business" and (2)	
PART 2	*CONTRACTS FOR SALE OF LAND OR BUSINESSES*	PART 10 DIVISION 2	
clause 5	*Cooling-off*	section 88	The amount of deposit in respect of the sale of land or a small business that may be retained by the vendor if the sale contract is rescinded during cooling-off is increased from $50 to $100. The provision contained in clause 5(2)(b) has been altered to take account of the removal of the requirement for an agent to have a registered office by the *Land Agents Bill*.
clause 6	*Abolition of instalment contracts*	section 89	
clause 7	*Particulars to be supplied to purchaser of land before settlement*	section 90	
clause 8	*Particulars to be supplied to purchaser of small business before settlement*	section 91	This provision has been altered to provide that a vendor who is a qualified accountant must ensure that the required statements are verified by an independent accountant.
clause 9	*Verification of vendor's statement*	section 91A	
clause 10	*Variation of particulars*	section 91B	
clause 11	*Auctioneer to make statements available*	section 91C	
clause 12	*Councils and statutory authorities to provide information*	section 91D	
clause 13	*False certificate*	section 91E	
clause 14	*Offence*	section 91F	
clause 15	*Remedies*	section 91G	
clause 16	*Defences*	section 91H	
clause 17	*Service of vendor's statement, etc.*	section 91I	This provision has been altered to take account of the fact that no general service provision (as in the current Act) is included in this Bill.
PART 3	*SUBDIVIDED LAND*	PART 10 DIVISION 1	
clause 18	*Obligations and offences in relation to subdivided land*	section 86	The definitions related to **subdivided land** included in section 86(1) and (2) are incorporated in clause 3, the general interpretation provision.
clause 19	*Inducement to buy subdivided land*	section 87	
PART 4	*AGENTS' OBLIGATIONS*	PART 6	The requirements set out in sections 36 to 41 are not included.
clause 20	*Copy of documents to be supplied*	section 44	
clause 21	*Authority to act*	section 45(1) and (2)	

clause 22	*No agent's commission where contract avoided or rescinded*	section 45(3) to (4)	
clause 23	*Agent and employees not to have interest in land or business that agent commissioned to sell*	section 46	This provision has been altered to take account of the removal of the requirement for managers and sale representatives to be registered by the *Land Agents Bill*. The penalty has been altered to fit into the divisional penalty scheme.
clause 24	*Agent not to pay commission except to employees or another agent*	section 47	This provision has been altered for the same reasons as the previous provision.
PART 5	*PREPARATION OF CONVEYANCING INSTRUMENTS*	PART 7 DIVISION 3	The terminology has been altered in this Part. Conveyancing instrument is used in preference to instrument relating to a dealing in land. The term ties in with the *Conveyancers Bill*.
clause 25	*Part 5 subject to transitional provisions*		This is a new provision to take account of the transitional provisions included in the schedule. In the current Act transitional provisions appear in section 61 (1a), (4), (5) and (6).
clause 26	*Interpretation of Part 5*	section 61(3) and (13)	
clause 27	*Preparation of conveyancing instrument for fee or reward*	section 61(1)	
clause 28	*Preparation of conveyancing instrument by agent or related person*	section 61(2)	
clause 29	*Procuring or referring conveyancing business*	section 61(7) to (10)	
clause 30	*Conveyancer not to act for both parties except as authorised by regulations*		This is a new provision making it an offence if a conveyancer acts for both the vendor of land or a business and the purchaser except as authorised by the regulations.
clause 31	*Effect of contravention*	section 61(11) and (12)	
PART 6	*MISCELLANEOUS*		
clause 32	*Exemptions*	section 7(2)	
clause 33	*No exclusions, etc., of rights conferred or conditions implied by Act*	section 92	
clause 34	*Civil remedies unaffected*	section 103	
clause 35	*Misrepresentation*	section 104	
clause 36	*False representation*	section 98	The penalty has been altered to fit into the divisional penalty scheme.
clause 37	*Prohibition of auction sales on Sundays*	section 98A	The penalty has been increased from $500 to $2 000.
clause 38	*Liability for act or default of officer, employee or agent*	section 99	
clause 39	*Offences by bodies corporate*	section 100	
clause 40	*Prosecutions*	section 101	The period for commencement of prosecutions has been extended from 12 months to 2 years, or 5 years with the authorisation of the Minister, in line with similar provisions in the *Land Agents Bill*, the *Conveyancers Bill* and the *Land Valuers Bill*.
clause 41	*Regulations*	section 107	Relevant provisions only included.

Schedule	*Transitional Provisions*	section 61(1a), (4), (5) and (6)	These transitional provisions have been altered to take account of the different time frame. In addition, the power of the Tribunal to vary or revoke exemptions has been transferred to the Commissioner for Consumer Affairs.

Mr ATKINSON secured the adjournment of the debate.

GAMING MACHINES (PROHIBITION OF CROSS HOLDINGS, PROFIT SHARING, ETC.) AMENDMENT BILL

Returned from the Legislative Council without amendment.

SOCIAL DEVELOPMENT COMMITTEE

The Legislative Council intimated that it had appointed the Hon. T.G. Cameron to fill the vacancy on the Social Development Committee caused by the resignation of the Hon. C.A. Pickles.

LEGISLATIVE REVIEW COMMITTEE

The Legislative Council intimated that it had appointed the Hon. B.J. Wiese to fill the vacancy on the Legislative Review Committee caused by the resignation of the Hon. R.R. Roberts.

LAND AGENTS (BROKERS AND VALUERS) BILL

Received from the Legislative Council and read a first time.

CRIMINAL LAW CONSOLIDATION (FELONIES AND MISDEMEANOURS) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 23 August. Page 233.)

Mr ATKINSON (Spence): The Opposition has carefully read the Bill and considered it. The popular understanding of a felony is that it is the more serious kind of crime and that a misdemeanour is a less serious crime. Over the years that has generally been true, but many inconsistencies have intruded on that. Very generally, a felon would forfeit all his or her property to the Crown and be subject to the death penalty, whereas a person guilty of a misdemeanour would not. All larcenies in South Australia are currently felonies, even the stealing of a small amount of money or goods.

People who have studied the way Australia came to be settled would understand that historically larceny has been treated very seriously indeed with, in eighteenth century Britain, the imposition of either capital punishment or transportation. So, larceny has a history as a felony. Nevertheless, there are many anomalies and some of them have been produced by social change and the way in which crimes have been regarded by the public. Other anomalies have been introduced by special statutory provisions, where it was thought necessary to define a statutory crime as a felony from the outset, mainly for procedural reasons. The main distinction now in our law is not between felonies and misdemeanours but between indictable offences and summary offences. The Opposition is happy to agree to the abolition of the distinction, long though its history has been.

I refer now to the felony murder rule, because in another place the Hon. R.D. Lawson indicated that he was opposed to the felony murder rule and he would like to see it struck from our law. The Attorney-General gave him some comfort by indicating that the Government would examine further the felony murder rule, which I take to mean that the Government would, at some time, countenance the removal of the rule from our law. The rule provides that, where a person has committed a felony, namely a serious criminal offence, and another person's death is caused by the commission of that felony, it matters not whether the felon intended to kill that other person. If the death is caused in the course of committing that felony, the felon is guilty of murder. One of the most famous instances of the felony murder rule was the escape from prison by Ronald Ryan—and escape from prison being a felony—in the course of which Ronald Ryan was found to have caused the death by shooting of a warder.

Mr Quirke: Hodson.

Mr ATKINSON: The member for Playford, who is an expert on matters related to capital punishment, interjects that the warder's name was Hodson. The member for Playford has risen in this place previously to say how strongly he is opposed to the death penalty. However, I cannot believe that anyone who has such a deep and abiding intellectual interest in the death penalty and methods of execution could fail to be a supporter of the death penalty. So I have some doubts about the honourable member's denial.

Mr Quirke: I have some hang-ups.

Mr ATKINSON: Be that as it may, Ronald Ryan was not guilty of murder in the conventional sense when he was sentenced to hang and was in fact hanged for the killing. He was guilty under the felony murder rule, whereby he intended to commit a felony, to wit an escape from prison, and in the course of that escape a person was killed.

It was unfortunate that the last hanging in Australia was a hanging related to the felony murder rule, because it was a case where the mental intent in the killing had not been proved beyond reasonable doubt. So, even those people who support capital punishment—and I for one do not—would I think regret that capital punishment was levied for such a crime.

Having said that, though, I support the felony murder rule and I am somewhat disappointed by the attitude of the Attorney-General and the Hon. R.D. Lawson. The Hon. R.D. Lawson—this man who would be our Attorney-General—said in his remarks on this Bill that he did not think the existence of popular appeal in criminal law was sufficient justification for the retention of the rule. The present Attorney-General, for the time being, said that the felony murder rule had a certain popular appeal.

I know what the Attorney-General meant when he said 'a certain popular appeal': he said it in a snobbish lawyer's way—that if it is popular with the public it cannot be a good thing and we ought to go back to a legalistic way of thinking, whereby the felony murder rule would be abolished because it is not consistent with criminals being punished according to the mental element in the crime.

However, I am sure that most of my constituents and the constituents of other members believe that, if a person is engaged in a serious crime, such as armed robbery of a bank,

and if another person is killed in the course of that crime, namely, the criminal causes their death—most likely in the case of armed robbery by shooting—it should not be a burden on the prosecution to prove that the armed robber intended to kill the person: the fact that the armed robber was there at all committing an armed robbery is quite sufficient to bring in a conviction for homicide. I support public opinion on that and I certainly hope that the Government does not proceed to abolish the felony murder rule.

There was an opportunity with this Bill to abolish the felony murder rule, to sweep it away along with the distinction between felonies and misdemeanours. However, I am glad that the Attorney-General did not take the opportunity to slip the abolition of the felony murder rule into this Bill. I am sure that the Finance Sector Union would also be grateful that that opportunity was not taken. So, I put the Government on notice that the Australian Labor Party will support the felony murder rule for the foreseeable future.

I notice that the Attorney-General somewhat unusually specifies in this Bill that explanatory notes written in the text of the Act form part of the Act. I will not quibble with that. I just hope that the Government, when it introduces in this House, as the Deputy Premier gave notice today, changes to the Acts Interpretation Act, it is consistent. If the Government does not propose in that Acts Interpretation Act that head notes and margin notes are permissible aids to interpretation, the Opposition will support that and move that amendment, consistent with what is being done in the Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Bill. I think it is a good principle not just for this Bill but for the law generally. Having said that, the Opposition supports the Bill and wishes it a speedy passage.

The Hon. S.J. BAKER (Deputy Premier): I thank the honourable member for his researched contribution. I always enjoy the member for Spence's explanations (I will not say machinations) and certainly his thoughtful scrutiny of legislation. I agree with him that misdemeanours of a common law nature were thought to be obsolete as early as 1883. One such issue concerns a common law misdemeanour which was in place at that time of blocking a highway by digging a ditch, growing a hedge and the like. Of course, the Bill does not abolish that offence if it exists: it merely removes the description of it as a misdemeanour.

I will read the appropriate passage for the information of the member for Spence, who is missing out on my brilliant speech because he is talking to his colleague the member for Playford. This had a great deal to do with Barton Terrace: I thought that would get the honourable member's attention. I am talking about nuisances and common law misdemeanours. As I said, in 1883 it was believed that the distinctions were fairly nebulous.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: No, just listen. It is stated:

> Everyone commits a common nuisance who obstructs any highway, by any permanent work or erection thereon or injury thereto, which renders the highway less commodious to the public than it would otherwise be; or who prevents them from having access to any part of it—

Mr Atkinson: This has been abolished, has it not?

The Hon. S.J. BAKER: It has. It continues:

> . . . by an excessive and unreasonable temporary use thereof, or by so dealing with the land in the immediate neighbourhood of the highway as to prevent the public from using and enjoying it securely, or who does not repair a highway which he is bound to repair.

If that were in place today, I am sure that the honourable member would get a great deal of joy because he would be able to exercise his arm on Barton Road.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: In 1883—the Barton Road issue.

Mr Atkinson: It has given me an idea.

The Hon. S.J. BAKER: Good; I will help as much as I can. As the honourable member has rightly pointed out, the law in respect of misdemeanours and felonies has become clouded over a period of time as to what is a serious offence. It is no longer useful to talk about felonies and misdemeanours because, as we have seen with the development of the law over time, the difference has become blurred. Life and property were the two standards upon which misdemeanours and felonies were judged. There have been dramatic changes to the law regarding the way in which offences have developed over time due to changes in lifestyle, technology and a whole range of other influences, so it is no longer appropriate to make that distinction.

Of course, this Bill removes that distinction but preserves some elements of the law. The honourable member was quite right when he pointed out the issue of intent as regards murder—that a felony murder situation did not assume that a person had to have intent to be convicted of murder. As the honourable member said, there is a genuine public belief that if a life is taken during the commission of a serious offence—

Mr Atkinson: The intentional commission of an offence.

The Hon. S.J. BAKER: The intentional commission of an offence: the member for Spence draws that very clear distinction. If that is the case, the majority of the population would believe that that person has committed murder.

Mr Atkinson: I hope you uphold that.

The Hon. S.J. BAKER: I cannot gaze into a crystal ball and say that the law will remain as it is today, but I have a great deal of sympathy for what the honourable member has put forward, and I thank him for his contribution. With the changes to the law, there has been a lot of tidying up of certain areas. There are directions in relation to rape and, again, a replacement of the sacrilege section in the Criminal Law Consolidation Act. There is also an offence of burglary when entering a place of residence.

Mr Atkinson: It is still there?

The Hon. S.J. BAKER: There are replacements in the legislation which preserve—

Mr Atkinson: Sacrilege is still there?

The Hon. S.J. BAKER: Sacrilege is certainly there. The member for Spence would be absolutely delighted that sacrilege is still there, but it has been replaced. If the honourable member had read the Hon. Mr Lawson's contribution in another place, he would have seen that he raised the question of whether sacrilege should incur a life penalty. We have preserved the importance of the offences but we have eliminated the distinctions which, as I have said, have become blurred over time.

I thank the honourable member for his contribution. This change in the law is overdue and we have finally got there. I am not sure whether the former Attorney had the same matter in hand; I suspect he probably did. Regarding the notes that form part of the Bill, as has happened in other jurisdictions, I would like to see the intent of the Bill—and I am not the Attorney-General—inserted up front as part of the objectives, as with any Bill that comes before the Parliament, so that everyone is clear about what the Bill is trying to achieve—

Mr Atkinson interjecting:

The Hon. S.J. BAKER: In the preamble, yes—and, of course, notes to clarify issues. Time and again, with all due respect to the judiciary, there are departures from what the Parliament intended in a Bill. I am sure that at times that is deliberate to show up the Parliament and its inadequacies in processing legislation in a form that certain members of the judiciary would applaud.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: The reference to *Hansard* could be a double edged sword, having looked at some of the contributions that have been made over a period of time.

Mr Atkinson: But not yours or mine.

The Hon. S.J. BAKER: But not his or mine, as the member for Spence suggests. The addition of notes would clarify those issues, as long as they themselves do not become a matter of contest. I can never trust the judiciary not to use or abuse them in that fashion.

Mr Atkinson interjecting:

The Hon. S.J. BAKER: That is correct. The Acts Interpretation Act can sort this out in terms of the priority of the law as explained under the clause with an additional explanation for further clarification, so it should be seen as a hierarchy.

Mr Atkinson: Let's get it in the Act.

The Hon. S.J. BAKER: As the member for Spence says, let us put it in the Acts Interpretation Act so it is quite clear and we are left in no doubt about what the Parliament intends, because the intention of the Parliament is often subverted by interpretations of members of the judiciary. This is a straightforward piece of legislation. Most of the values we hold dear have been preserved in areas that are critical to the people of South Australia. I applaud the Attorney for his initiative.

Bill read a second time and taken through its remaining stages.

SOUTH AUSTRALIAN OFFICE OF FINANCIAL SUPERVISION (REGISTER OF FINANCIAL INTERESTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 September. Page 486.)

Mr ATKINSON (Spence): The Opposition has read this Bill most carefully and sought the advice of the Law Society about its provisions. The Attorney-General has responded to the concerns we raised on behalf of the Law Society, and we thank him for his cooperation and for the information he supplied us. The South Australian Office of Financial Supervision regulates building societies and credit unions. The changes before us relate to section 33 of the Act, which prohibits persons being members of the board of the South Australian Office of Financial Supervision or employees if those persons or associates of those persons have a substantial financial interest in one of the financial institutions being regulated by the board. The Government, in removing that section and replacing it with a new one, states that this is necessary because the ambit of the definition of 'associate' is so broad that it is very difficult for anyone who has the attributes necessary to serve on the board, or as an employee, to avoid breaching section 33. This is particularly so for members of the board who are partners in accounting firms and whose partners are likely to have deposits with building societies or credit unions.

By this Bill the Government intends us to move from this prohibition of people serving on the board, or as employees, if they have any interest in building societies or credit unions, to a section which would require board members and employees to disclose their interests in building societies and credit unions and to have those interests and the interests of their associates maintained on a register and for that register to be updated regularly, and certainly updated when members of the board or employees acquire interests in building societies or credit unions.

In a constructive way, the Law Society is critical of the Bill and made what I thought were a number of good points. It argues that surely there are enough competent people to serve in the South Australian Office of Financial Supervision without having to resort to people who have deposits with building societies and credit unions. The Law Society argues that surely there are people in banking, insurance or superannuation, or commercial lawyers, who have no interest in building societies or credit unions and who could serve on the board or as employees and comply with the prohibition in existing section 33. I would be interested in the Deputy Premier's response to that point.

The Law Society goes on to argue that there seems to be an absence of strong Treasury influence in the South Australian Office of Financial Supervision. This is odd at a time when we have just been through a State Bank royal commission that called for greater Treasury involvement and supervision of financial institutions. The Law Society goes on to make the point that someone who has a deposit in a building society or credit union has the dominant purpose of making sure that their returns are as great as possible and that, therefore, they should have some kind of interest in high risk financial activity, whereas the dominant purpose of someone who serves in an office of supervision over these financial institutions is to ensure that the activities of those institutions are prudent and that the assets claimed by those institutions are truly realisable.

The Law Society believes that there is some conflict between having deposits in credit unions and building societies and being involved in their ownership of them, and serving on this supervisory body. There is a lot to commend the Law Society's point of view—certainly that would have been the view of the people who originally passed this legislation. Of course, I should point out that, if you have a deposit in a credit union, by definition you would be a member (if you like, an owner) of that institution. Indeed, I had the pleasure to open the new Kilkenny branch of the Australian Central Credit Union the Friday before last, and it made that point very strongly—to be a depositor is to be a part owner and member.

The Law Society goes on to make the point that the legislation contemplates a full board governing the Office of Financial Supervision: it does not contemplate a partial board, yet by this amendment the Government contemplates a partial board. What the Government contemplates is that, if a member of the board finds that he or she has an interest in a credit union or a building society that is the subject of a board deliberation, that member would have to leave the board meeting and stand aside from that deliberation. The Law Society argues that that means the board would be only a partial board and perhaps that is not as satisfactory as it should be. Also, after the State Bank debacle, the Law Society asks whether we can rely on board members to disclose their financial interests. After all, if one of these building societies or credit unions fails, the chances are,

politics being what they are, that the taxpayers of South Australia will be asked to pick up the tab for that failure. I ask the Deputy Premier to respond to those concerns.

I indicate that the Opposition is prepared to concede the Government's mandate on this matter. I am sure that, if I criticised the Bill too harshly, the Deputy Premier would be able to point out that, at Thebarton Town Hall during the State election, the Attorney-General made some commitments. Well, the Premier made some commitments in respect of this as well. It seems that a lot happened at Thebarton Town Hall when the Liberals delivered their policy speech. It must have been the most comprehensive policy speech in history, because they claim a mandate for every item of legislation they bring into this House. On this occasion I am not prepared to quibble with the mandate; I am not prepared to oppose the Bill. Who knows: the Deputy Premier might spring an early election on us if we did that. So, the Opposition will go along with this Bill, but we want the Deputy Premier to answer those questions I have raised.

The Hon. S.J. BAKER (Deputy Premier): I thank the honourable member for his contribution. In this area we can always suggest that there are better ways: the better ways sometimes seem to be taking regulation to the point where it becomes unworkable. In some circumstances, whilst we might all agree that that situation is appropriate, in these circumstances we would not say that it is appropriate. The honourable member perhaps should have reflected upon the answers that were provided in another place on the issues that have been canvassed by the Law Society.

Mr Atkinson: The Law Society letter was after the deliberations.

The Hon. S.J. BAKER: The issues were translated to his colleague in another place; therefore, it would have been appropriate to have those responses available, because they are matters that do bear reflection. However, it may well be that the Law Society has suggested by those comments that the legislation is adequate in its current form, and what we are attempting to do through this legislation is actually to make it more workable. As to regulation 4, section 33, the issue about whether you should prescribe in regulation and put into the Act certain monetary amounts that act as a prohibition on the exercise of power or the involvement of a person is highly doubtful, and the honourable member would recognise that the current construct of the regulation makes it unworkable. As soon as we place amounts in the regulations they can be overtaken very quickly by events. I refer to the regulation that deals with the matter that has been raised. Section 4 of the regulations provides:

> For the purpose of section 33(1)(a) of the Act the limit in the case of an amount deposited with a financial institution or a local body corporate is $20 000.

And it goes on. As soon as we get into monetary amounts, I suggest to the honourable member that we have the problem of having to change those amounts and we keep fiddling at the edges without understanding what we are trying to control.

Mr Atkinson: You can't find half a dozen people who don't have an interest in credit unions or building societies?

The Hon. S.J. BAKER: The honourable member makes an interesting observation: he asks why we cannot find half a dozen members who have no particular interest but who have the expertise. Having dealt with this dilemma, how do I get people experienced in the industry to act as controlling boards if they have no involvement in the industry? That is an issue that keeps coming back. Quite simply, whether it be the Office of Financial Supervision or the boards of the various building societies that we are dealing with—and we will need to deal with friendly societies as well when that set of organisations has its controlling legislation—the issue of competence relates much more to experience than to intellectual application.

The last thing you want to do is put one of our elite people such as a doctor in charge of a financial institution. So, yes, it is very easy to find six people who are impartial, but whether they have the capacity to assist the industry, to guide it through its formative stages and to maintain financial prudence is another question. That is a matter that I have had to deal with in terms of other boards. I could walk down the street and collect 20 people who are impartial to the decision making of the body to which I would like an appointment, but whether they are particularly competent or capable is highly questionable. In fact, they are not.

Mr Atkinson: So you couldn't find six.

The Hon. S.J. BAKER: The issue relates to revealing the financial affairs of that person or that person's spouse ('associate', as they call it in the legislation). So, the regulation to which the honourable member refers is unworkable and we are intent on repairing that. In terms of the ministerial council, the society has referred to the South Australian Office of Financial Supervision as a body that is not subject to ministerial control. It is an objective of the financial institution scheme that the SSA should have operational independence from Government and industry. While SAOFS is industry funded and is not subject to ministerial direction with respect to issues such as supervision, it must report annually to the Minister on the administration of the financial institutions legislation and the annual report must be laid before each House. Also, the board members hold office on terms and conditions determined by the Governor and may be removed by the Governor.

Mr Atkinson: You said that about the State Bank board.

The Hon. S.J. BAKER: I would remind the honourable member who was in Government at the time when the ship went down and the State Bank floundered, and who actually made the appointments. I think we have a different team in town, which has not only learnt from the mistakes of others in the past but which is absolutely intent on ensuring that the integrity of our financial institutions and our operating bodies is of paramount importance and that the people we appoint to those boards fit within those criteria. That is not to say that we get it right all the time because, as I pointed out to the honourable member previously, we want to have, first, intellect and, secondly, experience. In some of these specific areas it is very difficult to get that quality of personnel. To date, I believe that we have largely achieved that end.

In relation to watering down the protection given to investors in the subject financial institutions, this was answered during the Committee stage of the legislation in the other place. There was a suggestion that if board members are to have a financial interest the preferable course would be to use the regulation making power to fix a maximum permissible holding. Again, as discussed during the Committee, the Governor and Executive Council have responsibility to monitor any matters that have the potential to affect the ability of board members effectively to carry out their duties. It is suggested that such a regulation could be considered at some future time if it is necessary. We do not rule it out. We simply do not believe it is necessary.

The honourable member made a comment about partial boards. I suggest to the honourable member that partial boards happen to be a part of life, as the honourable member would well understand. I go back to the point that, if we want people of competence, experience and intellectual capacity, in some cases we will have people who are very close to that industry. Those persons will have to pull back their chairs when there are conflicts with their own undertakings. I make the point very strongly that it is hardly a partial board if someone is required to remove himself or herself when considering a matter.

That is a little different from the activities that were pursued by the State Bank and SGIC prior to this Government coming to power. I suggest that the honourable member go back through *Hansard* and the Committee deliberations on those matters and find out how badly it really did operate. I understand that the chair was almost pulled back an inch after the board had been convinced that there was no vested interest when there was. I cite particularly SGIC in that regard and some of the carry-ons and decisions that were taken for other than commercially competent reasons.

We are talking about getting the best people for the job, not people who are totally impartial to the industry if they do not have the capacity. There is mention that institutions may engage in unsafe operations which, if unsuccessful, might financially benefit board members who have the relevant financial connections. This is an issue of how one uses one's position on a board for one's own purposes. It is an issue no doubt that will be very firmly in people's mind for at least two or three years and then it will be back to the bad old ways again, unless we keep reminding people of their responsibilities and the penalties involved should they depart from the accepted practices.

It is difficult to see the board, even if it is a partial board, making decisions which allow the institutions to engage in unsafe operations. The board must ensure that the institutions comply with AFIC prudential standards which are designed to protect depositors. One should remember that we are talking about uniform legislation across Australia in terms of prudential control over building societies which, as I said, along with credit unions, are to be joined by friendly societies at some stage. We are talking about legislation which has coverage across all States, and then each State has a subset of rules that apply to that State's operations. As far as I am aware, these rules are generally consistent with what is being observed in other jurisdictions. Therefore, we are not doing anything different or new—we are simply making the procedures more practical and workable so that they can perform at their best.

There is some doubt about the suggested protection of a register of financial interests. The Law Society asks whether a register of financial interests would perform any useful task. The majority of other jurisdictions have taken a similar approach in respect of the declaration of financial interests to be included in a register to be maintained by the SSA. Of the eight points stated as necessary for a register of financial interests to provide effective protection, it is considered that only two lie within the control of the South Australian Office of Financial Supervision. First, subclause (3) questions the degree of cooperation of SAOFS staff in promptly making the register available for inspection; and, secondly, subclause (4), which proposes that the imposition of a high fee for inspection might act as a deterrent to persons examining the register. Both these matters are addressed in proposed section 33(12), which requires that SAOFS allow members of the public to inspect the register during normal business hours and to inspect the register without fee. So anybody can have a look, just like we allow members of the public, provided they do not use it for improper purposes, to look at our register of interests. It should be quite clear that the books are open.

Mr Atkinson: What would be an improper purpose?

The Hon. S.J. BAKER: To put a particular perspective on personal interests that an honourable member may have. Another issue raised by the Law Society is that the register should be maintained and monitored by a body other than SAOFS itself. It is acknowledged that this matter is related to public perception. However, an overriding consideration is the responsibility of the Executive Council to monitor certain matters, as previously referred to. Whether members can be relied on to disclose their financial interests applies wherever the register is kept.

I thank the Law Society for its efforts in researching the Bill. I believe that it is appropriate that the society should have a role in scrutinising all legislation and feed back its concerns. We have answered those concerns, both formally and to the honourable member's colleague in another place. I believe that the circle is complete and that all those issues have been adequately canvassed. That does not mean to say that the world will be perfect or that institutions will provide beneficially for their membership in the future. We know that economic circumstances can affect organisations and, even with the best will in the world, some people can get it wrong. However, I believe that the legislation before us is competent. It is more flexible and workable than the previous legislation. It will improve the way we attract people with experience to the industry. It will provide the level of scrutiny and control which I believe the public of South Australia wishes it to have. I commend the legislation to the House.

Bill read a second time and taken through its remaining stages.

STATE DISASTER (MAJOR EMERGENCIES AND RECOVERY) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 7 September. Page 411.)

Mr QUIRKE (Playford): The Opposition has had a close look at the legislation and supports it. We note that the basic intent of the Bill is to put in place a regime so that, should a disaster or mini-disaster occur in South Australia—one which is below that of the 1983 Ash Wednesday bushfires—a number of arrangements will automatically be triggered. Whilst everybody in the House hopes that those circumstances never eventuate, we are realistic enough to know that there are instances when there will be problems. The Opposition supports the intent of the legislation and is quite happy to go straight to the third reading.

The Hon. S.J. BAKER (Deputy Premier): I thank the member for Playford for his support of this legislation. It is a very important piece of legislation. It makes changes which allow the relief and emergency operations associated with disasters to operate more effectively and better defines the functions, roles and responsibilities of the organisations involved in that process. I believe that this legislation would have been introduced by the previous Government, so it is not a matter of political conjecture as to whether or not it is an appropriate piece of legislation. This legislation is probably

a little overdue, given our previous experience and the experience in other jurisdictions.

I note the handling of the bushfires interstate, particularly in New South Wales, and the experience that comes out of the Newcastle earthquake disaster. From such situations we can learn from other people's experiences and the capacity of the Government and the various emergency services to react in concert to a point where we can limit the amount of damage to both life and property. I thank the member for Playford for his support of the Bill.

Bill read a second time and taken through its remaining stages.

ADJOURNMENT

At 4.56 p.m. the House adjourned until Wednesday 19 October at 2 p.m.