HOUSE OF ASSEMBLY

Tuesday 24 July 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 2 p.m. and read prayers.

AERIAL SPRAYING

A petition signed by 348 residents of South Australia, requesting that the House ensure that aerial spraying of agricultural chemicals near residential areas is banned, was presented by the Hon. M.R. Buckby.

Petition received.

RURAL LIVING ZONES

A petition signed by 330 residents of South Australia, requesting that the House ensure that development plans for rural living zones allows only organic commercial horticulture, was presented by the Hon. M.R. Buckby.

Petition received.

HOSPITALS, NOARLUNGA

A petition signed by 235 residents of South Australia, requesting that the House urge the government to fund intensive care facilities at Noarlunga Hospital, was presented by the Hon. R.L. Brokenshire.

Petition received.

MURRAY RIVER

A petition signed by 134 residents of South Australia, requesting that the House support a River Murray Bill for the purposes of the rehabilitation and control of the river, was presented by the Hon. M.D. Rann.

Petition received.

YELLOWTAIL KING FISH

A petition signed by 93 residents of South Australia, requesting that the House urge the government to ban all net fishing of Yellowtail King Fish in the Port Augusta to Douglas Bank area, was presented by the Hon. G.M. Gunn.

Petition received.

DIGNITY IN DYING BILL

A petition signed by 20 residents of South Australia, requesting that the House reject the Dignity in Dying Bill and ensure increased resources and training in palliative care, was presented by Mr Scalzi.

Petition received.

QUESTIONS

The SPEAKER: I direct that written answers to the following questions on the *Notice Paper*, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos. 66, 83, 92, 101, 116, 119, 124, 126 to 139.

WATER CONTAMINATION

In reply to **Ms BEDFORD** (4 October 2000).

The Hon. M.H. ARMITAGE: The organism that was associated with the water quality problems at Paskeville Reservoir in April this year was a cyanobacterium (blue-green alga) called *phormidium*.

Phormidium is a common cyanobacterium normally occurring attached to the bottom and sides of shallow lakes. If it remains attached it is not normally associated with water quality problems. However, in some instances the *phormidium* can detach and float as clumps in the water. This happened at Upper Paskeville reservoir in April.

Phormidium produces a compound called 2 methyl isoborneol (MIB) which imparts a very disagreeable musty taste and odour to the water. When this occurred, the storage was taken offline to prevent nuisance to customers. Although this organism has not been associated with toxic effects, as a precautionary measure, extracts of the organism were tested for toxicity with positive results.

Tests for the known cyanobacterial toxins were negative indicating the presence of an unknown toxin.

While this type of bioassay does not necessarily mean that the material would be toxic to people drinking the water and only very small amounts of *phormidium* were detected in the distribution system, the fact that the toxic agent could not be identified made it prudent to take a cautious approach. Consequently, the public were advised not to drink the water.

Subsequent investigations at SA Water's Australian Water Quality Centre and the University of Adelaide have shown that the toxin is associated with the cell particles and has low solubility in water. Investigations have also shown that it was not toxic to mice when administered orally, even at high doses. While the investigations have increased the understanding of the characteristics and behaviour of the toxin and narrowed the possibilities regarding the precise chemical nature of the toxin, the substance has yet to be identified.

The detection of an unknown algal toxin is a complex undertaking and a definite outcome is by no means certain. The AWQC identified the toxin involved in the 1991 River Darling bloom, but it required over eight months work to achieve. The investigations are continuing on the *phormidium* toxin.

On 22 March 2001, I commissioned a new fully lined and covered water storage at Upper Paskeville. The $3.5 million project is the first in a program to line and cover five existing storages. The 'vinyl bag' technology for lining and covering, virtually eliminates the potential for contamination of the water supply and reduces the requirement for chemicals to maintain a disinfectant residual.

AGRICULTURAL CHEMICALS AND STOCK FOODS

In reply to **Mr CLARKE** (31 May).

The Hon. R.G. KERIN: Since Mr Clarke's question on 31 May 2001, I have received a draft Agricultural and Veterinary Products (Control of Use) Bill which I am considering. This draft embodies the recommendations of the original green paper modified somewhat by suggestions made in the more than 100 responses from the community. I would like to have the bill tabled in parliament in the near future, preferably in the spring session.

SUPERANNUATION FUNDS MANAGEMENT CORPORATION

In reply to **Mr LEWIS:** (3 July).

The Hon J.W. OLSEN: The Treasurer has provided the following information:

I am advised that Funds SA has provided no money to the development of the Old Treasury buildings.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Primary Industries and Resources (Hon. R.G. Kerin)—

Animal and Plant Control Commission South Australia, Report—2000

Primary Industry Funding Schemes Act—Regulations—Riverland Wine Industry

By the Minister for Human Services (Hon. Dean Brown)—

Demolition Policy Plan Amendment Report by the Minister
Public and Environmental Health Council, Report—1999-2000
Third Party Premiums Committee—Determinations
Regulations under the following Acts—
Guardianship and Administration—Costs
Harbors and Navigation—Hull Identification No.
Motor Vehicles—Heavy Vehicle Speeding
Road Traffic—
Road Train Speeds
Speeding Offences

By the Minister for Environment and Heritage (Hon. I.F. Evans)—

General Reserves Trust, Report—1999-2000
Regulations under the following Acts—
Botanic Gardens and State Herbarium—Vehicle Expiation Fees
Building Work Contractors—Fees
Conveyancers—Annual Fees
Environment Protection—Used Packaging
Land Agents—Annual Fees
Plumbers, Gas Fitters and Electricians—Annual Fees
Second-hand Vehicle Dealers—Annual Fees
Security and Investigation Agents—Fees
Travel Agents—Fees

By the Minister for Recreation, Sport and Racing (Hon. I.F. Evans)—

Racing Act—Rules—Bookmakers Licensing (Telephone Bet)—Maximum Bets

By the Minister for Minerals and Energy (Hon. W.A. Matthew)—

Gas Pipelines Access (South Australia) Act 1997—Regulations—Fees.

QUESTION TIME

MORGAN, Mr H.

The Hon. M.D. RANN (Leader of the Opposition): Will the Premier apologise to the Chief Executive Officer of Western Mining for saying that Mr Hugh Morgan was—

Members interjecting:

The SPEAKER: Order!

The Hon. M.D. RANN: I understand he was top of your donations list.

An honourable member interjecting:

The SPEAKER: Order! The leader will ask the question.

The Hon. M.D. RANN: Will the Premier apologise to the Chief Executive Officer of Western Mining for saying that Mr Huw Morgan was wrong about electricity privatisation and power prices given the Treasurer's confession that in fact the Olsen government did get it wrong due to incorrect advice from its ETSA privatisation consultants?

An honourable member interjecting:

The Hon. M.D. RANN: That's right. Last Thursday, the Chief Executive Officer of Western Mining, Huw Morgan, said that the Olsen government had got it wrong on electricity. He told an SA Great lunch that:

> The government, encouraged by its minders to fix today's issues, left us with a legacy of high cost power threatening tomorrow's employment prospects.

The next day, however, the Treasurer, Rob Lucas, confessed that Mr Morgan was right. Mr Lucas said:

> The advice that we had and the decisions that we took that we would have a competitive electricity market were not correct. It's as simple as that.

The Hon. J.W. OLSEN (Premier): No, Mr Speaker. The reason for it is that I have had an opportunity to look at Mr Morgan's speech. In fact, he gave me the courtesy of dropping into my office last week, when we had a discussion about a range of initiatives, not the least of which is its $80 million to $100 million further expansion investment in South Australia. Having had an opportunity to look at Mr Morgan's remarks, I believe that a number of aspects were wrong. I have dropped him a note—a friendly note, of course—to let him—

Members interjecting:

The Hon. J.W. OLSEN: To advise him on those points with which I think he is at fault. Let me make one point in relation to investment and as it relates to employment growth. Investment in South Australia, according to the National Australia Bank's recent survey released last week, gives us second position in Australia in private sector new capital expenditure, and everyone knows that is a driver to job creation and employment growth.

In addition, just look at the unemployment figures in South Australia. For the first time that I can recall—and certainly it would be for a long time—our unemployment rate is lower than that of Western Australia and Queensland. That is not a position enjoyed by the Labor Party when it was in government, or indeed by the leader when he was minister, for what could only be described as unemployment at 12.3 per cent compared to 7.4 per cent, which unemployment is in South Australia at the moment. Are we moving close to the national average? Yes, we are. That has been brought about by government policies that have created a new investment climate in South Australia that sets us apart from other states of Australia.

STATE ECONOMY

Mr SCALZI (Hartley): Will the Premier further expand on and outline to the House the recent positive economic signposts for South Australia?

The Hon. J.W. OLSEN (Premier): I thank the member for Hartley for his question. In my reply to the leader just a moment ago I made reference to some economic signposts that the Labor Party can only dream of ever achieving. At the top of that list would have to be turning the first sod for the Alice Springs to Darwin rail link last week. I was pleased that the leader made the journey to join and witness that historic event. That coincided with South Australia's reaching the $250 million mark of rail contracts let to small and medium enterprises in South Australia, and that in itself will give a great boost to our economy. Importantly, many of those contracts are going to small and medium businesses in our state and throughout our suburbs, and I note that one has been won by a Mount Gambier firm. About 3 000 people are now registered for work on the rail line. This gives an indication of how people are looking at this as an opportunity, and the investment in a range of companies will further expand the investment in our state.

I want to refer briefly to the National Australia Bank quarterly survey of business conditions, released last week. In addition to what I have indicated to the House, South Australia recorded the strongest business conditions of all the states in Australia. We topped the nation with respect to trading conditions, profitability, performance and, most

importantly, employment growth. The National Australia Bank quarterly survey—

Members interjecting:

The Hon. J.W. OLSEN: I will come to that—has us in those four key areas outperforming every other state in Australia. As I mentioned, we recorded the second highest level of private sector fixed capital expenditure, which is a feeder to employment growth. The employment figures again underscore our position compared with other states. The most recent ANZ job advertisement series showed an increase of 1.4 per cent in June compared with a national fall of 1.7 per cent.

The economic indicators go further than that. On Friday the Property Council released vacancy levels for office space in our city. Vacancy rates in the CBD fell to 10.5 per cent in the six months to July this year. This compares with 11 per cent in January and a high of 20.5 per cent in 1997. No space is available in the city's premium grade buildings, space in A grade buildings has dropped to just over a 4 per cent vacancy rate, and non-CBD vacancies have almost halved to 4.94 per cent from 9.84 per cent in January last year. The Property Council went further. The President, David Woolford, said that the results reflected positively on the 'city building' efforts of both the state government and the city council. Mr Woolford went further; he said:

> The willingness of the state government and Adelaide City Council to invest in the city as a business destination is finally paying dividends.

These statistics paint a picture of a state on the rise. South Australia has not seen these sorts of figures for a long time. I mention that for a reason. The leader interjected that he is ready to go to the polls, and the member for Hart also wants to go to the polls, and they talk about March. If they are ready to go to the polls it is incumbent upon them to put out some policies. Let us put this to the House; it is an important point. The Leader of the Opposition said in April last year—

Members interjecting:

The SPEAKER: Order, the member for Bragg and the member for Hart!

The Hon. G.A. Ingerson interjecting:

The SPEAKER: Order, the member for Bragg!

The Hon. J.W. OLSEN: The leader said in April last year that by—

Members interjecting:

The SPEAKER: Order! The member for Bragg and the member for Hart will come to order!

The Hon. J.W. OLSEN: The leader said in April last year that, by October, when they were having their platform convention:

> I want to have all policies signed, sealed and costed for the public to scrutinise.

That was last year. Recently, we had an admission from the member for Hart in the *Sunday Mail* that Labor has a razor gang. He wants to slash the rate of spending on a range of government programs. Let us take this one step further. The member for Hart has refused to detail which programs he will cut, and by how much. The member for Hart went on to say:

> We will tell you when the election is on.

The leader wants these policies out to be scrutinised and public: the member for Hart wants them kept away from public scrutiny. The difference between the two is that one wants them out but has not delivered, and the other does not want to put them out at all. It is a cop-out: it is absolute arrogance. What the Labor Party wants to do—

Mr Foley interjecting:

The Hon. J.W. OLSEN: Where are your policies?

The SPEAKER: Order!

The Hon. J.W. OLSEN: Where are your policies?

The SPEAKER: Order, Premier! I suggest that the House settles down and stops this scattergun interjection.

An honourable member interjecting:

The SPEAKER: Has the member for Hart finished?

The Hon. J.W. OLSEN: I think that the House is entitled to know if the Labor Party has a policy and if it is to be costed, so that we can scrutinise it. The member for Lee said the other day on radio that he was not convinced that we needed WorkCover cost reductions in South Australia. So, the member for Lee is putting the business community on notice that he will not oversee—if he ever gets the chance—those WorkCover reductions factored in. And the shadow treasurer can clear it up: just put one policy—

Mr Foley interjecting:

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

The Hon. J.W. OLSEN: I invite the member for Hart just to put one policy on the table, and cost it. That would be a start—a real start.

ELECTRICITY, CONSULTANTS

The Hon. M.D. RANN (Leader of the Opposition): My question is directed to the Premier—who apparently will not debate me in the next election—

The SPEAKER: Order!

The Hon. M.D. RANN: —he wants a blackout during the televising. Will the Premier now investigate the means by which the state can claw back some of the $100 million plus paid to ETSA sale advisers, including their so-called success fees, now that the Treasurer and leading business people have all stated that the consultants' advice was wrong? The former head of Mitsubishi, Mayne Nickless and many other companies, Mr Ian Webber, criticised the ETSA sale process and the ETSA consultants last week, when he said that 'the advisers wanted to get the highest price because their commissions depended upon it'. Last November, the Auditor-General, Mr MacPherson, said that success fees should not have been paid to ETSA advisers. The Auditor-General said:

> I am of the opinion that the state should not have agreed to pay a success fee unless it could be demonstrated to be clearly in the interests of the state.

Last week, Treasurer Lucas was asked the following question on radio:

> So we paid a hundred million dollars for advice which, you've just said, turned out to be wrong in terms of the competitive price of electricity?

The Treasurer replied:

> Yeah.

The Hon. J.W. OLSEN (Premier): I point up to the House that $279 million—according to the budget papers and supported by the Auditor-General—is saved in interest. That $279 million in gross interest payments has enabled us this year to reinvest in a whole range of social infrastructure. The hypocrisy of the Labor Party for the past four years in calling for expenditure on roads, schools, hospitals and additional police officers could be met by only one means: savings on interest which are reinvested in delivery of service. That is what has happened, and what have we achieved? We have achieved additional funding in health, so that we are opening more beds in our hospital system, in addition to an aggressive

capital works program in rehabilitating the Royal Adelaide Hospital, the Lyell McEwin Hospital and the Queen Elizabeth Hospital.

Also, 200 additional police officers will be appointed over two years, in addition to the 200 nurses who will also come into the health system. Those 200 additional police officers will be located in both the country and city areas of our state. We have initiated a roads program—building infrastructure across the state. There are only two ways that those projects can be delivered: either, you put it on the overdraft or the Bankcard or you free up the money through retirement of debt to save the interest to reinvest in services. And we have done that. We said that we would use those funds to reinvest in services for people, and that is what has been achieved.

I simply ask the House and, in particular, those members opposite to look at the reports of the NAB, Access Economics and the Property Council, all of which point to employment growth, new investment and a state of an economy performing like we have not seen in a couple of decades in South Australia. That is what we have got.

In addition, I point up for members opposite that substantial business savings have been passed onto the business community in our state. Not only have we reduced payroll tax by $22.5 million this year (growing to $24.5 million in a full year), but also there is, of course, the $66 million saved by the business community from 1 July on FID. In addition to and apart from that, $108 million last year and this year—the bulk of it this year—will be savings or benefits passed onto businesses operating in South Australia.

All in all, some $200 million worth of costs have been stripped away from the business community in South Australia over this two-year cycle—$200 million saved in operating costs. I simply point up to the House that that is in stark contrast to what we are seeing both in New South Wales and Victoria as it relates to the potential in WorkCover; and, in addition, we see electricity prices rising in those two states also. In addition to the increases that we have seen in New South Wales of 34 per cent and 28 per cent, there are—

Mr Foley interjecting:

The SPEAKER: Order, the member for Hart!

The Hon. J.W. OLSEN: —others who are just receiving their new bills out of Victoria in terms of business costs. Eventually—

The SPEAKER: Order! There is a point of order. The member for Hart.

Mr FOLEY: If the Premier looked at a graph—

Members interjecting:

The SPEAKER: Order! I warn the member for Hart. The member for Hart will resume his seat.

Mr FOLEY: —he will see that we are twice the price of New South Wales.

Members interjecting:

The SPEAKER: Order! The House will come to order. I warn the member for Hart for the second time. He is flagrantly abusing his privilege of sitting in this House and ignoring the chair, and I suggest that he be very careful. The honourable member has been warned twice. He is also displaying items around the House. The honourable member is well aware of the standing orders.

The Hon. G.A. Ingerson interjecting:

The SPEAKER: I warn the member for Bragg.

Members interjecting:

The SPEAKER: Order! I suggest that the House settle down.

The Hon. J.W. OLSEN: All the theatrics of the member for Hart cannot take away from the fact that the substantial interest saved has been reinvested in community services for South Australians. In addition—

The SPEAKER: Order! There is a point of order. The member for Hartley.

Mr SCALZI: Sir, the member for Hart is going against your ruling: he is still displaying—

The SPEAKER: Order! I do not need help from the member for Hartley this afternoon, thank you very much. There is no point of order. The Premier.

The Hon. J.W. OLSEN: The member for Hart gives himself no credibility in carrying on like he is. If one has merit in one's argument one does not have to resort to theatrics to present one's case.

Members interjecting:

The SPEAKER: Order!

POLICE CALL CENTRE

The Hon. G.A. INGERSON (Bragg): Will the Minister for Police, Correctional Services and Emergency Services detail to the House the facts about the operations of the 11444 call centre, particularly in the light of the scurrilous claims made by the Leader of the Opposition in his press release last Sunday?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I thank the honourable member for his question and his interest in police communications—

Mr Conlon interjecting:

The SPEAKER: I warn the member for Elder.

The Hon. R.L. BROKENSHIRE: He is absolutely right when he talks about the scurrilous misinformation put about not only by the Leader of the Opposition in this case with his press release but by all the other members on the other side who, in some way or another, purport to be the shadow spokesperson for police. I refer to the member for Spence, the member for Peake and many other members on the other side of the House other than the actual spokesperson, from whom I never hear. For the benefit of everyone on the other side of the House, I would like to put the facts on the table when it comes to 11444 and the communications centre.

First, our government had the vision to create a pilot for 11444 in January this year to relieve the pressure on the 000 communications centre, so that during all the busy times it could focus on life threatening calls. Secondly, and as I said in this House seven months ago, the pilot was initially operated from 9 a.m. to 9 p.m. Monday to Friday. At all other times, 11444 was to be answered at the 24-hour a day communications centre, as has always been the case, even when Labor was in office. Thirdly, due to the immediate success of the pilot call centre, we have decided to expand the operating hours from 8 a.m. to 11 p.m. on weekdays.

Again I want to make it very clear so that the media or the community cannot be misled by the Opposition on this very important issue. Let me highlight the fact that 11444 calls are manned 24 hours a day. I would like to tell the House about the evaluation of the six-month pilot call centre. During that six months, 65 129 calls were received: 55 577 (85.82 per cent) were answered personally within four seconds; 6 752 (10.42 per cent) were answered personally within between four and 80 seconds; and 62 329 (96 per cent) were answered personally within 80 seconds. That is an outstanding response, and I understand that the police call centre pilot was

ahead of any other call centre currently operating in Australia in its response time.

It shows why the government in its last budget made a commitment to fund, to the tune of $8.5 million over four years, an initiative now known as the police call centre, which, as I have already said, now operates seven days a week, 16 hours a day during the busy period. The rest of the time the 11444 number is answered through the communication centre.

The fact is that, on the weekend, the opposition leader simply got it wrong. He opened his mouth without doing his homework and he got it wrong. He put his foot right in his mouth. It is not fair on the police and it is certainly not fair on the community when the Leader of the Opposition and other people scaremonger about vital communications for police and the community.

Based on a question on notice in this House, which clearly members of the opposition have not taken the time to read or did not want to read and interpret correctly, they have had a go at police and, in my opinion, have unfairly damaged the reputation of the police, and I will tell members why. On Sunday 22 July on the ABC, the shadow Attorney-General said that the 11444 number was not answered on a full day last month. He also went on to say that the 11444 number should be a 24-hour service, seven days a week. He has grossly misread the facts and, if he looked at what I tabled in this House, he would clearly know that I talked about 11444 lines being staffed 24 hours a day. So, we have seen the member for Peake get it wrong when it came to issues involving Correctional Services—and he has not apologised. We have seen the member for Elder get it wrong when it came to the police dispatch systems and, again on the weekend, we have seen the Leader of the Opposition and the shadow attorney-general get it wrong.

Labor not only has no policies but it does not do its homework. It is not prepared to put the facts to the community; it scares and upsets people and works against great agencies such as the South Australian Police just to try to get a tiny political point on the scoreboard, particularly on the weekends. I urge the media to really put the Labor Party under pressure for a time and get them to put the real facts forward and stop misleading the community. If you want to know what is happening with communications, telephone my office and I will be happy to give you a detailed briefing. That is how it should be done, not by misrepresenting the facts to the community day in and day out for cheap political point scoring.

RIVERLINK

Mr FOLEY (Hart): My question is directed to the Premier. Was the state's leading industrialist, Mr Ian Webber AO, the former head of Mitsubishi and Mayne Nickless, wrong in his public statements made in November 1998 and repeated last Friday that withdrawal of support by your government for Riverlink to boost ETSA's sale price would lead to higher power prices and compromise our long-term competitiveness? In a letter to Rob Lucas, Mr Ian Webber AO predicted higher power prices as a result of the government's failure to support Riverlink. In his letter, Mr Webber said:

> I have become seriously concerned at the lack of persuasive argument to justify the withdrawal of support by the South Australian Government for the Riverlink project as I believe this offers South Australia an unrivalled opportunity to source its power on nationally competitive terms.

Mr Webber also said:

> . . . I can only assume that the Government has placed a higher priority on maximising the proceeds from the ETSA sale than on the long-term competitiveness of manufacturing (and therefore the growth of jobs in manufacturing) in our State.

Was Mr Webber wrong, too?

The Hon. J.W. OLSEN (Premier): I could imagine that if we did not ensure—or seek to ensure—that taxpayers got maximum value for their assets we would be having the same debate in this parliament about how we had not sought to maximise the returns for South Australians. But I do not know whether—

Mr Foley interjecting:

The Hon. J.W. OLSEN: No; the member for Hart cannot reinterpret my remarks to suit himself, as is his wont. I simply point out to the House that we have been looking at a number of issues related to the national electricity market and what needs to be changed, because the national market is not working as it was anticipated it would, and as it should have worked. In stark contrast to the Labor Party, which does not want a solution to this problem—

Mr Foley interjecting:

The Hon. J.W. OLSEN: Yes; the member for Hart laughs—and that is exactly the point. They do not want to find a solution to the issue; they do not want to solve the issue; they want it to continue to roll on politically. That is what the member for Hart is all about. His laughing today in the chamber and his remarks to the business community demonstrate that they should not expect any help from the Labor Party. That is what the member for Hart said at a conference: 'Don't you [the business community] come for any support from us.'

Mr Foley: Subsidies.

The Hon. J.W. OLSEN: Subsidies: does that mean that you want to go back on the payroll tax cut that we have given?

Mr Foley interjecting:

The Hon. J.W. OLSEN: No; see? You want to go back on the payroll tax cut.

Mr Foley interjecting:

The SPEAKER: Order! The member for Hart has already been cautioned; I now warn him.

An honourable member interjecting:

The SPEAKER: The member for Goyder will come to order.

The Hon. J.W. OLSEN: Will you also hang in with our WorkCover cuts in South Australia?

Mr Foley interjecting:

The Hon. J.W. OLSEN: The member for Hart refuses to answer. He was not prepared to answer that question, but the member for Lee went on radio and said that he did not think we were in a position to pass these benefits back and reduce WorkCover costs, and that he would have to have another look at it.

Mr FOLEY: I rise on a point of order, Mr Speaker. Sir—

Members interjecting:

The SPEAKER: Order! Members on my right will remain silent.

Mr FOLEY: I would request, if I may, some consistency. This was a question about higher electricity prices. The Premier is asking us questions. Can he be brought to order and asked to answer the question?

The SPEAKER: Order! There is no point of order. The honourable the Premier.

Members interjecting:

The SPEAKER: Order! I warn members for the last time. If members persist with their interjections, someone will be named. You have all had your fair warning this afternoon.

The Hon. J.W. OLSEN: The sensitivity of the member for Hart in that respect demonstrates that they do not want to answer any questions about any policies or any plans for the future. In addition to that, the laughter of the member for Hart shows that they do not want to solve this problem. They do not want to work through a range of initiatives that will ameliorate the effect of a national market that is not working properly and an impact that is passed onto South Australian businesses. All we hear is, 'I do not want', 'I do not want to see' and 'I do not want to ameliorate.' That is why we have had the support of the commonwealth.

Unlike those opposite, I received the support of a Labor Premier in New South Wales, a Labor Premier in Queensland and a Labor Premier in Victoria to look at a number of measures, one of which will be reported hopefully within the next few weeks being the rebidding practices of the generators. Those rebidding practices of the generators was not how the market was supposed to work. Work is being done on that.

In addition, I have had consistent meetings with a range of people and companies involved in the national electricity market operating in South Australia to seek to get better outcomes for our state, and I will not give up working through this issue. I simply make the point, in the backdrop to all this, that we have reduced costs on business in a number of other areas. I also make the point, as a matter of fact, that there are increases in electricity tariffs in the other states, including the non-privatised state of New South Wales. Over the next three months, as the contracts of the contestable customers come up for renewal, some of the points I have made in the House will become self-evident.

But will we continue to work on a range of issues? Yes, we will do so through the ministerial council, so that we can get some policy oversight of government of the national electricity market and get it right. I simply make the point that working through a range of these issues is at least a plan of attack, whereas members opposite have no plan and no idea, and they do not want one because they just want to play the political game. They do not want to get a solution for businesses in our state.

Mr MEIER: On a point of order, the member for Hart has again gone against your ruling, sir, and is displaying an object in this House. You have ruled that way once already, sir.

The SPEAKER: The chair was observing the Premier on his feet. I did not see anything on my left. If any member transgressed standing orders, I would caution them, but the chair did not see it. The honourable member for Colton.

Members interjecting:

The SPEAKER: Order!

HINDMARSH STADIUM

Mr CONDOUS (Colton): Can the Deputy Premier advise the House of the situation in relation to the negotiations over Hindmarsh stadium and what plans are in place to ensure that this facility is used for the maximum benefit of South Australians in the future?

The Hon. R.G. KERIN (Deputy Premier): I certainly welcomed the reported decision of council last night to accept the government's offer for the purchase of Hindmarsh stadium. It hopefully brings to an end a long series of negotiations, not just with the council but also with Adelaide City and the South Australian Soccer Federation, to make sure that all the stakeholders had an outcome. Last night the city agreed to sell the stadium to the state government.

Members interjecting:

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

The Hon. R.G. KERIN: I look forward to the arrangement being formally signed off. Whilst some people have tried to talk down the future of the Hindmarsh stadium, I put forward the following points. The stadium allowed Adelaide and South Australia to take part in the Olympic Games. That was very important and is greatly appreciated by many South Australians. Despite the way the opposition will laugh about that, a lot of people went there and enjoyed it. It was a very important, one-off opportunity for South Australia to take part in the Olympics.

Mr Koutsantonis interjecting:

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

The Hon. R.G. KERIN: It drew very high praise. I would have thought that, as one of the local members in the area, the member for Peake might look after the community rather than just play politics.

Mr Koutsantonis interjecting:

The SPEAKER: Order! I warn the member for Peake for the second time.

The Hon. R.G. KERIN: The stadium certainly drew very high praise as a stadium from the international players and officials. Despite misinformation that has been put out by several people continually, in reality the total project actually came in under budget. That is one thing that has been misrepresented time and again. What we now have is a world-class facility. It is a great base for the National Soccer League in South Australia and puts us into a good position over the next couple of years, hopefully, to get a second team in the competition; that would be a great boost for soccer and soccer fans.

Now that we have control, I look forward to the government's being able to more effectively manage the stadium, not just for the major sport of soccer but also other sports and other entertainment opportunities which will be pursued. Hopefully, we will see a far greater use of what is a great stadium and give other sports people in the area an opportunity to make use of very good facilities. The issues of interest to the National Soccer League, the Adelaide Force and the Soccer Federation have been worked through and mechanics have been put in place to ensure that the best interests of soccer and the community are both represented and met.

This government is committed to the future of the Hindmarsh stadium and the future of soccer in South Australia, and this resolution with council does offer a good result for the sport of soccer, for other sport and the general community.

WEBBER, Mr I.

Mr FOLEY (Hart): Did the Premier or any members of his government play a role in punishing Mr Ian Webber AO for telling the truth about this government's handling of power prices in 1998?

The Hon. G.M. Gunn interjecting:

The SPEAKER: Order, the member for Stuart!

Mr FOLEY: I will start again if I may.

The Hon. G.A. Ingerson interjecting:

The SPEAKER: Order! I warn the member for Bragg for the second time.

Mr FOLEY: Thank you, sir. I will start again because I was a bit taken aback. Did the Premier or any members of his government play a role in punishing Mr Ian Webber AO for telling the truth about this government's handling of power prices in 1998; and, if the Premier is unsure, will the Premier now investigate who within government and the Liberal Party took part in this campaign against Mr Ian Webber AO?

The Hon. M.H. Armitage interjecting:

Mr FOLEY: Tell us about Paul Keating. In a radio interview last week Mr Webber acknowledged that he had been attacked because he went public with his concerns about the government's electricity policy. Mr Webber AO said:

> There were some very cutting remarks made about me in—

The Hon. G.A. Ingerson interjecting:

Mr FOLEY: 'Poor old Ian,' did you say, Graham? I will start that quote again:

> There were some very cutting remarks made about me in an editorial in the *Advertiser*. Numerous business people—

Members interjecting:

The SPEAKER: Order! Members on my right will remain absolutely silent.

Mr FOLEY: Mr Webber AO said:

> Numerous business people felt that I had been disloyal to the interests of the Liberal Party. Frankly, my interests were more with manufacturing. . . I was concerned that the lack of government action in terms of pricing was going to drive a further nail in the coffin of manufacturing in South Australia.

The Hon. J.W. OLSEN (Premier): I simply make the point that exports in manufacturing in the past 10 years have gone up from 61 per cent of manufactured goods going to export to 71 per cent of manufactured goods going to export, so the manufacturing industry of South Australia is growing substantially. And, as I can remember the first part of that very longwinded question and explanation, the answer is no.

WHALES

Mrs PENFOLD (Flinders): Can the Minister for Environment and Heritage advise if the government is concerned at the behaviour of some people observing great white sharks feeding on a dead whale off the South Australian coast and, if so, what action, if any, can the minister take to protect people from their own stupidity?

The Hon. I.F. EVANS (Minister for Environment and Heritage): It certainly never ceases to amaze me how plain stupid some people can be. I am sure that most members of the House would be absolutely appalled at the bizarre behaviour of some people connected with the incident yesterday involving the carcass of the whale that was being fed on by white pointer sharks. For people to take the opportunity to walk on the whale while the sharks were feeding was an act of sheer stupidity. It is unfortunate that the government has been put in the position of having to try to take action to protect people against their own stupidity. The government is looking at whether it is possible or appropriate to bring in regulations governing the distance of the boats that carry people who are watching the feeding frenzy so that people do not have the opportunity to either pat the white pointer sharks or walk on the whale, as they did yesterday. It is absolutely bizarre behaviour. It sends all the wrong messages to people about the approach they should be taking to sharks. There is something quite offputting about people who get a kick out of walking on a dead animal such as a whale; it is quite bizarre behaviour on the part of the persons involved.

We are getting advice in relation to whether it is possible or appropriate to bring in a regulation in regard to putting some distance between the boats and the whale carcasses in the future. We all know that whale watching is an important industry in South Australia, and through her agency the Minister for Tourism has put in some very good infrastructure in relation to this industry. Certainly we can understand many people's intrigue about seeing what must be the incredible sight of nature at work. We are not about trying to stop people going out in boats and looking, but we are very concerned about community safety, so the government is looking at putting in necessary regulations.

I was given advice just before question time, and it is also appropriate that I bring to the attention of the House, that there have been three other whale deaths in the past two or three days. A juvenile southern right has also died at the Bight today, and two pygmy sperm whales died over the weekend, so that makes a total of five whales that have died of which we are aware in the past two weeks. In the case of one of those whales we are aware of the cause of death—that is, the netting and the rope around the tail that caused such a cut in the tail that infection ultimately killed it: that is a known cause of death. We have sought advice from the museum in relation to the other whales to determine whether there is any cause for concern in relation to an epidemic or some form of disease.

My department has spoken to Dr Cath Kemper at the museum. The museum's advice is that there is no reason to believe that we have some sort of epidemic in relation to the whales. We are aware that the entangled southern right whale at the Bight involves a known cause of death, so that is easily explained. The others comprise two different species of different ages, separated by about 1 000 miles. So, in Dr Cath Kemper's opinion it is highly unlikely that the causes of death are related in any way but are pure coincidence.

I update the House on that, because the media are aware of this, and we did not want the wrong message going out that somehow an epidemic was occurring. The advice is that as the whale population grows these deaths will become more common. It just so happens that these have been close to the shore and therefore the public is more aware of them today. I thank the member for the question. It is important that members of the public who are going out to view these incidents do so in a safe manner. We have advised the boat operators to operate in a safe manner, the police are supervising the event and we hope we will be able to bring in regulations to establish proper safety measures.

ELECTRICITY, PRICE

Mr FOLEY (Hart): What does the Premier have to say to those families who will now be paying more for cinema tickets as a result of his government's mishandling of the ETSA privatisation process? According to the Wallis cinema chain, the price of a ticket to the movies will have to rise because of increased power prices. Wallis cinemas have told the opposition that the annual cost of running just one of its screens has jumped from $26 000 to $39 000. Wallis cinemas have 17 screens across Adelaide. In fact, we are now advised that the Wallis group is so concerned about the impact of the Olsen government's rising power prices that the Wallis chain of cinemas is reconsidering its latest project—a new cinema in Mount Barker, in the Premier's own electorate.

The Hon. J.W. OLSEN (Premier): I would also note that the hotels association has indicated that there might be some price rises. But there are many components to price rises, one of which is labour adjustment. The other is that, as a result of the HIH collapse, we are seeing readjusted insurance premiums on a range of businesses of the order, in some instances, of a couple of hundred per cent. Where you get third party property or insurance premium cost increases (an escalation), if you can get the insurance from a range of companies currently, they are additional operating costs that have been passed into business operations. The AHA has been prepared to acknowledge that it involves a range of measures. It is the insurance adjustment that is increasing, in many of these instances, well above that which related to electricity.

I make the point also that reasonable sized employers will benefit through a reduction in payroll tax. They will also, despite their size, benefit from a reduction in WorkCover costs. And, if they are in the cash business, they will also benefit by the $66 million exiting of financial institutions duty applicable from 1 July. I have no doubt that the member for Hart will go back and say, 'Yes, if that is on that side of the ledger, what is on the other side of the ledger? Let us work out what a net cost is.'

EMPLOYMENT DATA

Mr HAMILTON-SMITH (Waite): Will the Minister for Employment and Training advise the House whether there are any economic or employment implications for the state following the release of the most recent ABS employment figures?

The Hon. M.K. BRINDAL (Minister for Employment and Training): I thank the member for Waite for his question and for his obvious interest in this area. I wish to follow on from the comments made by the Premier earlier. I was disappointed last week to see the complete lack of enthusiasm shown by the opposition when the labour figures came out. You generally have to pick whether the member for—

Mr Atkinson interjecting:

The SPEAKER: Order, the member for Spence!

The Hon. M.K. BRINDAL: —Lee, the deputy leader, the leader, or whomever, will speak on unemployment figures—if they think they have something to say. But last week there was not one comment—and perhaps because we had the best set of unemployment figures for some time. The facts are that, while they were silent, South Australia's unemployment rate dropped, in seasonally adjusted terms, to 7.4 per cent, and our trend employment continued to grow. In fact, a further 800 people obtained jobs in June, and that is the fourth consecutive month that we have seen the growth in employment. That stands in stark contrast to what is happening in some other states. For example, South Australia's unemployment rate is now well below Western Australia's 8.1 per cent, and only—

Ms Thompson interjecting:

The Hon. M.K. BRINDAL: That's not true. Before the member flaps her gums, she wants to read the figures. South Australia's unemployment rate is now well below Western Australia's 8.1, and only New South Wales and Victoria have lower jobless rates.

For our young people seeking work, the June figures are also encouraging. Youth unemployment fell by 4 per cent. Apart from Queensland (which has the dubious honour of having the worst youth unemployment rate in Australia, but it also at least recorded a fall of .9 per cent), South Australia was the only state in this nation whose unemployment for youth dropped last month. All other states experienced an increase.

Mr Clarke: They've all shot through.

The Hon. M.K. BRINDAL: The member for Ross Smith says that they have all shot through. Caller Les, when I was speaking on 5AA, raised the fact that this wanderlust of youth, the desire of youth, to go and see pastures greener applied only to privileged youth and those who could get a job. I found that interesting because when one looks at the enthusiasm of youth and the response rate one notes that the youth of this state do not share the gloom and doom mentality purveyed by those opposite. The youth of this state see themselves as having opportunities in this state and in this country and they want to get on with their lives. The ABS figures also give us encouragement. The Premier, in his first question, alluded to the ANZ job advertisement series, which shows South Australia at 1.4 per cent last month compared with a national fall of 1.7 per cent.

The Premier also highlighted that our exports continue to grow strongly. Our figures show that employment programs developed by this government—and new initiatives announced in the recent state budget—are creating jobs for South Australians. In summary, the figures are encouraging. Two years ago, a year ago, we faced criticism in this House for changing some of the levers and programs and initiating others. In those 12 or 15 months all of our levers have been successful. Our policy decisions have been correct because they have resulted in a continuing trend to further employment in this state.

It is about time the opposition thought through the policies that it might take to the next election and shared with the young people and the adult population of South Australia its employment policies and, if it wants to drive us back 10 or 15 years to buying jobs in the government sector, let the opposition announce that so that the people of South Australia—

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: The only thing the member for Spence is currently doing is parading his leader around like some sort of prize chook. That is the only thing the opposition seems capable of doing: putting him on display, getting him to crow and not coming up with any policies. This state deserves a choice between a stable government which can deliver and which has proved that it can deliver—

The Hon. M.D. Rann: A state with the lights out.

The Hon. M.K. BRINDAL: The Leader of the Opposition makes light of it. I suggest that he asks his colleagues who of them is uncomfortable in their seat—it is no-one on this side of the House. I suggest that the leader watches for the knives in his own back because there is a job that will be available shortly after the election, one job: the job of Leader of the Opposition.

ELECTRICITY, PRICE

Mr FOLEY (Hart): My money is on Iain Evans. Anyway, my question is directed to the Premier.

Mr Atkinson interjecting:

Mr FOLEY: Is the Premier concerned—

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: —that South Australian sporting clubs may have to increase ticket prices or cut funding for junior sports development programs because of the dramatic increase in electricity prices?

Mr Venning interjecting:

Mr FOLEY: Someone cares about electricity prices, Ivan, even if you don't. The opposition has asked a number of South Australia's most prominent sporting clubs about the impact of rocketing power bills on their finances. The opposition has been told—and people have appreciated that an opposition has been concerned, unlike the government—that, in particular, the power bill for operating Football Park has jumped $75 000 a year. The South Australian Cricket Association faces a 47 per cent increase and will now have to pay up to $195 000 a year for electricity at Adelaide Oval. The Redlegs Football Club will have to find—

The Hon. G.A. Ingerson interjecting:

Mr FOLEY: Well, it was a 47 per cent increase; that is a big number—it may not worry you. The Redlegs Football Club must find an extra 25 per cent to pay the power bill at Norwood Oval. Electricity bills at the Adelaide Aquatic Centre have jumped by 36 per cent—that is $50 000—to a total of $230 000, and the list goes on.

The Hon. J.W. OLSEN (Premier): This was the press release which the member for Hart put out Sunday morning pre Football Park grandstand opening and on which he did not get a run. What he has done is brush it off, put a new date on it and had a go today. The other point that the member for Hart cannot deny is the extra $17 million going into sport in South Australia. Why are we able to put more money into sport, both the infrastructure and the recurrent cost? It is because we have freed up some interest to provide those services. As it relates to Football Park and the arrangement that has been put in place, I note and I applaud the South Australian National Football League for putting in managers and operators throughout country areas of South Australia to train our young people in Aussie Rules football.

That is about supporting sport; that is about getting out there with legs on the ground to assist these people. That is what it is about. And, while we are on Football Park, I mention another $2.3 million to put an express bus lane along Port Road. So far this year, the facilities we put there earlier have seen a 7 per cent—

The Hon. I.F. Evans interjecting:

The Hon. J.W. OLSEN: Yes, I will get to those. There has been a 7 per cent increase in traffic; that is, a 7 per cent increase in the number of people using public transport to go to Football Park—and when we put in this new priority bus lane that will be even better. That is in stark contrast to the Gabba. In Brisbane, I am told that they have a two kilometre exclusion zone around the Gabba for parking. That is what they have in Queensland, under a Labor administration. We are putting in facilities for public transport access, too; plus the contribution we put into the Football Park scoreboard and also the replay facility. That has enabled the South Australian National Football League to start putting money back into the sport and, importantly, putting the money back into support sport at a junior level to encourage our young people in a healthy lifestyle, a sporting lifestyle, and that is good for our community.

OLD TREASURY BUILDING

Mr LEWIS (Hammond): Following the response that I had today to my question of 3 July, I wish to ask the Premier a question in relation to the old Treasury building. Upon what authority or advice has the Premier relied in determining that the work being done on the old Treasury building is not a public work as defined in section 16A of the Parliamentary Committees Act? The following definitions are from the Parliamentary Committees Act, which states:

> A 'public work' means any work that is proposed to be constructed where—
> . . . (c) the work is to be constructed on land of the Crown or a state instrumentality.
> 'construction' [and constructed] includes—
> (a) the making of any repairs or improvements or other physical changes to any building, structure or land; and
> (b) the acquisition and installation of fixtures, plant or equipment when carried out as part of, or in conjunction with, the construction of a work.

Then section 16A(1) states:

> Certain public works referred to Public Works Committee
> Subject to subsection (3), a public work is referred to the Public Works Committee by force of this section if the total amount to be applied for the construction of the work will, when all stages of construction are complete, exceed $4 000 000.

The Hon. J.W. OLSEN (Premier): My memory is that it was based on crown law advice. However, I will refer the question to the minister responsible to clarify specifically that it was crown law advice upon which the minister based his determination, and I will advise the member.

ELECTRICITY, PRICE

Ms RANKINE (Wright): Will the Premier rule out either more job losses or an increase in petrol prices if oil companies refuse to come to the aid of South Australian service stations slugged with a huge increase in their power bills? The opposition has received a letter from David Salter, who operates the Shell service station at Salisbury East, asking us to pass on to the Premier and his 'well-heeled mates' his undying thanks for the cheaper water rates we now do not have and for the rise in electricity prices. Mr Salter has told the opposition that he has been forced to retrench staff because his power bill for this year will be up by 65 per cent—nearly $15 000 more than last year. The Motor Trade Association has confirmed that many other service stations are facing similar increases, with one station paying $150 per day (or $54 000 a year) for electricity.

The Hon. J.W. OLSEN (Premier): There are many aspects—

Members interjecting:

The Hon. J.W. OLSEN: Those who have operated a business will understand that there is a range of costs in operating a business. Judgments have to be made about employee levels as related to a number of factors. My understanding—and I might be corrected on this—

Mr Foley interjecting:

The SPEAKER: Order! I warn the Minister for Hart for the third time.

The Hon. J.W. OLSEN: Well, they do pay WorkCover. WorkCover has to be paid if you employ anyone. That just shows the ignorance of the member for Hart. The member has just demonstrated his total lack of any commercial understanding whatsoever. As he said in his last question—

Members interjecting:

The SPEAKER: Order! I warn the Minister for Government Enterprises.

The Hon. J.W. OLSEN: The inference in his last question relating to Mount Barker was that this facility would not go ahead because of electricity prices. Well, that is not

what the proponents are saying: it is related to a heritage component of a building. We just happened to have checked in the interim because I thought that might have been the case. So, you have misinterpreted and reinvented things to suit your own political circumstances. You do not let the facts get in the way of how you run a story or attempt to run a story. I suggest that you get your facts right if you want any credibility in running a particular line. I understand that about 2 per cent of the total costs of operating a business, on average, relate to electricity tariffs.

Mr Koutsantonis interjecting:

The Hon. J.W. OLSEN: Talk about inane interjections. That is on average; there are many over and there are many under because it is an average 2 per cent.

Mr Koutsantonis interjecting:

The SPEAKER: Order! The member for Peake is warned for the third time.

The Hon. J.W. OLSEN: There are other costs associated with operating a business upon which people will make a commercial decision as to employment levels and growth. But I return to the point that nobody but nobody can dispute: the National Australia Bank survey of only last week showed that there is more private capital expenditure and employment growth in South Australia, that there is more tradability and profitability, and that business conditions are better in South Australia than in any other state. It does not matter how you reinterpret things; that is a statement of fact and they are the circumstances prevailing in our economy—and it did not happen other than through good policy implementation by this government over seven years.

ANANGU PITJANTJATJARA LANDS

The Hon. D.C. KOTZ (Minister for Aboriginal Affairs): I seek leave to make a ministerial statement.

Leave granted.

The Hon. D.C. KOTZ: In relation to the allegations made in today's media concerning the Anangu Pitjantjatjara lands, I would like to advise the House that there is no threat to the land rights of the Aboriginal people; the state government has not cut funding to Anangu Pitjantjatjara; there has never been any suggestion by the state government that funding is conditional on the appointment of an administrator; and funding arrangements between ATSIC and the Anangu Pitjantjatjara Council is a matter for those two organisations and only those two organisations.

I understand that these points were made by the Deputy Premier during his meeting with a delegation from the Pitjantjatjara Council this morning. There has also been a suggestion that I have not spoken with the Anangu Pitjantjatjara Council and would not do so. I can advise the House that since February this year I have met with the entire council and spoken with the Chairman, Mr Owen Burton, on two occasions by phone on 6 and 7 June.

The Department of State Aboriginal Affairs (DOSAA) and ATSIC each provide operational funding to Anangu Pitjantjatjara to administer its statutory responsibilities under the Pitjantjatjara Land Rights Act 1981. In 1997-98, DOSAA and ATSIC joint funded extensive operational and financial reviews of Anangu Pitjantjatjara, at the request of and in full consultation with the Anangu Pitjantjatjara Executive.

In June 1999, the Anangu Pitjantjatjara Executive passed a resolution to appoint an administrator. After lengthy negotiations, an administrator was finally selected and endorsed by the Anangu Pitjantjatjara Executive in February 2001, and was due to commence in July 2001. On 14 June, as Minister for Aboriginal Affairs, I received a letter from Mr Owen Burton, Chairman of Anangu Pitjantjatjara, advising me of AP's wish to proceed with the appointment of an administrator. A resolution stating that an 'Anangu Pitjantjatjara General Meeting agrees to appoint an Administrator subject to satisfactory terms of reference being negotiated between our lawyers, DOSAA and ATSIC' was carried at the Anangu Pitjantjatjara general meeting held on 4 July 2001. A meeting to discuss the terms of reference for the administrator with the Department of State Aboriginal Affairs was scheduled for 12 and 13 July but was cancelled by Mr Philip Hope, an officer of the Pitjantjatjara Council. Mr Mark Ascione, a legal adviser of Pitjantjatjara Council, informed an officer of the Department of State Aboriginal Affairs on 11 July this year that the Pitjantjatjara Council intends to 'run amok' within the community on the funding issue, which is a matter between AP and ATSIC.

On 13 July this year, Mr Philip Hope from Pitjantjatjara Council wrote to the Crown Solicitor's Office seeking discussions concerning the terms of reference. Following the receipt of a letter by the Department of State Aboriginal Affairs dated 16 July 2001 from Mr Kawaki Thompson requesting that the negotiations occur quickly, contact was made with the representatives of the Anangu Pitjantjatjara on Monday 23 July to seek an immediate meeting, and an offer has been made to convene a meeting between ATSIC, the Crown Solicitor's Office, the Department of State Aboriginal Affairs and Anangu Pitjantjatjara on 25 July.

The terms of reference for this administrator include a list of specific tasks ranging from the oversight of administrative and financial controls to the provision of status reports on the implementation of recommendations emanating from the mentioned operational and financial reviews. The terms of reference also contain specific requirements to consult with Anangu Pitjantjatjara, and includes the appointment of a steering committee from Anangu Pitjantjatjara (four representatives), ATSIC (two representatives), and the Department of State Aboriginal Affairs (two representatives). The terms of reference do not contain any reference to control and development on the lands.

It is important to remember that Anangu Pitjantjatjara Council is the governing body of the Anangu Pitjantjatjara lands. All decisions relating to the lands are made by them. Pitjantjatjara Council Incorporated are the service providers and as such provide legal advice to the Anangu Pitjantjatjara Council. The state government will continue to offer assistance and facilitation when requested by the traditional owners, the elected members of the Anangu Pitjantjatjara Council. It should be clearly noted that ultimately the decision to appoint an administrator rests entirely with the Anangu Pitjantjatjara Council. It should also be clearly understood that this is a dispute between ATSIC and the Anangu Pitjantjatjara Council. To add further clarification to this issue, I seek leave to table a copy of the terms of reference for the appointment of an administrator.

Leave granted.

HIH INSURANCE COMPANIES

The Hon. R.G. KERIN (Deputy Premier): I seek leave to table a ministerial statement delivered today in the other house by the Minister for Consumer Affairs.

Leave granted.

GRIEVANCE DEBATE

The Hon. M.D. RANN (Leader of the Opposition): I rise to talk about several matters, including electricity and the Adelaide Festival of Arts funding. I think all of us now are very concerned at the spiralling nature of the electricity crisis in South Australia. Every South Australian knows that electricity privatisation has been a disaster for South Australia, and even the government is beginning slowly to admit not only that fact but also its own culpability. Today I think it is important to ask the government publicly and in this House to immediately convene meetings with the Crown Solicitor and the Solicitor-General to seek legal advice in an attempt to claw back some of the $115 million spent on the ETSA consultants now that the Treasurer has admitted that they gave wrong advice.

Following attacks by Western Mining's Huw Morgan and leading South Australian businessman, Ian Webber, the Treasurer has admitted that the South Australian government got it wrong on electricity because the ETSA consultants to whom it paid $115 million gave incorrect advice. I think it is important for the government to immediately move to see if some of the millions of taxpayers' dollars paid to these consultants can in fact be clawed back in the interests of the taxpayer. That is why I think the Solicitor-General and the Crown Solicitor must become immediately involved.

If as the Treasurer said, and if as the business community, members of this parliament and the wider community understand, the ETSA consultants, who were paid this massive amount of money, got it so wrong, then why were they paid success fees in addition to their multimillion dollar taxpayer fees; or were the Olsen government's deals with the consultants so poorly arranged that the state does not have a legal basis to retrieve any of the money, even if the advice obtained with it was wrong? We have seen this extraordinary situation where permanent heads of government departments have been paid success fees and performance bonuses and a week or so later been sacked.

We have seen the Premier claiming that Mr Huw Morgan was wrong; and the Treasurer is admitting of course at the same time that the Olsen government got it wrong and then blamed the consultants. The Treasurer on ABC Radio last week said:

> The advice that we had and the decisions that we took that we would have a competitive electricity market were not correct. It's as simple as that.

He was then asked the following question:

> So we paid $100 million for advice which, you've just said, turned out to be wrong in terms of the competitive price of electricity?

The Treasurer replied, 'Yeah.' If that is the case, then the government, I believe, is morally bound to try to reclaim some of the $115 million paid to the ETSA consultants and a start can be made on the legal viability of their success fees.

I am also concerned, and I would like to inquire of the Premier, whether he or cabinet was made aware of the decision of the Minister for the Arts to withhold the fact that the 2000 Adelaide Festival of the Arts had made a $1.15 million loss until after a funding package for the next festival in 2002 had been put in place. Also, if that was the case and the Premier did know about the conspiracy of silence for three months, why did the Premier not insist on immediate and full public disclosure of the 2000 festival result? Of course, it has been reported in the national press today that the festival board, management and the arts minister kept the million dollars-plus loss secret for three months by agreement and agreed that no announcement of the loss would be made until an appropriate funding package was in place. The festival loss comes on top of debts of more than $8 million incurred by the Adelaide Festival Centre in recent years, largely as a result of losses from backing shows such as *Showboat* and *Crazy for You* and from Madame Tussaud's Wax Works Museum.

It is of great concern that in the national media at least, after FOI information became available, there is an acknowledgment that a group of all parties, including the festival board, management and the state arts minister, actually agreed not to disclose the full extent of the losses; in fact, not to disclose the loss was kept secret for three months until they could fix up other funding. Certainly, this kind of deceit is something I would like the Premier to examine to see whether cabinet was also misinformed about what was happening at the Adelaide Festival.

The Hon. G.M. GUNN (Stuart): I am pleased to follow the leader because I have a copy of the *City Messenger* of 25 July and an article by Mr Terry Plane. It would be fair to say that Mr Plane is not noted for being an objective journalist or one who would give a reasonable account of the facts.

Mr Wright interjecting:

The Hon. G.M. GUNN: I have been a charitable fellow with Mr Plane. If one were to go back through the record to ascertain the number of even-handed articles he has written, one would not need many fingers on which to count them.

Mr Wright: Now shoot the messenger.

The Hon. G.M. GUNN: Well, the messenger does not do much for me. This particular article has a photograph of the Leader of the Opposition, obviously taken some years ago. The leader and I attended the turning of the first sod.

Mr Wright: Did you get a guernsey?.

The Hon. G.M. GUNN: I went of my own volition. The leader went on the train: I did not, but that is beside the point. The article states:

> On the train to Alice. . . I had the opportunity to sit down to dinner with Mike Rann, where I heard the extraordinary saga of how he came to be on the train.

Well, he was very pleased he was there. Then the article states:

> Yes, his tongue was in his cheek because he knew mandatory sentencing was white man's law, and a law aimed largely at blacks.

He goes on to criticise the Chief Minister for indicating his displeasure at the demonstrators. It was a hastily arranged set of circumstances because it was so wet and they had to change the venue. There we had a lady standing with a large placard protesting behind a dais. One would have thought that, if the Aboriginal people were so concerned about this, it would be an Aboriginal person holding the placard. No, it was one of the machines. There she was—blonde haired, blue eyed, white skinned holding this placard. I said to one of the local members of parliament, 'How many of these protesters do you know?' He said, 'I can't recognise any of them. I think they're rent-a-crowd.' They were bringing up rent-a-crowd to have a go at the Prime Minister.

Here we had a most significant project of interest to the nation. John Howard was the first Prime Minister to put up the money. Bob Hawke talked about, promised and then stopped it. Malcolm Fraser talked about and promised it. But John Howard was the first Prime Minister to put up the money to ensure that the project was delivered, and he

deserves full credit. He had been very sick but he got out of bed—

Mr Atkinson interjecting:

The Hon. G.M. GUNN: I will deal with you directly: you're tomorrow. Therefore, the leader had to run to Terry Plane to put the worst connotations possible on this particular article. He cannot bear to think that the Bourke government, the Olsen government and the federal government put together a package to bring about something which is of interest to the nation and for which we have waited 100 years. When we had a ceremony, with whom did Terry Plane side?

Mr Wright interjecting:

The Hon. G.M. GUNN: The Labor Party when in government had the chance to put up the money: it did not do so. We did it; we put up the money. He was complaining about the policies of Mr Bourke and how bad he was. He did nothing about tackling antisocial behaviour. This excellent document, which Mr Bourke put out, is popular with the community.

Mr Atkinson interjecting:

The Hon. G.M. GUNN: I have already given a copy to him for bedtime reading—and I recommend it to the honourable member. This particular ceremony, which took place in Alice Springs, was long overdue. It is a great pity that the leader could not get his place in the sun. He has complained about having to stand. We all had to stand; there was no big deal about it. I think what annoyed him was that everyone clapped the Prime Minister and clapped the Chief Minister on two occasions.

The other matter I want to raise today is that the Labor Party is great at handing out 'bouquets' to members on this side. In the past couple of weeks some letters have been circulating around this building. They have been put in everyone's letterbox by someone, I do not know who. They are in plain envelopes. I have received a second letter. I say to the member for Florey that, given the chance, she ought to respond and put paid to this if it is not correct. I am not saying that it is correct, but letters have been put in every letterbox. Last week I got a second letter—

Mr Atkinson: I did, too. What point are you making?

The Hon. G.M. GUNN: I am saying to the member for Florey that the allegation is serious. If it is not true, she ought to get up and refute it and put the thing to rest, once and for all. I give her the chance to do so.

Time expired.

Ms BEDFORD (Florey): A very important campaign has begun in Australia that aims to bring to workers in this country benefits that are already being enjoyed in other countries in the world. The campaign also marks the beginning of an educative process that will inform everyone of the benefits of ensuring that hours worked are not excessive or to the point that the health of any person suffers. The spin-off effect of course will be not only to give people a better standard of living: it will also reduce the burden on the health budget—that area of expenditure that remains our largest single outlay each year.

These measures could indeed be considered part of a preventive health strategy and, instead of looking at the costs of providing this initiative, we should be looking at the money saved by preventing stress, burnout and depression in the work force. I was reminded of the importance of such measures when I read in the *Advertiser* today an article by Samantha Maiden which spoke of the stresses faced by junior doctors throughout this country. The article talks about a study (which I believe was done by the AMA) on rosters which has established that significant numbers of junior doctors work 100-hour weeks. It states, 'One doctor reported working 63 hours continually.' That is over 2½ days. The results and consequences of sleep deprivation are grave and well documented. I know I would not want to be in need of urgent and intricate medical help from a doctor who was at the end of a similar shift, nor would I ever want to be in the position of asking a worker to continue on the job for so many hours.

The situation was highlighted earlier this year by a campaign by SASMOA. I understand that the AMA National President, Kerryn Phelps, has written to our health minister calling for a strategy to overcome the current rostering system. I look forward to hearing of the minister's response to that call.

The plight of junior doctors is not isolated, unfortunately. Many workers are forced to work long hours of overtime, and this is the nub of the campaign to which I initially alluded and which is being promoted by the ACTU. The test case will commence in October. It will be conducted in a way where we hope an award right will be won, we hope, by and with the inclusive involvement of union members and the wider community.

Some of the issues identified by the campaign are excessive and long hours, unpaid overtime, understaffing and ridiculous work loads, pressure and unrealistic expectations, and conditions where it is hard to do the job properly. Some of the results of work of this nature are tiredness and fatigue, lack of time with the family, increased accidents and injuries, and stress and burnout. The effects in the community are felt in many ways, importantly, amongst other things, resulting in a greater impact on family life and time spent with family. It also impacts on the number of volunteers available for other activities such as children's sport and charity work.

The case will be tested before the IRC and will seek an award right not to be required to work unreasonable hours. Guidelines or criteria for unreasonable hours will be suggested. In addition, the case will seek extra days off if unreasonable hours are worked. If granted, the decision would provide a broad right only, and therefore the case is the first step towards achieving real change. In reality, workers can achieve or bring to light this right only by getting together and agitating for real change in their situations and workplaces. The case must succeed, as there is overwhelming evidence and because so many groups in the community are supporting this cause. There is a great deal of work to be done before the case is presented, and I urge all members to consult widely and contribute to the preparatory stages. When they hear about this campaign, all workers throughout Australia should engage in the lead-up to the work that will be done by the ACTU before the case goes before the commission.

I have been a shift worker and I now work very long hours. I know first-hand of the consequences of this sort of work. I also know the impact of under employment and unemployment, and it seems to me that a perfect solution for all concerned is restoration of some sort of balance to this situation. This campaign will see the first steps taken towards that restoration—an important measure for the families of Australia and the Australian way of life.

Mr VENNING (Schubert): I rise today to speak about the township of Sedan, which is in my electorate. It is a great little town, just east of the Barossa. Last week I was most

concerned to read in the *Advertiser* the negative press about the 'demise' of Sedan. In that article comments were made that residents had to travel up to 35 kilometres to buy groceries. That comment alarmed me, knowing that Sedan has arguably the best supermarket east of Adelaide. It is one of the one of the best supermarkets I have ever been in, and it is a credit to its owners, the Grieger family from Sedan. I was shocked to the point where I was too embarrassed to ring them up to ask an obvious question.

Mr Atkinson interjecting:

Mr VENNING: Did he? I am pleased to know that; I did not know that. I was too embarrassed to make a phone call, so I called in last Friday. I was pleased to note that Griegers were open and delivering their great service and the huge range of merchandise for which they are renowned. Many years ago my late father always said that if a store sells bag needles, it is a good store, and Griegers sell bag needles. Mr Peter Grieger himself was quite concerned that the negative article could cause damage and anxiety in the small community, and undoubtedly it has.

I also called into the Sedan Hotel across the road, where business was brisk, and met the new owners, David and Michael Pearce, who took over the licence only three weeks ago. Mr David Pearce was quoted in the article as saying that he had to 'travel 35 kilometres to buy groceries'. He was most irate that he had been totally misquoted. What he actually said was, 'We have to travel 35 kilometres to buy fuel.' That is what Mr Pearce told me, and that is quite a big difference.

The story was sensationalised by the *Advertiser*. I have no reason at all to disbelieve David Pearce. We as politicians get used to sensational reporting, but when a small community such as Sedan is a victim of untrue reporting it is a real shame, particularly when it puts the town back some time because confidence is lost and because of the doubt among the long-term residents of a community such as Sedan.

Sedan does not have a very big population at all; it is only a couple of hundred, and the town is only a few kilometres north of Cambrai, another small community. So, nothing could be further from the truth. People come from far and wide to shop at the Sedan supermarket, because they know that it will have the goods in stock, and at very competitive prices. People come to Sedan to shop, not the reverse.

Regarding the ongoing real concern of there being no fuel available at Sedan, I understand that negotiations are under way for a new fuel licence, and hopefully Sedan will have fuel again in three or four weeks. I will inquire as to where we are with that licence and expedite the process.

Mr Atkinson interjecting:

Mr VENNING: The member for Spence asks what the reverse is. The reverse would be that the people of Sedan go outside to shop. But they do not: they shop at home. I often shop there, because it has a tremendous range of goods and gives excellent service.

I believe that Sedan would be a good location for a feasibility study into establishing a Services SA office or a Rural Transaction Centre. As members would be aware, this is a new initiative by both the Olsen and Howard governments where an office is established in communities where people can carry out all manner of business and transactions with all arms of government. I believe that the precise number is 1 038 at the last count. They can also provide a facility for a bank to co-locate in the same premises if community demand and support warrant it.

This newspaper article may have done us all a service. Out of adversity comes a new beginning. Sedan is a great community, and it takes a negative like this for us all to focus on the positives of Sedan. I will be back in Sedan shortly and, hopefully within a month or so, we will see full services re-established in the town, including petrol, the post office—and, yes, Griegers will be open. They really are critical to the town's success, and the smile on Peter Grieger's face says that they are not about to close down; nor will Sedan.

Mr WRIGHT (Lee): Over three years ago I made a number of speeches to this House about an application for a waste and transfer station for the corner of Old Port Road and Tapleys Hill Road at Royal Park. Subsequently that application was decided by the Development Assessment Commission, and I was fortunate enough to represent the constituents of Lee in that hearing. Lo and behold, we are now going through a very similar process, because there is a fresh application for a waste and transfer station, once again at Royal Park, in a slightly different venue; this time in Schenker Drive, about a kilometre from the site involved in the application back in 1998. It would not be unfair or unreasonable to say that the residents and businesses of Royal Park have been fighting this issue for near on a decade now, and it simply is not good enough.

The government's policy with regard to waste management is a shambles. We have a situation where the marketplace is dictating what takes place here. We have a situation where private enterprise and the Planning Act are dictating what takes place, and that simply is not good enough when it comes to local residents and businesses.

I say from the outset (as I said three years ago) that there must be a strategic response to this. It should not just be done on an ad hoc basis, as is currently the case. We should have some leadership and, when we have a change of government, the state government will provide that leadership—because, clearly, the current government will not take a strong role when it comes to waste management; it will not provide the leadership. When we have a change of government and our present shadow minister is minister for the environment, we will provide the leadership that is required. We will make sure that there is a strategic response when it comes to waste management.

I say, on behalf of all the residents of Royal Park, that for them now to have to go through this process again, after they have gone through it on a number of previous occasions, is an absolute disgrace, and this government should put up its hand and say, 'We are guilty.' We now have a very similar application for a slightly different area. This time we have an application, as I have been advised, by the same company under a different name, which wants to process some 10 000 tonnes per annum and where over 400 vehicles will go through this site. And we are talking about an area where the first buffer is a range of business houses and then, beyond that, we have residents who will be directly affected if this application is approved by the Development Assessment Commission.

It should never have reached this stage. We should never have had this situation where a company can come forward with a similar type of application—not identical, in fairness to it—in an area not far from where the previous application was, still in the same suburb of Royal Park. It is simply not good enough for the residents and the business houses to be treated this way and to be subjected to another application of this kind. Many residents have contacted me since this

became public knowledge. I have had representations from a range of businesses—and I will not be able to name them all today, in the limited time available, but I will give an example of a few: Dover Fisheries, a big exporter of abalone; C.T.P.L., which is involved in the building of kitchens; De Ville Australia Pty Ltd; the Motor Trade Association; C.E. & A Co Pty Ltd, marine and industrial engineers; and so the list goes on.

The waste management policy of this government is simply non-existent; it is a shambles. There is no leadership. As the local member, I am more than happy to go through the same process that I went through about three years and one month ago, when I led a submission to the Development Assessment Commission to knock the last application on the head. As a local community, we will have to go through the same process again. I have notified the Development Assessment Commission on two occasions that I want to appear before it to make an oral presentation to point out the many reasons why this application should be knocked on the head again, and why the residents and the business houses of Royal Park should not be subjected to an application of this nature.

Time expired.

Mr MEIER (Goyder): It is great to see the positive news keep flowing through for South Australia. Members would probably be aware that about three weeks ago now, I think, it was revealed through the latest export figures that South Australia had been the fastest growing state in the nation in the past 12 months. In fact, we recorded an increase of 29 per cent in exports to a new record of $7.81 billion. Total exports have doubled since the Liberal government took office in 1993, from some $3.89 billion to, as I just said, $7.81 billion—and it will not be long before we will hit that magical $8 billion mark. A few weeks ago it was also highlighted that there was positive news from Access Economics regarding South Australia's growth per capita. In fact, over the last five years, South Australia has had the second best GSP per capita growth of all states. On Access Economic's latest forecast, South Australia will have the highest GSP per capita growth in Australia in 2000-01.

As if that is not excellent news, we also heard the Premier this afternoon refer to more positive news, and I want to elaborate a little more on some of the things that the Premier touched on. First, he mentioned the National Australia Bank quarterly business conditions survey. According to the latest National Australia Bank quarterly business conditions survey, South Australia has recorded the strongest business conditions of all states. So, we are leading in another field also. Of particular note, South Australia also has topped the nation with respect to trading conditions, profitability, performance and, most importantly, employment growth. On all these measures, South Australia outperformed all other states, proving yet again that South Australia is continuing to build upon the economic successes of recent years. South Australia also recorded the second highest level of growth in capital expenditure, another important driver of employment growth.

I think it is fantastic that we can see, as members of parliament, that this state is outperforming the rest of Australia in so many other ways. I want to say a big thank you to the government for what has occurred over the last few years. It is a pity that the opposition is not out there hand in glove with the government also trumpeting the successes of this state. But it seems that that is not happening.

We also had some positive news from an ANZ survey in relation to the unemployment rate and ANZ job advertisements. In fact, the latest unemployment figures from the ABS show that South Australia has recorded the third lowest unemployment rate of all Australian states. So, we see now that South Australia is below Western Australia (as the Premier identified), which is on 8.1 per cent, in terms of unemployment, and we are also below Queensland in terms of unemployment. I cannot remember a time, since I have been in this parliament, when we have been in that position. We were always high up, and excuses were always put forward that we would never be able to fall into that lower unemployment growth bracket because of our geographical factors. However, we have done it, and it is now just a question of how much further we can advance. In fact, employment trend figures show that a further 800 people now have jobs—the fourth successive month that we have seen a growth in employment. Youth unemployment fell by 4.1 percentage points, from 30 per cent to 25.9 per cent in June. Another important figure shows that South Australia has the third lowest percentage of unemployed youth when compared to the number of young people overall in this state. Our youth unemployment to population ratio in June fell from 6.7 per cent to 5.6 per cent. Again, it is good news—and many of us remember the days when our youth unemployment was way up and we were the worst in Australia. Now, we have come down.

The most recent ANZ job advertisement series shows an increase of 1.4 per cent in June compared to a national fall of 1.7 per cent. So, we are going against the national trend again—when, for the whole of Australia, it is not looking quite as rosy as it should, South Australia is again leading the way. Even in relation to vacancy rates for the CBD—and, in fact, for the outer suburbs—we have not seen such vacancy rates for many years.

ELECTORAL (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

STATUTES AMENDMENT (TAXATION MEASURES) BILL

The Legislative Council agreed to the bill without any amendment.

FIRST HOME OWNER GRANT (NEW HOMES) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

EXPLOSIVES (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to clause 9, printed in erased type, which clause, being a money clause,

cannot originate in the Legislative Council but which is deemed necessary to the bill. Read a first time.

The DEPUTY SPEAKER: The second reading to be taken into consideration, minister?

The Hon. J. HALL (Minister for Tourism): On motion.

The DEPUTY SPEAKER: Is that motion seconded?

Mr ATKINSON: No.

The DEPUTY SPEAKER: There is no opportunity—

Mr ATKINSON: I would like to speak about the bill's being adjourned on motion.

The DEPUTY SPEAKER: I am advised, member for Spence, that it is a procedural matter and that there is no opportunity to speak at this stage.

COOPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Received from the Legislative Council and read a first time.

ADELAIDE CEMETERIES AUTHORITY BILL

The Legislative Council agreed to the House of Assembly's amendments.

CRIMINAL LAW (SENTENCING) (SENTENCING PROCEDURES) AMENDMENT BILL

Received from the Legislative Council and read a first time.

CRIMINAL LAW (LEGAL REPRESENTATION) BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to clause 18, printed in erased type, which clause, being a money clause, cannot originate in the Legislative Council but which is deemed necessary to the bill. Read a first time.

The DEPUTY SPEAKER: The second reading to be taken into consideration, minister?

The Hon. J. HALL (Minister of Tourism): On motion.

The DEPUTY SPEAKER: Is that motion seconded? For the question say 'Aye', against 'No'. I believe that the 'Ayes' have it. There is a point of order. The member for Spence.

Mr ATKINSON: What would happen if the motion were defeated?

The DEPUTY SPEAKER: There is no point of order.

Mr ATKINSON: There is a point of order. I am asking the chair: what would be the procedure of the House if the motion to consider the second reading of the bill on motion were defeated? Where would we be?

The DEPUTY SPEAKER: There are two opportunities that the House can consider: first, to have the bill dealt with on motion; or, secondly, to put the bill down for another day. The House has expressed its interest in the matter being dealt with on motion.

SOUTH AUSTRALIAN COOPERATIVE AND COMMUNITY HOUSING (ASSOCIATED LAND OWNERS) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

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

In committee.

(Continued from 4 July. Page 2005.)

Clause 6.

Mr HILL: I asked a question about clause 6 when we were in committee on the last occasion. The minister took my question on notice and said that he would provide an answer to me. My question is why section 26 in the amendment bill differed from section 18 in the original bill, in that the original bill referred to the discharge of oil and noxious substances from other areas. This clause refers only to oil. My question was: what happens to other substances that are discharged? Why is there not a greater penalty applying to them also?

The Hon. DEAN BROWN: Before specifically coming to clause 6, involving section 26 of the present act, I would like to give an answer to the honourable member on two issues he raised in relation to this bill, because I think they are all related. The honourable member, during the second reading debate, raised the issue of the recovery of costs of clean-up and whether or not the act adequately covered that. The answer is that section 28 of the act relates to the removal and prevention of pollution and section 29 gives the minister the power to recover the costs and expenses reasonably incurred in removing or preventing the pollution, that is, the clean-up.

These provisions have been in place since 1987. I am advised by Transport SA that these provisions are adequate and have successfully been used in the recovery of clean-up and prevention costs on a number of occasions. The honourable member also asked during the second reading debate about the legal case against Mobil for the 1999 Port Stanvac oil spill. The honourable member asked:

> I am interested to know whether the government has considered that case and whether or not it believes that further amendment should be introduced.

The legal proceedings were unexpectedly concluded when Mobil conceded and accepted responsibility at about the time the bill was introduced into another place. The magistrate's comments, when passing judgment on the case and assigning penalties, have been examined and do not suggest the need to make amendments to the legislation.

I am advised that following the Port Stanvac spill any confusion that may have existed as to the agency's responsibility for the investigation and prosecution of the case has now been resolved with a memorandum of understanding between the Environmental Protection Authority, the Department of Environment and Heritage and the Department of Transport, Urban Planning and Arts. Under the terms of the memorandum, the Environmental Protection Agency is responsible for the investigation and prosecution of those responsible for a spill into marine waters under whatever legislation is deemed appropriate. So, it is the EPA that does it under any of the pieces of legislation.

In relation to section 26 of the original act, or clause 6 of the bill before us, the member, when we last debated this matter, said:

> The amendment to section 26 applies only to oil going into waters from offshore or from onshore sources. Why does it not also cover other noxious substances which may be spilled, because the intention of the second reading speech, as I understand it, is to make

the offshore or non-ship spillages equivalent to the ship spillages, and that that part relating to the ship spillages refers to oil and other substances, yet the amendment refers only to oil?

The Protection of Marine Waters (Prevention of Pollution from Ships) Act 1987 is the legislation used to adopt the international convention for the prevention of pollution from ships, commonly referred to as MARPOL. As a consequence, the focus of the act is on pollution from ships. However, South Australia had the foresight to include in the act provisions relating to the act of discharge of oil and oily mixtures from vehicles and apparatus.

Environmental legislation is used to cover non-oil pollution from sources other than those associated with a ship. This is consistent with the practice in other jurisdictions. Queensland, New South Wales and the Northern Territory all address the issue of pollution of waters from vehicles and apparatus through environmental legislation. I am advised that the discharge from the equivalent of an apparatus of harmful or liquid substance is covered by licensing of prescribed (that is, business type) activity under the schedule to the Environment Protection Act which links with the Development Act. A discharge from a vehicle of these substances is covered therefore by the general environmental duty requirement of the Environment Protection Act.

A further amendment to those proposed to section 26 of the act to extend coverage to include discharge from a vehicle or apparatus of a liquid or harmful substance is therefore not necessary. In other words, it is covered under another act.

Mr HILL: I appreciate that explanation. It is a rather confusing way of dealing with the matter, I would suggest, but can the minister say whether the penalty for the non-oil pollution is the same as the penalty for oil pollution in those other acts?

The Hon. DEAN BROWN: I believe that the penalty is comparable.

Clause passed.

Remaining clauses (7 to 9) and title passed.

Bill read a third time and passed.

SITTINGS AND BUSINESS

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I move:

That standing orders be so far suspended as to enable the Explosives (Miscellaneous) Amendment Bill, the Cooperative Schemes (Administrative Actions) Bill and the Criminal Law (Sentencing) (Sentencing Procedures) Amendment Bill to pass through all stages without delay.

The DEPUTY SPEAKER: I have counted the House and, as there is an absolute majority of the whole number of members of the House present, I accept the motion. Is the motion seconded?

Mr LEWIS (Hammond): I do not support the proposition and believe that it is inappropriate for the House to suspend standing orders to handle matters of which there has been no prior notice or explanation given whatsoever. It is only in consequence of my arrival in this chamber today that I learn that there is to be debate on a proposition about the way in which explosives will be handled in the wider community in future, the cooperative schemes and so on. I do not wish to go into those matters because they are not, under the terms of standing orders, matters which I may canvass in this debate, other than in the general principle that is involved.

The government seeks to have standing orders suspended to deal with these matters so that it can cover up its own incompetence. It knows what the standing orders are and it knows that when bills come into this place it is a requirement of standing orders that, on the day the second reading is provided to the House, the matter is adjourned. I deliberately made that point earlier in this session (just a few weeks ago) by asking whether or not it was possible to proceed with the second reading debate—and admittedly that was in private members' time—but we now seek to have standing orders suspended just to suit the government's incompetence, just to suit the government's convenience and just to suit the laziness of some of its ministers.

It would not be half as bad if they had told us what it was that was so urgent about these matters. It would not have been half as bad if we had not had such a long break during the period from when we resumed after Christmas to when we came back just three weeks ago. The government knew that it wanted this legislation passed in this session, why was it not sitting the House? I will tell members why, because it did not have the guts to face up to question time, and so that has now affected the manner in which the House can give consideration to these measures, if these measures pass on motion, following perhaps the House's agreement to this motion to suspend standing orders to allow that to occur. However, it is bad legislative practice; it is bad precedent.

In the past, I have criticised the Labor Party for attempting to do this kind of thing, and I have even criticised the Liberal Party when I was a member of it, and I will not sit down and say nothing about it on this occasion, because I think it is bad parliament. It is bad legislative practice. It is unreasonable to expect the public, who may have an interest in any of these matters, to be denied the opportunity to talk to any one of their elected representatives, regardless of whether or not they belong to a political party. It is wrong.

The DEPUTY SPEAKER: Order! There is no opportunity for another member to speak at this stage. The question before the chair is that the motion be agreed to. For the question say aye, against no.

Mr LEWIS: No.

The DEPUTY SPEAKER: There being a dissenting voice, there must be a division.

The House divided on the motion:

AYES (42)

Armitage, M. H. (teller)	Atkinson, M. J.
Bedford, F. E.	Breuer, L. R.
Brindal, M. K.	Brokenshire, R. L.
Brown, D. C.	Buckby, M. R.
Ciccarello, V.	Clarke, R. D.
Condous, S. G.	Conlon, P. F.
De Laine, M. R.	Evans, I. F.
Foley, K. O.	Geraghty, R. K.
Gunn, G. M.	Hall, J. L.
Hamilton-Smith, M. L.	Hanna, K.
Hill, J. D.	Hurley, A. K.
Ingerson, G. A.	Kerin, R. G.
Key, S. W.	Kotz, D. C.
Koutsantonis, T.	Matthew, W. A.
Meier, E. J.	Olsen, J. W.
Penfold, E. M.	Rankine, J. M.
Rann, M. D.	Scalzi, G.
Snelling, J. J.	Stevens, L.
Thompson, M. G.	Venning, I. H.
White, P. L.	Williams, M. R.
Wotton, D. C.	Wright, M. J.

NOES (4)

Lewis, I. P. (teller)	Maywald, K. A.
McEwen, R. J.	Such, R. B.

Majority of 38 for the Ayes.

Motion thus carried.

EXPLOSIVES (MISCELLANEOUS) AMENDMENT BILL

Second reading.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): 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.

The SPEAKER: Is leave granted?

Mr LEWIS: No.

The SPEAKER: Leave is not granted.

Mr Lewis interjecting:

The SPEAKER: Order, the member for Hammond!

An honourable member interjecting:

The Hon. M.H. ARMITAGE: No, I have to make sure that Peter gets every word of it.

Mr Lewis interjecting:

The Hon. M.H. ARMITAGE: It is not my responsibility because it is not my bill. The Explosives (Miscellaneous) Amendment Bill 2001 represents the first step in implementing a new system for regulating the use of fireworks in South Australia.

The government has decided that the current system of regulation is inadequate. The present regulations control the sale, but not the use, of fireworks. The practice of imposing conditions on permits for sale is unsatisfactory under the current regime.

This bill clarifies the powers under the Explosives Act 1936 to make regulations and to issue licences and permits under these regulations. In particular, the bill specifically authorises the variation of conditions of licences and permits.

Additionally, the bill confers significantly increased powers on the police. These powers allow the police to deal with instances of fireworks misuse in an expeditious manner and should enhance compliance with the requirements of the proposed new regulations in South Australia.

The changes proposed by the government concerning the sale and use of fireworks follow a review of the existing system of fireworks regulation. The review was initiated after significant concerns evidenced by:

- many representations by MPs and citizens and community organisations;
- petitions tabled in parliament;
- reports that fireworks were involved in the starting of 32 grass fires over the New Year period;
- the RSPCA receiving over 1000 calls concerning lost animals over the New Year period;
- representations to the Minister for Workplace Relations by local councils and the Local Government Association;
- much adverse comment on radio, in newspaper articles and letters; and
- large numbers of complaints to Workplace Services.

The major changes proposed in the report include:

- a requirement that anyone buying or using fireworks be licensed in this state as a pyrotechnician;
- a requirement for pyrotechnicians to obtain authorisation prior to holding a fireworks display;
- notification of displays to the surrounding community and relevant authorities such as the police, fire services and local councils; and
- substantial increases in the penalties for breaches of fireworks regulations.

To ensure that this new regime can be implemented, it is necessary to have adequate regulation making powers in the Explosives Act 1936. This act originated in the 1930s and legal advice indicates that the provisions and language are outdated. There is doubt as to the validity of some of the regulations created under this act and the capacity to apply conditions to licences or permits issued under the regulations.

The government wants to ensure that public safety and amenity is protected by ensuring that only licensed professional operators can access and use fireworks in South Australia. It is important to note that large-scale professionally run events such as 'Skyshow' can continue to operate in South Australia under the proposed new regulatory regime.

All professional operators who want to conduct a display in South Australia will need to be licensed and demonstrate relevant competency and experience in the use of fireworks. It is proposed that conditions will be attached to the licence issued to these persons which:

- limit access only to those fireworks which they are competent to use;
- ensure that safe storage and transport procedures are applied;
- outline staff supervision responsibilities; and
- ensure that safe work practices are implemented.

Further protections are proposed by ensuring that authorisations are obtained for each display run by the professional operators and assigning conditions to these authorisations aimed at protecting public safety and reducing noise and nuisance problems. It is proposed that such conditions may include:

- separation distances from the display and the public and from the display and any building;
- notification arrangements to neighbours, emergency services and local councils;
- fire safety arrangements; and
- the size and type of products to be used.

Clearly, to introduce and be able to enforce this new regulatory environment for the use of fireworks in South Australia, it is essential that the system be underpinned by valid and modern enabling legislation. This bill represents the first stage in the process. It is proposed to introduce the new regulations as soon as practicable after parliament has approved the passage of this bill. I move:

That the explanation of the clauses be inserted in *Hansard* without my reading it.

The DEPUTY SPEAKER: Leave is sought; is leave granted?

Mr LEWIS: No.

The DEPUTY SPEAKER: Leave is not granted.

The Hon. M.H. ARMITAGE:

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 4—Interpretation

Clause 3 proposes an amendment to the interpretation provision—

Mr LEWIS: Mr Speaker, I rise on a point of order. I know it must be galling to the minister. I am not doing it to teach him a lesson; I am doing it because I want to understand

what it is about. It sounds to me like he had too much to drink for lunch because I cannot understand what he is saying—

The DEPUTY SPEAKER: Order!

Mr LEWIS: He should be speaking in English.

The DEPUTY SPEAKER: Order! What is the point of order for the member for Hammond?

Mr LEWIS: Mr Speaker, I cannot understand the language being used by the minister.

The Hon. M.H. ARMITAGE: First, sir, I totally refute any imputation that I had any alcohol at all to drink for lunch. That is an outrageous accusation but, sir, I am not choosing to react to it other than to tell the House that I refute the imputation because it is, indeed, sir, the sort of accusation that is made regularly without foundation. I will continue where I left off.

Clause 3: Amendment of section 4—Interpretation.

Clause 3 proposes an amendment to the interpretation provision of the principal act to include police officers as inspectors of explosives.

Clause 4: Amendment of section 23—Keeping of explosives.

Clause 4 is a drafting amendment.

Clause 5: Insertion of section 48A.

Clause 5 proposes inserting a new section into the principal act to provide that the minister or the director may, at any time, vary or revoke a condition of, or attach a further condition to, a licence or permit granted under the principal act or the regulations.

Clause 6: Amendment of section 50—Penalty on and removal of trespassers.

Clause 6 is a drafting amendment.

Clause 7: Substitution of section 52.

Clause 7 proposes repealing the regulation making power in the principal act and replacing it with a more general regulation making power in order to ensure the validity of regulations made under the principal act.

Clause 8: Validation.

Clause 8 provides that the regulations made under the principal act have the same force and effect in relation to acts, omissions or things occurring after the commencement of this measure as if made under the principal act as amended by this measure.

It also provides that if a licence, permit, exemption, approval, authorisation, consent or direction purportedly in force under the regulations at the commencement of this measure could, if granted or given after that commencement, have been validly granted or given the licence, permit, exemption, approval, authorisation, consent or direction—

- is (and is taken always to have been) a valid licence, permit, exemption, approval, authorisation, consent or direction; and
- is subject to any conditions purportedly in force at the commencement of this measure that could have been validly imposed after that commencement.

Clause 9: Further amendments of principal act.

Clause 9 further amends the principal act to convert divisional fines to monetary terms.

Mr LEWIS: I rise on a point of order. May I have a copy of the legislation, please? With the greatest respect, the government wants the legislation to be dealt with—

Mr Hanna: Just call the attendant and get one.

Mr LEWIS: Well, it's not on the bloody file.

The DEPUTY SPEAKER: Order! There is no point of order. A copy of the legislation is being provided to the member. I call the member for Elder.

Mr CONLON (Elder): I rise to indicate that the position of the opposition in regard to this bill will be one of support for reasons that I will outline in a moment. I also indicate that we have supported, as we always do when a reasonable argument is presented to us, the expedition of the legislation on the basis that it will be necessary to make proper regulations if they are to be made to deal with the use of fireworks prior to the bushfire season—given that the House, having sat as little as it does, is now going to flee for another eight weeks. In fact, it is necessary to deal with this bill. We are convinced by the arguments of the government, at least in that regard, and we proceed on that basis.

I might add that it is convenient also for us to try to dispense with some legislation before the traditional Legislative Council bottleneck reaches us in a couple days. If the Legislative Council is keen on avoiding reform, it might address itself to a reasonable workload from time to time and not leave us here as the result of its inability to deal with any reasonable program at the end of sessions, as usual. I thought I would get that off my chest.

The bill, as was pointed out in the exciting and clear second reading speech of the minister, has a purpose, which is not immediately evident on its face. It is, in fact, neutral. That is because the major purpose of the bill is to make more clear and less susceptible to legal challenge the regulation making power of the government in regard to the control of fireworks. Indeed, as I understand it, it goes beyond that to make clear the regulation making power in relation to the regulation of all explosives—that not having been a matter addressed, as far as I know, by regulation for many years now, and it certainly seems difficult for this side to argue that it should not occur. It may well be that the current regulations may be susceptible to challenge under this bill, and that is obviously not the sort of situation that we could support as being good law making.

The bill has a couple of ancillary or associated purposes, primarily a greater role for the police in terms of responsibilities under this act, it being added to the definition of inspector, as I understand it. That is something that has happened with the concurrence of the police force. It seems a sensible move and has the support of the opposition.

I must say that the bill exists at this time because, frankly, we on this side have said that the control and regulation of fireworks to this point has been inadequate. At this moment, I pause to give great credit to the member for Torrens and the member for Mitchell. I would say it has been largely their tireless campaign for the reform of fireworks law that has provided the impetus for this legislative initiative. The government itself wants to take credit, but, of course, it has not had a good idea in four years, so why would we expect it to have one now? As usual, it has come about as a result of the work of opposition members—and, hopefully, we will be able to do that work from our proper place on the government benches quite soon and not from the back benches on this side.

Having said that, I look forward to seeing the regulation that is to be made under the act. For the information of the member for Hammond, that will be a far more substantive matter or, at least, a matter which will have some impact rather than the neutral outcome of the passing of this bill.

I have taken on trust the legal advice of the government that the new description contained in the regulation making power is in fact appropriate to the needs for regulation making. I have not tried to second guess the government's

legal advice on that basis. I am sure that if there are any defects they will become known in the course of time.

I look forward to seeing the regulation made by the minister. I will express some personal reservations only at this stage. I must admit a fondness for fireworks. I would regret, if it were the case, that fireworks were to be so thoroughly banned that responsible people could not enjoy a little pyrotechnic display of their own from time to time. I do have concerns for those engaged in the lawful industry, and I have expressed those concerns to the minister. I have been assured that, within the parameters of the object he has, he will do what he can to ensure that businesses lawfully operating at present will have the worst of the changes mitigated, first, by some delay in the operation of the legislation, and consideration will be given to their particular needs.

As I said, I have some personal reservations about the banning of all fireworks. I have some personal reservation about the argument that the way in which to deal with illegal fireworks displays is to ban legal displays. However, I do recognise, as has been ably demonstrated by the campaigns of the member for Torrens and the member for Mitchell, the inadequacy of the current regulation and the need for a new approach. I look forward to seeing the regulation as made by the minister.

Mr McEWEN (Gordon): First, I indicate that I am somewhat disturbed that we are debating this bill at this time. It so happens that yesterday I was approached by an individual who wanted to give me a briefing in relation to the bill. I immediately checked the *Notice Paper* for today, noting that under 'Government Business' for today this bill was not listed. So I took the opportunity then to make an appointment with this individual to receive a briefing. When I came into the House at 2 o'clock I found that, although this bill has not been received from the Legislative Council, it is on the *Notice Paper* for debate this afternoon. I think that puts members at severe disadvantage and that it is not in the best interests of a good legislative process.

I was certainly prepared to support the move not to allow the suspension of standing orders to deal with the matter today, simply because I felt that I was not well able to speak to the bill this afternoon, and for very good reason: I had not prepared myself because I had taken the opportunity to check what the government intended to do today and, as at 2 o'clock this afternoon, I was not aware that it wished to progress this matter this afternoon.

I will, however, put a few comments on the record and also indicate that in committee I will be seeking from the minister answers to a number of questions. I note that the bill itself actually does not do a lot. The devil will be in the regulations—and we do not know what the regulations are—but I do acknowledge that at some future time we will have the opportunity to disallow those regulations. So, there is a mechanism whereby we can address some deficiencies, but again I do not think that is a particularly good way to legislate. I would be interested to know from the minister how other states are dealing with this matter, because in effect what we are doing here now is simply banning public access to fireworks forever. Members opposite say we are not, but if you actually read the supporting documentation from the minister, clearly we are.

The review of the legislation relating to fireworks in South Australia prepared by Workplace Services, Department for Administrative and Information Services clearly states that one of the key recommendations is that it will deny access to the general public and that under this bill the only people who will have access to fireworks are people who are licensed pyrotechnicians who have gone through licensing provisions. So, the general public will have no further access to fireworks; that is clearly what it says in the executive summary, so it is the intention of the government. That being the case, I would also like to ask the minister how he intends to deal with legitimate businesses which up to now have been making fireworks available to the general public, noting they have had to go through a process to obtain those fireworks. From my reading of the bill, he is suggesting that, as from now, those people are out of business. I would like to know how the government will deal with those people and what compensation will be made available to them, because the government has just killed off what was until now a legitimate business.

I would also be interested to hear from the minister some further facts in relation to a couple of claims he has made in his second reading speech—in particular, the fact that fireworks were involved in starting 32 grass fires over the new year period. My understanding is that some of those fires were caused by sparklers, which are not being dealt with by this. In fact, I am advised that the most serious fires were started by sparklers, which can still be purchased from Woolworths or anywhere else.

Mr Atkinson: What's your point?

Mr McEWEN: The point is that the minister has told us here that one of the reasons why he is progressing this bill today is that fireworks were involved in starting 32 fires, implying that if we are successful in passing this bill these fireworks will no longer cause fires. The fact is that some of the fires were caused by fireworks that are not captured by this bill. He also says that the RSPCA—

Mr Atkinson interjecting:

Mr McEWEN: The point I am making is that I do not believe that the second reading speech truly represents the situation that is being captured by the bill, because it is implied that there will not be any fires now if we progress this matter, while the fact is that a number of those fires resulted from a number of other causes not captured in the bill. In the same way, as the executive summary states, the RSPCA reported that they received over 1 000 calls concerning lost animals over the new year period. What do we now read into this? That these 1 000 animals were all lost because of fireworks?

An honourable member interjecting:

Mr McEWEN: Well, what are they trying to say? Again, I would be interested to hear from the minister how many of these 1 000 animals were lost as a result of the fireworks. The suggestion in the executive summary links both the fires and the lost animals directly to the fireworks which are now being banned, and quite frankly I think that is quite misleading. The RSPCA did not make that claim at all.

An honourable member interjecting:

Mr McEWEN: The RSPCA did not make the claim that the 1 000 animals were lost because of fireworks. It simply reported a fact, and it is good enough now for the minister to use that information selectively to pursue a particular line. I do not know whether that is particularly honourable.

An honourable member: Who's the Liberal candidate?

Mr Atkinson: Whoever it is is looking increasingly attractive.

Mr McEWEN: Mr Speaker, if the honourable member is claiming that I am unattractive, I appeal for your support

in relation to that matter. In effect, what we are doing here is prohibiting fireworks displays in residential back yards. Yes, we are doing so in residential back yards, but a number of people who have contacted my office want to be involved in fireworks at a private level in other than residential back yards. Scouting groups and others who gather on a Saturday night until now legitimately—

Mrs Geraghty interjecting:

Mr McEWEN: They cannot set off those fireworks themselves; they cannot even purchase them. They are very dangerous.

Members interjecting:

The SPEAKER: Order! Please allow the honourable member to proceed. Could we have some silence?

Mr McEWEN: Interestingly, I would also be interested to know from the minister how we got to this point, when the working party that was set up by the department in July 1998 actually recommended the easing of access to shop goods fireworks. We have a departmental working party report, in July 1998, actually recommending ease of access and suddenly we are going in the opposite direction. I would be interested to know what was flawed in that working party report—

Mr Atkinson interjecting:

The SPEAKER: Order, the member for Spence!

Mr McEWEN: As I have not been fully briefed on this, I am simply foreshadowing a number of questions on which I will seek answers in committee, because I do not have the answers to them. I am not suggesting one way or the another; I am simply saying that these are legitimate questions to ask as part of the legislative process. I am sure no-one will deny that I have the right at least to ask these questions.

Members interjecting:

Mr McEWEN: Thank you very much. In conclusion, I reiterate that, on my reading of this, the bill does not do a lot, we do not know what the regulations will do and we do not know what appeal mechanisms there will be under the regulations. I want to know how many legitimate businesses will now be out of business and what steps are being taken to deal with those businesses or compensate them. I certainly want to know more about the claims concerning fires and lost pets, and I will certainly be interested to hear the minister's view on the content of the regulations. I think that, if they are not available to us at the moment, as part of the debate we ought to have a clear indication of what is in the minister's mind.

Mrs GERAGHTY (Torrens): I am exceptionally confused about the comments from the member for Gordon. I can only say that obviously he has not listened to a number of people in his electorate. I have had calls from some of his constituents, one of whom had her front garden set alight through fireworks, which almost caused a fire to her house. It has taken some time to get this bill into the House, and I can only say that my constituents and I are very pleased to see it here. It certainly has not been brought into this House without a great deal of effort on the part of well over 13 000 people, who signed the petitions and rang members' offices. I know that members opposite have had calls from their constituents. Certainly people who were concerned about fireworks aired their views in the media. I know that Radio 5AA had an enormous number of calls, and we have seen letters in the *Advertiser*. People were complaining that the impact of fireworks on their quality of life and pets was enormous, and they were very concerned about the wider dangers of fire to their homes and the impact on the environment.

On the issue of fires, I would say to the member for Gordon that he could ring the Tea Tree Gully council, and I am sure that they would be more than happy to give him information about the number of fires that were caused by fireworks. There is no doubt about that, so I think he is just having a few words to say about nothing. Of course, this bill does not specifically deal with fireworks: that will come with the regulations, and we certainly look forward to that but I want to deal specifically with fireworks and the improper use of fireworks in our community. The constant explosions and continual bombardment were an absolute nightmare for people to live with. The noise created a great deal of misery for people, particularly the elderly. In some cases it cost the lives of their pets or, at best, vet bills that many people could ill afford to pay. As the member for Gordon raised that issue, he might be interested in that fact. I recall that I have raised in the House a matter concerning one particular family who have so far paid in excess of $1 000 in vet bills, and I would be happy to get for the member for Gordon the pictures of this family's pet injured by the irresponsible use of fireworks.

I also had a call from a deli owner at one of the beachside suburbs who asked me to send her copies of the petition as she wanted to put them on her counter. She was sick and tired of chasing dogs who had run away because, to use her words, 'idiots were letting off fireworks all the time,' and still worse, 'I am sick of watching dogs die after being hit by cars.' She had witnessed that on several occasions. We all know of the issue of Savvy the poodle that died because he fled in terror onto a main road into oncoming traffic. The owners of that little fellow were distraught over his death. Many other people have telephoned and complained about the difficulty they have had with their pets. Many elderly people have been terrified.

Mr Atkinson interjecting:

Mrs GERAGHTY: Indeed. Those are just some of the sad incidents that I will relate. It is not enough to say that the fireworks problem was caused simply by non-permit holders. Some people who obtained a permit and notified their neighbours also had illegal fireworks mixed among their legal batch, and quite often the legal fireworks were let off outside the permit times. I raised one particular case in the House recently.

Let me now refer to the fireworks trade in the black market. A casing of mortars, being nine cylindrical tubes joined together, measuring one and a half feet high and each cylinder four inches in diameter, which would obviously have been packed with explosives, was found discharged on the Greenwith Reserve at Tea Tree Gully. I have that casing in my office. What we want to know is how people got those sorts of illegal fireworks. Obviously that particular type of firework has a potential to be quite life-threatening.

We also know from information provided that some of those people who are now decrying the implementation of a ban on the backyard use of fireworks were actually involved in the distribution of black market fireworks and assisted in circumventing the permit regulations. They have themselves to blame for the community's requesting the government to ban fireworks. Those in the industry who were operating legally must look towards those who were irresponsible and involved in illegal fireworks distribution and who bent the rules in the first place. They are the ones who forced the community to call for a ban on backyard fireworks displays.

I refer to the June 2001 issue of the Victorian magazine *Hazard* which talks about the changes that occurred after October 2000 which restricted the use of fireworks. This issue refers to the illegal sale of fireworks and states:

> Industry sources indicate that there is some market for illegal fireworks in Victoria, especially explosive fireworks. This market is thought to be supplied by products purchased over the counter and in bulk in Adelaide and in Canberra.

This bill, when the regulations are introduced, no doubt will help another state as well. We all know about the difficulties that were created for the police. Police confusion revolved around who could and who could not use fireworks and distinguishing between which fireworks that were being let off were legal or illegal. These were problems that always confronted police officers when they responded to calls and, basically, as a result, our communities were just left to put up with the noise and the trauma that was created by irresponsible users.

I have heard the arguments that the black market trade will still continue. However, I put it to the people who make those statements that, once fireworks are no longer legally able to be used by the general public, the use of illegal fireworks will be much easier to detect and control. When the regulations (which state that fireworks must be let off by a licensed pyrotechnician) are passed, it will be clear to the police when an offence is being committed. So, confusion for police officers will be eliminated, and those regulations will give everyone—sellers, police and the community—a clear understanding of the legal use of fireworks.

Those who choose to trade in black market sales will risk greater detection, and we will eventually no longer see the sale of fireworks from the boots of cars or trucks on the roadside. There will be a substantial decrease in the risk of injury and property damage, and people will no longer have to sedate their pets or stay at home to care for animals that become terrorised during periods of high use of fireworks, particularly during our festive season.

Fireworks displays controlled by qualified pyrotechnicians will still allow us to enjoy fireworks—so, my colleague the member for Elder will still be able to enjoy his fireworks. He will not have to do the work; it will all be done for him. This will mean that—

The Hon. W.A. Matthew interjecting:

Mrs GERAGHTY: There you go—people in our community can still enjoy it, but without the problems that we have had to endure in recent times. No doubt, those problems will exist for a little while, but I have no doubt that, as time passes, people will certainly come to know where this practice is legal and where it is not legal, so the proper controls will be put in place.

As I said, the bill is well overdue, but it is finally here. As the member for Elder has said, the regulations will, hopefully, be in place before the fire season. I certainly know that our communities are delighted to see this legislation. Since its announcement they have waited to see it introduced in the House, and they are very eager to see it pass. As some people have said to me, it will be a very pleasant change to be able to spend the festive season and other celebratory occasions without the neighbourhood sounding like a war zone.

So, to those who have concerns about this bill, for whatever reasons, I say to them that the people in our communities are tired of the irresponsible use of fireworks, they are fed up with it, and they genuinely welcome this bill.

The Hon. W.A. MATTHEW (Minister for Minerals and Energy): I also support this bill, and I commend the Minister for Workplace Relations for his consultative approach in bringing this legislation before this place. I have made a significant number of representations to the minister—and, indeed, to his predecessor—in a bid to see this bill become a reality, and I am absolutely delighted to now see it before the parliament. As has been the experience of speakers, my electorate office has received a large number of complaints regarding the irresponsible use of fireworks by a group of people who seem to take peculiar delight in disturbing others with their outrageous public habits involving fireworks. This bill will ensure that those sorts of actions are swiftly brought to an end.

Mr Speaker, like you, I represent a coastal electorate (and indeed it is a privilege to do so), and this means that a large number of people come to enjoy the entertainment opportunities afforded by the coast. However, while they are there, some of them seem to delight in discharging fireworks, and this causes problems for and disturbance to residents and significant disturbance to their pets. I have received many telephone calls from distraught constituents whose dog or cat has run away and who have been unable to locate the animal, not to mention children having their sleep disturbed at 2 a.m. or 3 a.m., when an irresponsible idiot discharges fireworks in the vicinity. So, I am pleased that we have taken this step to stop such nuisance behaviour and, importantly, that we have taken this initiative as a matter of public safety.

I well remember in my younger years, when Guy Fawkes Day was celebrated widely, and fireworks were even more available than they have been over the last couple of years. I remember some of the horrendous injuries which occurred on those occasions, and this was the very reason for the tightening of the fireworks laws. We have seen that slip over the last few years, and this legislation will ensure that the laws are now tighter than they ever have been. It has been a responsible step to ensure that public safety and amenities are protected by enabling only licensed professional operators to access and use fireworks in South Australia. I know that my constituents will be delighted with this result, particularly as we approach the warmer weather of spring and summer, when this nuisance behaviour has been at a peak.

In introducing the legislation, the minister advised the House that it is the result of representations from citizens and community organisations and, as we have heard from speakers on both sides of the chamber, from many members of parliament, regardless of whether they are Labor, Liberal or Independent. Petitions have been tabled in parliament, and my constituents also have signed such petitions. It is also important to point out that fireworks were involved in starting 32 grass fires over the new year period alone.

In relation to the distress caused to animals, the RSPCA received over 1 000 calls concerning lost animals only in the new year period. That has a significant impact on the community across a range of areas, and I am quite surprised that any member of parliament would in any way, shape or form plead ignorance about this bill. Indeed, this has been one of the most publicly debated pieces of legislation over a long period of time, and it is one which has been demanded and resoundingly welcomed by the community.

There has been significant adverse comment about the regulations as they stood on radio, in the newspapers, in letters and in complaints to the Department for Workplace Services, which is responsible for the administration of the present laws. There have also been complaints to local

councils and, indeed, many representations to the Minister for Workplace Relations, who has, quite appropriately, brought this bill forward. So, the justification is there for this legislation. It has been established over a long period of time. It is demanded by the community.

The government has responsibly reacted to the democratic process in action by introducing this legislation to the parliament, and I look forward to its coming into force and ensuring that only those who are licensed pyrotechnicians can buy fireworks; that they must obtain authorisation prior to holding a fireworks display; and that they must notify such displays to the surrounding community and relevant authorities, including police, fire services and local councils. Importantly, I look forward to its deterrent effect; there are substantial increases in the penalties for breaches of fireworks regulations. In all, it is a good result for the people of South Australia.

Mr HANNA (Mitchell): I rise to support the bill, which is a great example of bipartisan support for a popular measure. The bill was, of course, introduced by a government minister, but I can honestly say that members of the Opposition initiated this reform. In particular, I know that the member for Torrens has been working on this issue for a number of years. I took an active interest in the issue after my office, in the electorate of Mitchell, received a large number of calls from people in January of this year particularly. When I began raising the issue with my local community I found that there was widespread strong feeling against the abuse of fireworks, particularly in the south-western suburbs. The effects were felt not only by residents but also their pets. A number of elderly residents had great trouble sleeping and became quite distressed at the frequency and volume of fireworks that were exploded in an irresponsible manner.

Unfortunately, this is a case where the behaviour of the few has spoilt the potential enjoyment of the many, and so we need to regulate this particular aspect of social behaviour. It is appropriate for fireworks to be exploded by licensed pyrotechnicians for public displays so that the public does not miss out on the fun of fireworks but, at the same time, we need to do what we can to clamp down on the supply of fireworks to people who drive around suburban streets chucking them out car windows, people who stuff fireworks into letterboxes to destroy them and people who use them to terrorise pets, and those are real life examples from people who have contacted my office.

I am very pleased then to support a bill that will do something for them. The bill will also ease the work of the Animal Welfare League and the RSPCA. I applaud the good work that those organisations perform and I appreciate the letters of support I have received from them on this issue. The community has not sat back to observe the debate but has taken an active part in it. The member for Torrens has already pointed out that over 13 000 petitioners have brought the issue to this parliament, so I am pleased that we are now acting on it. I should point out that the bill represents a halfway point in progress on this issue.

The bill simply establishes a framework for appropriate regulations to be brought into place. Those who wish to make progress on this issue will now be looking to the government and, in particular, the Minister for Workplace Relations to make rapid progress with appropriate regulations. They must be put in place before the Christmas season, which seems to be the worst time of the year for the kind of irresponsible behaviour to which I have referred. I applaud the government for taking up the initiative, which opposition members have raised. This is the halfway point and we look forward to the publishing of appropriate regulations so that the irresponsible use of fireworks will be curtailed.

The Hon. G.M. GUNN (Stuart): I, unlike other members, have not received any complaints about the illegal or improper use of fireworks. As a young person I had some enjoyment and pleasure in using fireworks and I thought they were a reasonable—

Mr Clarke: I bet your dog did not like it.

The Hon. G.M. GUNN: I will not go into the activities, but it was most enjoyable. I sincerely hope that this legislation will not be used as a vehicle to prevent farmers and others from using gelignite in relation to normal activities.

Mr Lewis: It can be; you have to look only—

The Hon. G.M. GUNN: I have noted that. Also, I find it interesting that the bill talks about the mixing of certain commodities. We all know that if you mix some nitrate and a bit of diesel—two commodities that are widely available in the community—and detonate them you make a very good explosion. Obviously, it is far better for people to use ordinary explosives than engage in that sort of activity. The reason I want to speak about this matter today is that a shop which sells fireworks is located in my constituency. To my knowledge that shop has not been involved in breaking the law. The proprietors legally went into business.

They have spent a lot of money and they have a lot of stock. If the parliament and the government want to change the rules, that is fine, but someone will have to compensate them. If you want to shut them down someone will have to buy the stock and someone will have to pay for any outstanding debts they have. If you do that you will not have a problem with me but you cannot, in my view, arbitrarily change the law to put people out of business who have, to this stage, acted within the law. That is very simple. The honourable member who spoke before me is a member of the legal profession and has, no doubt, argued those rights for people on a number of occasions, and I am surprised that he has not raised the issue today.

I am talking about a person who is operating a business legally and who has a permit, a licence or permission to sell these particular articles and from whom the public buys these articles. If someone has gone into debt to run this business and someone wants to change the rules halfway through the game, someone will have to pay.

Mr Hanna: Do you say the same thing about the bottom of the harbour tax scheme?

The Hon. G.M. GUNN: No, there is no comparison at all. If the honourable member thinks that is a comparison, I am surprised that that comes from a member of the legal profession. Clearly, I am talking about someone who has legitimately opened a business—which is visible from Highway One at Port Augusta—and who has on display all the permits. No complaints have been made to the local council about its operation and no complaints have come to me. I am making the point that if we change the rules and the law the proprietors are entitled to be compensated, or they are entitled to be given a permit to continue their operation as long as they do so legally.

In other arrangements there is a grandfather clause to say that those people who are involved can continue, and I would expect—at least in the short term—for that to take place. I have had discussions with the minister in this particular matter and the minister has been most understanding.

However, I want to make it clear because members will note that, under the heading 'Conditions of licences and permits', clause 48A(1) of the bill provides:

> The issuing authority may, at any time, by notice in writing given personally or by post to the holder of a licence or permit granted under this act, vary or revoke a condition of the licence or permit imposed by the issuing authority, or attach a further condition to the licence or permit.

That means that you can change the rules halfway through the game.

Mrs Geraghty interjecting:

The Hon. G.M. GUNN: That does not say that it is either right or a good thing. The honourable member would know that, in my view (and I have argued this strongly in the past), you must be very careful about handing over the authority to introduce regulations to bureaucrats behind the scenes because many times they are neither sympathetic nor understanding of the welfare of ordinary citizens and the ordinary citizen, on many occasions, has little or no ability to argue their case because if you are fighting the government you are at a great disadvantage.

I am making the point that I will be happy enough with this legislation if it does not affect those people who are lawfully engaged in the business and who have done nothing wrong. In the case that I have cited, I believe that the people have taken out a mortgage to establish themselves in this business and someone will have to pay if we put them out of business.

Mrs Geraghty: No-one is putting them out of business.

The Hon. G.M. GUNN: You want to be very careful or you will. The honourable member is saying that nothing will change.

Mrs Geraghty: You do not have much sympathy for people in small business in terms of their electricity bills.

The Hon. G.M. GUNN: What about people who have been slugged with WorkCover by your mates or the unsympathetic bureaucracy you put in place? I could go on chapter and verse. What about the people who were paying 20 per cent interest under your mate Paul Keating? If the honourable member wants to go down that track I will give her chapter and verse. Obviously, the honourable member has no sympathy. I will advise the people accordingly that the Labor Party—the architect of this legislation—has no sympathy for these people. I will be very pleased to conclude my remarks on that point and I thank the honourable member for her contribution. She is engaged in simplistic politics and not interested in the real facts of the matter.

Mr CLARKE (Ross Smith): I rise to support the second reading of the bill and, in particular, to support the comments made by the member for Torrens. I think she did such a comprehensive overview of the legislation that simply by saying, 'Ditto', I could then sit down. However, I will proceed just for a few moments. I suspect that the debate—

Ms Key interjecting:

Mr CLARKE: No, I have not said those words. I suspect that this debate also proves the old adage in politics that all politics is local because of the number of members of parliament who have developed an interest in this issue. And rightly so, because in the summer just gone, as referred to by previous speakers on this matter, a number of constituents of mine also contacted me with respect to the irresponsible use of fireworks which caused distress and injury to pets and, more particularly, to themselves, with fireworks being let off in close proximity to their homes and, indeed, right up alongside bedroom windows of elderly constituents of mine, giving them one hell of a fright.

We do need to bring in laws that protect the rights of citizens not only to the quiet enjoyment of their homes but also with respect to their pets. I might say that I was approached by people not only in my own electorate but in suburbs immediately surrounding my electorate, from Nailsworth, Broadview and Collinswood and right down over the railway line into The Parks, where people approached my office wanting to know what could be done about the irresponsible use of fireworks. I took the issue up, as did other members in this place, with the appropriate authorities, and I must say that I was somewhat surprised at the gap presently existing in the legislation which this bill seeks to plug, particularly the difficulty that arose for the police in the enforcement of the legislation as it then was.

I think it is useful to have this legislation coming into place and I also think that it restores, in a small way, the public faith in the parliament, in the sense that when they raise concerns the parliament listens and acts, and acts in a reasonably prompt fashion. On many occasions, as we in this place know only too well, when constituents raise concerns with us, they shrug their shoulders and say, 'But nothing will be done. It's all too hard. I am but one voice in the wilderness. Do you really care what an 89-year-old pensioner might feel at having a 'penny bunger' (I still refer to them as that) being dropped alongside my bedroom window at 3 a.m. Does anyone care in parliament (some people believe that those in parliament live in an ivory tower) about actually doing something to help us?'

I think it is good, not only that we have seized the initiative and are passing this legislation, but that the general public actually get to see that there is a correlation between their raising an issue of significant concern to them and this parliament acting in a timely fashion to correct it. I think that helps restore faith that people have in parliamentary democracy and in the fact that it is not a waste of time for them to raise these types of issues with their local representatives and to have them acted upon.

Importantly, as I also understand, this legislation does not impinge on the cultural festivities enjoyed by a number of people in my constituency—Chinese and Vietnamese New Year and the like. They will still be able to engage in those activities with the fireworks which we have all enjoyed—those of us who go along to those types of festivals. And, as has usually been the case, provided that it is being supervised by a proper licensed pyrotechnician, that sort of enjoyment of cultural festivities will still be able to be enjoyed with safety to those participants and those attendees at functions. However, this measure will cut down on the illegal use of fireworks and the like.

As a passing reference to the statement by the member for Gordon with respect to the use of sparklers having been the cause of some of the 32 brush fires, bush fires or whatever it was to which he referred, and that this legislation does not deal with the issue of sparklers, I join with the member for Spence in his interjection, 'Well, do you want to ban sparklers?' I do not want sparklers to be banned, but I do not want irresponsible use of them, either. However, I do not believe that if a child is enjoying his or her fifth birthday the parents should be prohibited from handing around sparklers or be subjected to getting special dispensation or approval to have such a party with sparklers.

Mrs Geraghty interjecting:

Mr CLARKE: Exactly. As the member for Torrens rightly points out, it would be the equivalent of this parliament banning the irresponsible use of, perhaps, birthday candles that could set fire to some place or other.

Mr Atkinson interjecting:

Mr CLARKE: I thank the member for Spence for his asinine corrections with respect to grammar, diction and the odd split infinitive in my contribution. With those concluding remarks—and probably the shortest speech I have made so far this year—I support the second reading.

Mr LEWIS (Hammond): May I say, sir, that, during the course of the remarks made by the minister in his second reading speech I diligently attempted to understand what he was saying but I could not do so. He was not reading coherently. Indeed, he was not even using grammatical expressions. The words he was mumbling were as if he was stumbling through and making the sounds necessary so that he could, I believe, hand the printed copy to Hansard so that it could be incorporated too late for me to be able to do anything about it or to refer to it. I wanted to understand that and I thought that, in the circumstances, given that the government had already made a deal with the opposition, anyway, without consulting any one of the four people who are not members of either the government or the opposition, he could have at least explained it in terms that are conversationally understandable instead of deliberately trying to obscure the meaning so as to antagonise us. I do not know what caused him to do that other than to scurry through it. It might have saved two minutes, if that.

In the same way, sir, I make the point on standing orders that, where once standing orders have been suspended for a particular measure to pass, it is not possible, subsequently, to move a proposition that would be directly in opposition to the proposal that standing orders be suspended; namely, it would not be possible for me then to move the adjournment of the debate; nor should it therefore be possible for a minister again to seek leave to incorporate in *Hansard* the explanation of the clauses after leave was denied when it was first asked for. So, I have a quarrel with the minister over those two points.

I set that at the head of my remarks and then move on to the substance of the legislation and point out that I regret that I could not hear what either the minister or the member for Torrens said, for different reasons in each case. I am sure the member for Torrens is motivated, quite sincerely, to correct a wrong that exists. I know that she is of that mindset and, equally, so is the member for Mitchell. However, what they sought to do is probably achievable by ways other than amending the legislation in this manner. I am equally certain that what they want to achieve can be achieved through the legislation in this form, but the set of ideas and the scope of the changes that we are now making to law is vastly greater than the set of ideas necessary to be encompassed in amending the legislation.

This bill now gives carte blanche to the bureaucrats with ministers accepting the recommendations of their CEOs (their Public Service advisers) because they do not want to take up a fight with the Public Service when it comes to drafting regulations; otherwise, they will get bad advice or they will not get the cooperation of that particular group of public servants if they are seen to have ignored what they had to say. I know that ministers do not want that bother, so they will accept the regulations as drafted by the public servants if they think they can get away with it publicly. And they do that; they have done it every one of the 21 years I have been in this place. They are wimps in that respect; they do not consider the consequences for the public. It does not matter to which party the ministers belong—whether it be Liberal or Labor. The only one I saw who had the guts to do anything differently was Martyn Evans. He was not at that time a member of the Labor Party. He was willing quietly to take on his bureaucracy and not do what they were recommending or, on occasions, even demanding that he do.

So, I say in all sincerity to the members for Torrens and Mitchell that they will achieve their goal but not necessarily in a way that the public will find entirely acceptable and certainly not in a way that I find acceptable. It could have and should have been possible to amend the Juvenile Offenders Act to catch the kind of youngsters who make a nuisance of themselves. It should have been possible to amend the Criminal Law Consolidation Act to make it possible, rather than banning access to fireworks by the public for their entertainment.

Mrs Geraghty interjecting:

Mr LEWIS: Yes; I am saying that should have been okay. We wanted to stop the undesirable behaviour. In all sincerity, I say to the member for Torrens that if she were willing to pay for the health consequences of her smoking I would not be pressing to have smoking banned. But she is not and she is not, in law, required to, and there is little likelihood of that happening. However, I think the consequences of her smoking—both for herself and for those close to her in the same space—are very detrimental. The evidence is very strong, but I do not see that she accepts the need to stop smoking. Yet she is saying that there is a need to stop people using fireworks because it harms others and it frightens dogs. It probably frightens the horses, too; I do not know.

More particularly, without my tongue in my cheek in the least, I think that the unfortunate consequence of this very wide regulative power, untrammelled in any way other than by the improbable likelihood of parliament disallowing the regulations, that we now provide for the bureaucrats through the minister is just totally untrammelled, and it is bad legislation for that reason. We have delegated the authority to make law to someone who is not elected; to someone who is not accountable; and to someone who does not give a damn except that they want their job to be as simple and uncomplicated as possible, as easy to do from nine to five as is possible. If you give them that total power, they will do it to the detriment of the people upon whom their actions will have an impact. That is the nature of the Public Service as it stands in our society these days. Consciously or subconsciously, it happens. That is why I do not like this legislation. Having looked at it quickly, I think it is bad.

The other thing I do not like about it is that there are no means whatever for us to prevent coercive power being used by any government in the future to grant permits and so on in the way in which it will then be possible to write the regulations to grant them to anyone who wants to become a pyrotechnical contractor. They will be told—and you will know this, Mr Speaker, and so will the honourable member for Hartley and a good many other members, even the officer at the table—that a Labor minister will ensure that everyone employed by that operator of the licence will be required to join a union of one kind or another, otherwise the permit will sit on the desk for a long time, so long in fact that it will not be granted. That has happened.

You only have to look at the way in which that fellow Craig Whisson behaved in the native vegetation authority. Whilst it was not about unionism, it was about getting his

own way unlawfully. I can go into that. There were other instances, prior to the election of 1979 and again prior to the election of 1993, when there was a policy in the Labor Party of preference to union members, so called. That meant you could not get a bloody job in the Public Service unless you joined the union, because they would always find someone who could take the job who would join or had already joined. Therefore, you never got a job unless you did join—

Mr Atkinson: Once and future regime.

Mr LEWIS: I do not know what the future holds, but I know what the past has done. I can only go on that track record. Mr Speaker, I know that you would not want me to be more excited than you think I am already, but I am not excited by anything the member for Peake has said or not said. However, I am annoyed at what I see before me.

I am disgusted that the Liberal Party, given its heritage, would even dream of bringing in this kind of legislation that completely delegates all responsibility, takes it away from the parliament and delegates it to public servants to write regulations, especially at this point in its term in office. I cannot imagine anything more stupid than to have done it in this fashion. There were ways of addressing the problem without handing over the powers that are being provided for in this bill, especially as it occurs under the insertion of a new section 48A. Just so the House understands what it is doing, I will read it. It provides:

> The issuing authority may at any time—
>
> at any time, just like that—
>
> by notice in writing, given personally or by post—
>
> you do not even have to go—
>
> to the holder of a licence or a permit granted under this act, vary or revoke it at any time.

At a moment's notice, bang, just like that! Or they can put a condition on the licence or permit imposed by the issuing authority, or attach a further condition to the licence or permit. Just suit yourself. You can do it instantly. It does not matter if you have $20 000 worth of fireworks lined up—finished, no go. That is your problem now, sunshine. Bad luck, you've got the money, you lost it. Your contract is up the spout because we have changed the regulations.

Do not stand up in here and say, 'No, we wouldn't do that, no, it couldn't happen. We are not that unreasonable.' The power exists in law to do it, and I have seen the Premier in this place say, 'If the law says it is possible, I will do it,' or 'If the law does not say that it is unlawful, I will do it and get away with it if I can.' You only have to look at the way he handles public works to see the truth of that statement, as well as some of the other things he has said here and outside. Members opposite know that to be so. Why would they expect anybody having this power to deal with it any differently?

Having this power enables them to use it coercively, and for parliament to provide it in this way, well, we should be ashamed of ourselves. We are not here to represent people. We are here to represent what we think will be the electoral expediency of our parties' prospects at the next election, to avoid offending interest groups rather than seeking to provide a better, more enjoyable and entertaining life for the individuals who wish to go about enjoying and entertaining themselves, subject to the rights of others.

All we have to do is say what their responsibilities are—not provide untrammelled control of what they may or may not do according to what a bureaucrat thinks. To give the power to write law to bureaucrats in this manner to my mind is wrong. It is not what I stand for; I have never stood for it; I have always raised my voice against it; and members should not expect me to stay silent on this occasion.

The other thing about which I am annoyed is that I have not had a chance to hear what the mining industry thinks about this. Not one speaker in here, not even the minister, had anything to say about what the mining industry thought, yet it does affect every miner, big and small, because it covers explosives and could be used in that way. So, if some bureaucrat wanted to have a go at a small mining operator who used explosives—and thank God I do not use them in my business—they could cause havoc to that person's business for quite a long time and probably send them to the wall by using the kinds of powers that are provided through this legislation.

In also affects pyrotechnicians in the ways I have described, and the one about which I am most concerned is closed shop membership; that is, if you want to work for a pyrotechnician you will have to belong to a union. The pyrotechnician can have his permit instantly changed: an inspector can come up to him and write out there and then on the spot, 'You are not going to put on your show tonight, sunshine, because you don't have trade union members working for you, so the show is off.' That is the way this law is written and that is why I have structured my speech in the way in which I have.

I turn to the remarks made by the member for Elder where he says—half his wit—that he takes the government on trust. Well, I have heard him stand up in here previously and say how untrustworthy the government is. Why the backflip on his part? If he thinks the government is untrustworthy, why would he not see it as inconsistent and therefore be unwilling to give trust in this instance? Clearly, there must be another agenda. I think I understand what that is and I think I have made that plain to the House. The Labor Party loves this kind of over control, delegated authority and lack of personal responsibility as elected members, where they can blame the regulations over which we cannot have any effect; they will say, 'The regulations are beyond anything I can do, really.'

It is only when the regulations are introduced that there is any slim chance of changing them, and the only way you can do that is to put a motion on the *Notice Paper* to disallow them. You cannot vary them. That is the Labor Party's excuse always and, increasingly, it is the Liberal Party's excuse when it is confronted with that awkward predicament. I do not believe that the member for Elder was being altogether sincere when he says that he is willing to take the government on trust. He made note of the fact that the regulations are far wider in their purview and power of operation than they have been in the past. Nonetheless, he says it is okay. He ought to know that, notwithstanding the fact that it might be possible to take this minister on trust, this minister will not be minister forever and whoever the next minister and the one after that will be is anyone's guess at this point in our history as citizens of South Australia.

Ministers come and go but the regulations stay forever—or the law does, it seems to me, until enough people are made so angry by the effect of that law on them that they demand that the legislators change it. Enough legislators have to feel enough anxiety about what is being said to them for the law to be changed, so a bad law usually stays there for about seven to eight years before anything is done to change it. The citizens, therefore, say, 'Well, parliament is useless. Why on earth do we need so many parliaments? They are all useless. They give their powers they say they want to the public

servants. We might as well have a President and public servants and to hell with the rest. There is no way we get any better result from it.'

I know that argument is wrong and I say to them, 'Well, at least you have someone to go to and eventually change will occur. If you do away with that institution there will not be any means of change other than to kidnap the son or daughter of the public servant involved and threaten to kill them if they don't make the change.' That is the kind of thing that happens in other countries, for God's sake. We do not want that sort of thing happening here, do we?

I say to the people who then argue that parliament is irrelevant that it is up to them to elect representatives in the parliament who will make the parliament relevant, who will insist that parliament retains the powers that it was intended to have under the Constitution which established it and not delegate them through its legislative prerogative to public servants and then blame the public servants because the regulations cannot be changed by members of parliament.

I remind the House that the minister of the moment will not be the minister for long or forever, and whoever succeeds that minister will not be there forever either. Notwithstanding that, the legislation says that the minister, whoever that may be from time to time, will do whatever he or she wishes or allow the bureaucracy to do whatever it wishes, and the minister may have other interests and another agenda and she—it will be a she in the future, I am sure; men will be stupid to take on the responsibilities as time goes by—will do whatever suits her or suits the people who are advising her. I am disappointed that it will make it virtually impossible for people as individual citizens to get permission to use fireworks. That is what will happen; that is the way it is going. Everyone will have to have a licence and it will be too expensive and too much trouble and it will take too long to do the TAFE course and put up with the inane kind of drivel you have to listen to sometimes when you go to these TAFE courses to study what you are supposed to know to get the permit or the licence. I sometimes think that the course content and the people delivering it have written it in a way which secures a job for themselves rather than provide the necessary training for the citizen to be able to fulfil the purpose of the study undertaken.

Time expired.

Mr ATKINSON (Spence): Members who criticise or oppose this bill cannot have been in the metropolitan area last summer. Each summer evening in the area in which I live—the West Croydon and Kilkenny area—there were intermittent explosions from the onset of darkness until the middle of the night. On one occasion, I was coming home from my office at 1.20 a.m. riding my bicycle—

Mr Clarke: As usual.

Mr ATKINSON: As usual—along the western end of—

An honourable member interjecting:

Mr ATKINSON: I had not been on Graham Guy's Midnight to Dawn program at that point. I was riding along the western end of Day Terrace when I saw a vehicle stationary in the car park at the southern end of the M.J. McInerney Reserve. It was somewhat odd to have a car stationary there with its lights off at that time of the morning.

Mr Clarke interjecting:

Mr ATKINSON: As I approached and was about to ride my bike through the park, the car's lights came on and fireworks were thrown from the passenger side front window of the car, and they were sufficiently loud to wake the neighbourhood, because when I arrived home—and my home is about half a mile from that location—my wife asked me if I had heard the explosions. I had because I had been up close to them. I looked carefully at the car and, as I stopped and looked at it, the car roared off into the distance but I got the—

Mr Clarke interjecting:

Mr ATKINSON: No, that's right. So I gave the registration number to the police by ringing the 11444 number on my mobile phone.

Mr Clarke: Did you get a recorded message?

Mr ATKINSON: No, on that occasion I got through. They took the registration number, but I am sorry to say there was no follow-up by the police. They did not visit the registered owner of that car. It seems to me that that is the experience of most people in Adelaide: there was no point complaining last summer about the noise of fireworks, because the problem was so widespread that it was really beyond the capacity of the police to deal with it.

Those explosions were most annoying to the residents of West Croydon and Kilkenny, and my office received many complaints about fireworks all through summer. Now that we are in the middle of an Adelaide winter, many perhaps, including the member for Hammond and the member for Gordon, have forgotten what last summer was like in metropolitan Adelaide, but fortunately the government and the opposition have not forgotten and they have taken reasonable measures.

The member for Hammond criticises the bill on the grounds that it has left matters to regulation, but if you look at the parent act you will see that it deals with fireworks by regulation. There is no change. All the criticisms that the member for Hammond has made of the minister's bill might be made of the current act. There is no substantive change on that point; the bill is not legislatively prescriptive. If the member wants the regulations lifted into the bill and has ideas about what ought to be in the bill, I invite him to move amendments at the committee stage, but I fear he will not do so.

Mr Lewis interjecting:

Mr ATKINSON: I recommend to the member for Hammond that he do what I do and ask the attendants for a Legislative Council bill file and that he dutifully read the Legislative Council *Hansard*, because that is the way to get in touch with bills that are coming to this House. As the minister whom I shadow is in another place, that is a practice that I always adopt. I therefore think the member for Hammond's and the member for Gordon's criticisms of the bill are not correct. I think there is a need for what the government is doing and, accordingly, the opposition is pleased on a bipartisan basis to support the bill.

Mr SCALZI (Hartley): I, too, wish to make a short contribution to the debate on this bill and, in so doing, commend the minister, the discussions that have taken place and the review that preceded this bill with regard to dealing with this very important issue. As the member for Spence has said, you only have to have been in the metropolitan area after New Year's Eve and the summer to realise that the problem—

Mr Conlon interjecting:

Mr SCALZI: Certainly, the member's comments are not making a contribution to this important issue. Like the member for Spence, I have had several representations to my office, and that is why I made representations to the minister that we had to do something about this very important issue.

Members interjecting:

The SPEAKER: Order!

Mr SCALZI: The member for Hammond asks why we do not punish those who are contributing to the bad behaviour. I suggest that he chase them in the dark and see how far he can go to apprehend them. As someone said, 'My freedom ends where yours begins.' In this case, my celebration can be a nightmare to some elderly person. It might be quite fun for somebody to let off explosive fireworks for a private party, but imagine you are an elderly person whose pet is disturbed by that. The reality is that you have to deal with the problem, and you have to deal with the rights and freedoms of both. This bill does that. It is a sensible way of looking at this very important issue.

There is no question that the illegal use of fireworks is a problem. I have heard fireworks going off into all hours of the night after New year's Eve. They did not stop at the celebrations. I have had people complain to my office, and the sad thing is that, when they do complain, often people get so agitated that they do not distinguish between the legitimate uses of fireworks—for example, at displays—and the private, illegal use which was causing the problem.

This bill and its regulations distinguish between the two and look at the issue in a sensible, commonsense way to ensure that people's rights to enjoy fireworks at public displays—as we all do—are not infringed upon and at the same time that we do not infringe on the rights of others and unnecessarily allow a nuisance to pets, as members have outlined previously.

I commend the minister for introducing this bill. The use of fireworks will be limited to authorised displays by licensed pyrotechnicians, and the possession of fireworks by persons other than licensed pyrotechnicians or licensed resellers will be an offence. Let us not forget that fireworks can be dangerous things to deal with. The honourable member thinks it is a right to let off fireworks when he pleases. There is no such right. If you live in a community you have to make sure that you abide by the rules of the community. You must ensure that you do not upset others when you let off your fireworks.

This does not include legitimate fireworks displays. As many members would be aware, fireworks displays are part of the tradition at many multicultural functions. This bill by no means affects those legitimate uses of fireworks; if it did, I would be one of the first to jump up and down in this place, because it would infringe upon those people's rights and traditions. If we live in a society that accepts that diversity, we have to allow for it. But, at the same time, we cannot allow the illegal use of fireworks to continue, because they are not only a nuisance but also dangerous. It is the legitimate uses of fireworks that often get the blame unnecessarily.

I therefore support this bill. I think the minister has had to deal with a very difficult problem. There has been community outrage with regard to the illegal use of fireworks, and most members have had representations made to their office, as I have. I am pleased that at last something is being done to make sure that we have clear parameters. I understand that, as the member for Stuart outlined in his contribution, there are those who have invested legitimately in business and who now, because of these changes, might be affected financially, and the government should look at that. If a legitimate business has been financially affected by changes to the regulations and is losing through no fault of its own, the matter of compensation should be looked at. However, that does not mean to say that we are not dealing with this problem as it should be dealt with. I look forward to the implementation of this bill and the regulations, because it is the right step forward. It will make it clear to the community that we will deal with the problem, whilst at the same time recognising the legitimate use of public displays that are enjoyed by the public. This bill does not affect that at all, but it acknowledges that it has been a problem in the community, and it is dealt with.

Ms CICCARELLO (Norwood): I also add my support to this bill. As for the member for Spence and other members who have spoken, this has been a huge issue in my area and, because of alfresco dining, it has been accentuated. There were many occasions this past summer when diners on The Parade were in danger because young hoons were going past and throwing fire crackers out of car windows. In fact, I have been a victim; I was hit by a fire cracker. And it was fortunate that a friend of mine was not seriously injured, because he could have been hit in the face had he not moved. Some of these young thugs also were running into restaurants at night and throwing crackers over the counters, putting staff in danger. I have sympathy for those people who have businesses that might be affected by this legislation, but it is a dangerous practice, and I think it behoves us to support this bill to ensure that we are not putting the community in danger.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank all members for their contributions to the debate on this succinct, easy to dispatch and non-controversial bill. I look forward to the legislation passing, which I am sure will fix what is a far from perfect situation at present.

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

LAW REFORM (CONTRIBUTORY NEGLIGENCE AND APPORTIONMENT OF LIABILITY) BILL

Adjourned debate on second reading.

(Continued from 4 July. Page 1985.)

Mr CONLON: Sir, I draw your attention to the state of the House.

A quorum having been formed:

Mr ATKINSON (Spence): This is a story about a piggery in New South Wales. It is about an old established Adelaide trustee company tempted by 1980s greed. It is about trusted solicitors failing to advise the newly invigorated trustee company properly in one of its new ventures, namely, a deed to govern a trading trust.

Parliament is moving to change the law of contributory negligence owing to the High Court decision in the South Australian case of Astley and Others v. Austrust Limited. Contributory negligence is the negligence of the plaintiff. If a defendant raises contributory negligence, he or she is alleging that the plaintiff was negligent in such a way that he or she contributed to the damages claimed against the defendant. The majority of the High Court in Astley v. Austrust—namely, Justices Gleeson, McHugh, Gummow and Hayne—explain contributory negligence in this way:

> A pedestrian, for example, owes no duty of care to a speeding driver to avoid being run down but is guilty of contributory negligence if he or she fails to take reasonable care to keep a proper lookout for speeding vehicles.

In the law of torts, which is mostly common law, it used to be that, if the defendant could establish contributory negligence by the plaintiff, even 5 per cent of the total causative fault, the claim was dismissed in its entirety. This is how the majority of the High Court explained it:

> At common law, contributory negligence consisted in the failure of a plaintiff to take reasonable care for the protection of his or her personal property. Proof of contributory negligence defeated the plaintiff's cause of action in negligence.

This rule was harsh on the plaintiff so, in 1951, parliament added a new section 27A to the statute on tort law, the Wrongs Act. New section 27A provided:

> Where any person suffers damage as a result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such an extent as the court thinks just and equitable, having regard to the claimant's share in the responsibility for the damage.

This section meant that, when a person sued another for damages arising from an alleged breach of duty of care, the defendant could seek to have the damages apportioned between the defendant and the plaintiff, according to their respective contribution to the damage. It was clear that this provision applied to suits under the law of torts. What was not clear was whether it also applied to suits under the law of contract.

In Astley v. Austrust, a public trustee company sued its solicitor for failing to advise the company on its potential liability to creditors of the trust and the advisability of confining liability to trust assets. Until 1990, Austrust Limited was known as Elders Trustee and Executor Company Limited, under which name it had traded since 1910. Until 1983, Elders Trustee had stuck to traditional lines of business, but from that time veteran manager David Oakeshott was moved on and replaced by a manager determined to obtain bigger returns by more aggressive investment strategies.

In 1984, Elders Trustee decided to invest in a New South Wales piggery. It sought the advice of Mr Astley's law firm and Mr Astley, as usual, handled the matter. It was established at the trial both that Elders Trustee failed to make any substantive inquiries about the commercial soundness of the venture and that Mr Astley did not advise Elders Trustee of the desirability of a clause in the trust deed to exclude liability beyond the value of the trust assets, namely, the piggery and the land on which it stood. The plaintiff sued for breach of common law duty of care, namely, the defendant's liability in the law of negligence or tort law. The plaintiff also sued on the basis of an implied contractual duty of care arising out of the contract of hire.

Once the fact of contributory negligence was found, there is no doubt that section 27A of the Wrongs Act would apply to permit the trial judge to apportion tortious damages as he or she thought fit. This the trial judge (Mr Justice Mullighan) did. The question before the High Court was whether that apportionment could occur if a breach of contractual duty were found against the defendant in addition to tortious liability as it had been at the trial. On this point the authorities on both sides were numerous and, over the years, many cases had been settled on the basis that contributory negligence did apply to breach of contractual duty, or at least that a trial judge would find some backdoor way of applying it, such as failure to mitigate damages even before the breach, remoteness of damage or causation.

In 1995 the damage to Austrust had been estimated at $1 436 837.78, which I believe was more than Austrust's stake in the piggery and the land on which it stood. In the High Court Mr Justice Callinan dissenting found that contributory negligence applied. The majority found that it did not. This was the nub of their reasoning, and I quote:

> On any fair reading of the apportionment legislation against the background of the mischief it was intended to remedy, it is clear to the point of near certainty that the legislation does not and never was intended to apply to contractual claims.

Referring to the definition of fault in section 27A, the majority states:

> A breach of contract does not come within the meaning of 'fault'.

The majority points out that contributory negligence was first used in a nuisance case in 1808 and reviewing authorities in the first half of the 19th century concluded as follows:

> No case can be found in the books where contributory negligence, as such, was ever held to be a defence to an action for breach of contract.

The majority argues that, in the first half of the 19th century, such a defence would have had to be specially pleaded in a contract case and there is no record of such a plea. Passing judgment on the disparate 20th century authorities that are decided after the passage of the section 27A equivalents, the majority concludes of the stream that supports contributory negligence for breach of contract cases, and I quote:

> In our opinion those decisions, which have applied apportionment legislation based on the Law Reform (Contributory Negligence) Act 1948 (UK) to breaches of contract are wrong and should not be followed in this country. The interpretation of the legislation adopted by those courts which have applied the legislation to contract claims is strained, to say the least.

The majority decides that the context of section 27A and its equivalents, namely, acts on tortious liability, are against the interpretation that the 27As could apply in contract. It was 1951 when the Playford government's Attorney-General, the Hon. R.J. Rudall, told the other place:

> Much dissatisfaction has been expressed with the 'all or nothing' principle of the common law.

The High Court majority, interpreting the second reading speech 50 years later, states:

> There is nothing in the second reading speech that remotely suggests that the legislation was to have any impact on contractual damages and nothing to suggest that the parliament intended it to apply, or even turned its collective mind, to the situation where a liability in tort was concurrent with the liability under contract.

It is common knowledge that the politically correct among Australia's legal fraternity tried every trick to stop Mr Justice Callinan becoming and remaining a High Court judge—the flip side of the Piddington saga 90 years before—because they regarded him as a big C conservative who would apply strict Dixonian canons of statutory interpretation; or, to put it another way, they feared he would uphold black-letter law by keeping parliaments to what they actually wrote as distinct from what the judges thought parliament had intended.

Mr Lewis: That is proper.

Mr ATKINSON: The member for Hammond says, 'That is proper.' By contrast, Mr Justice Kirby, the 'small l' liberal infuses self-styled progressive values into a permissive interpretation of the statutes and precedence in order to come up with what he thinks is a just result, whatever the black-letter law.

[Sitting suspended from 6 to 7.30 p.m.]

Mr ATKINSON: Before the dinner adjournment, I was contrasting the judicial style of Justice Callinan, who is a 'big C' conservative and interprets statutes according to a black letter canon of interpretation, with the 'small l' liberal permissive interpretation of Justice Kirby, who decides what result he wants and then comes in with the reasoning to reach it. I do not think the politically correct have yet contemplated the ultimate horror, namely, a High Court judge who interprets statutes and precedents permissively in order to find implied rights and duties based on traditional authority, obedience, family values and chastity.

The British chattering classes had a brief and unpleasant taste of this when Tom Denning was Master of the Rolls. So, what follows may come as a revelation to the politically correct. The majority in Astley and Austrust argued that the law of torts was imposed on all of us alike. By contrast, they argued that parties to a contract voluntarily assumed their duties and could not complain if the terms of the contract led to an unjust apportionment of damage. The majority said:

> Commercial people prefer the certainties of fixed rules to the vagueness of concepts such as just and equitable.

By contrast, Justice Callinan plays a bleeding heart and tries to obtain a just and equitable outcome by being permissive with the authorities and the history. Callinan dissents alone and only Mr Astley and his insurer are grateful.

The majority invited the state parliaments to pass legislation if we think the outcome is unjust. We do; and so here we are with this bill. The bill allows the parties to a contract to exclude apportionment by its terms. The bill realised that section 27A, with its new contractual operation, must be removed from the Wrongs Act. The Attorney-General has settled on a separate act. Surely, I would have thought that a home in existing legislation could have been found.

In conclusion, it is worth mentioning that the plaintiff argued that some contracts of service, such as audits and the work Mr Astley performed, had as their essence that the hireling would prevent financial disaster and no amount of negligence or fault on behalf of the hirer would reduce the hireling's liability in tort. The majority would not wear that, saying:

> There is no rule that apportionment legislation does not operate in respect of contributory negligence of a plaintiff where the defendant, in breach of its duty, has failed to protect the plaintiff from damage in respect of the very event which gave rise to the defendant's employment. A plaintiff may be guilty of contributory negligence, therefore, even if the very purpose of the duty owed by the defendant is to protect the plaintiff's property. Thus, a plaintiff who carelessly leaves valuables lying about may be guilty of contributory negligence, calling for an apportionment of loss, even if the defendant was employed to protect the plaintiff's valuables. A finding of contributory negligence turns on a factual interpretation of whether the plaintiff contributed to his or her own loss by failing to take reasonable care of his or her person or property.

The opposition, having clamoured for this bill in the parliament long before the Attorney-General introduced it, is honour bound to support it.

Mr HANNA (Mitchell): The law of contributory negligence is now a unanimously accepted feature of our legal system. Indeed, the very concept of contributory negligence as a means of doing away with the all or nothing approach of the common law was necessary in the light of many 19th century cases, where workers injured at work but not entirely careful themselves were excluded from any compensation for their injuries and thrown on the scrap heap of penury and perpetual unemployment. We have come a long way since then in recognising the necessity for contributory negligence. In some ways, it is surprising that it has taken so long for the same principle to be applied to actions for breach of contract as well.

In the last few decades, we have seen an increasing number of actions that are pleaded in both tort and contract, and that reflects the development in the labour market, I suppose, where such high demands of care and such varied duties of care are required of people who are employed or engaged as consultants under contracts.

I suppose we have not had a need to legislate in this way because no-one seriously anticipated a result as disappointing as we saw in the High Court case of Astley where the black letter of the law was applied contrary to other developments in terms of implied rights under the constitution that we have seen in the last 20 years. On this occasion, the High Court reverted back to a very strict and literal interpretation of the common law and, unfortunately, in the view of many legislators and many in the legal profession, justice was not done.

That brings us to this bill, which will remedy that situation. As it turns out, it is overdue, but it took this disappointing decision from the High Court to necessitate our deliberations on this point. In the light of that, I am happy to support the bill.

The Hon. R.G. KERIN (Deputy Premier): I thank the members for Spence and Mitchell for their contributions and support of the bill. The bill will allow courts to apportion liability between the plaintiff and the defendant on account of the plaintiff's contributory negligence in cases where the plaintiff's claim is for breach of contractual duty of care. The bill also contains an additional provision to cover cases where the cause of action arose partly before and partly after the act came into operation. I thank members for their support and wish the bill a speedy passage.

Bill read a second time.

In committee.

Clauses 1 and 2 passed.

Clause 3.

Mr LEWIS: I wanted to understand from the minister whether the definition of a claimant, while it states it is a person 'who asserts, or is entitled to assert, a right to damages from harm', includes anyone who may have been injured during the course of their work.

The Hon. R.G. KERIN: Yes.

Mr LEWIS: Do I understand from the minister's reply that it is possible for someone who is injured while they are going about their daily work, for which they are receiving reimbursement in some form or other, whether called wages or salary, or whatever, would be able to pursue those damages under this law as we propose to change it rather than the law as it exists or is presently established in workers' compensation?

The Hon. R.G. KERIN: This will not change the workers' compensation laws, so the answer is no.

Mr LEWIS: That was not the question.

The ACTING CHAIRMAN (Mr Hamilton-Smith): Does the member for Hammond have a third question?

Mr LEWIS: I only get three questions and not having the matter to which I drew attention in my inquiry addressed by the minister I am denied the opportunity of pursuing it to the third position, that is, to discover if a person going about their work can claim damages as a claimant under the provisions of this law rather than workers' compensation. I will go on

from that and ask: is it possible for a claimant going about their work as a worker to claim not only under workers' compensation but also under the law to which this bill addresses itself? This is not all the law that would be relevant in that context.

The Hon. R.G. KERIN: There are some workers who still have a right to bring a claim for common law damages and they would be affected by this law.

Clause passed.

Clause 4.

Mr LEWIS: My query arises out of clause 4(1)(c) which provides:

> This act applies to liabilities of the following kinds. . . a liability in damages that arises under statute.

I presume that does include statutes such as workers' compensation legislation.

The Hon. R.G. KERIN: The answer is no. Subclause (1)(c) refers to statutes or acts such as the Trade Practices Act and the Fair Trading Act.

Mr LEWIS: Could I ask the minister to repeat that? I did not hear. I heard him say no, which I presume meant that it does not prevent actions being taken under the provisions of this body of law even if actions have been taken under workers' compensation.

The Hon. R.G. KERIN: The answer is no in that the types of things covered under subclause (1)(c) are acts such as the Trade Practices Act and the Fair Trading Act. The workers' compensation act does not impose a duty of care.

Mr LEWIS: I take it that the application does or does not apply to people who have claims under workers' compensation? Does it apply? Can they pursue claims for damages under the provisions of this law; or does it not apply and they cannot pursue damages under the provisions of this body of law?

The Hon. R.G. KERIN: It would apply to common law claims but it does not apply to claims under the workers' compensation act.

Mr LEWIS: Finally, can a worker decide not to pursue damages under workers' compensation but to set that aside and settle his entitlements for costs of treatment, and so on, under workers' compensation and then pursue damages, if he believes he is so entitled as a claimant, under the provisions of this legislation?

The Hon. R.G. KERIN: Workers who were injured after September 1987 cannot bring a claim for damages at common law.

Clause passed.

Clause 5.

Mr LEWIS: To get to the bottom of this I will have to ask the minister a question under subclause (2) along the same lines as I was inquiring earlier. Can a worker simply not pursue any claim under workers' compensation but choose to pursue it under the provisions of this body of law or the body of law of which this is a part?

The Hon. R.G. KERIN: This act does not give the worker any rights in addition to those existing under present law.

Mr LEWIS: The question was whether, if they did not pursue under workers' compensation law any claim against their employer or any other person who might have in some way or other contributed to the injuries and damages they suffered, they would be able to pursue it under the provisions of this bill.

The Hon. R.G. KERIN: Only if their injury occurred before the date I mentioned, which was September 1987.

Mr LEWIS: That is the nub of it, I guess. What has happened is that we now have a monster in the form of the workers' compensation legislation. It is particularly a monster because of the way in which it is chosen to be interpreted. It is presently being interpreted unlawfully, and the consequences for the people who are injured at work—suffering exactly the same injury as they might otherwise suffer whilst not at work (where there is negligence on the part of the employer equal to the negligence of another party contributing to the injuries and damages, and similar in nature to the negligence of another party, not an employer, and where an injury did not occur at work)—are that, under workers' compensation, people are simply beggared. The way the law is being administered unlawfully at present, by discounting the value of the claims under the terms of the schedule rather than under the terms of what was determined in the act, is that they are simply way out of whack and out of kilter with those people who can pursue damages through this body of law.

I am saying that, because we pretend here that we are doing a great service to the community outside by clarifying the law and therefore making more certain what the consequences are if you are negligent in some way or another and someone suffers damage as a consequence. It is not just a physical injury I am talking about here: it might be negligence in some other manner and a third party suffers damages. If they result from an injury identical to the kind of injury that would be suffered, say, at work, the damages under this body of law are enormously greater—manyfold greater—than people will be offered and be able to settle under the workers' compensation legislation. That is crook. As legislators we are not really addressing—and seriously, honestly and honourably addressing—the worry abroad in the wider community about damages and injuries which people sustain. In fact, if what the minister said in his answers is fact—if that is so—then we are making the disparity between folk who are injured at work and those who are not far greater.

That is not fair or just. Why should somebody who breaks their back or who suffers an enormously damaging psychiatric injury whilst not at work be paid millions whilst the same injury sustained in the same way whilst at work results in $10 000 to $20 000 or, at the most, something of the order of $180 000 to $200 000 being paid, even though the person so injured—so damaged—will be unable to work again? I therefore believe that we are not doing our duty. Under the provisions of clause 5 and other elements of the bill, what the minister had said in the second reading speech and what the government has said in its press releases on this matter are simply rhetorical, address only a minuscule part of the problem and create an even greater disparity between the two sets of circumstances to which I have drawn attention. I do that now because I was unable to do it in the course of the second reading. Whilst the member for Mitchell was speaking I had expected he might have spoken a little longer and I missed the call. I am very disturbed by the way in which time limits are different under workers' compensation from those in these provisions—and I will come to that, if I must, in the next clause, clause 6.

The manner in which the quantum of damages is determined under this legislation is very different from the way in which it is determined in relation to workers' compensation. In any case, under the workers' compensation legislation, what is determined as being the damages in the statute is

ignored, and the tribunal and its staff have been instructed to use the schedule and to discount the amount in the schedule by a factor and a formula that are being used illegally. It is not there in the law. I now have several cases of people who have been injured, not just physically but in other ways, in consequence of their work and who have been very shabbily treated by those who work in workers' compensation.

It is understandable that the government wants to minimise its costs, but the costs of workers' compensation to business ought not to be reduced at the expense of the health and welfare of the injured people at work. If the costs blow out in consequence of crook applications that cannot be sieved out in the process of examination, that is another matter, but it ought not to mean that those who are genuinely interested suffer such disparate, different outcomes just because the injury happened at work as compared with those who are injured in other ways or in places other than at work.

The Hon. R.G. KERIN: If the member believes that all workers should be able to sue for damages instead of, or in addition to, receiving workers' compensation, the Workers Rehabilitation and Compensation Act would be the one that would have to be amended. This bill will not reduce workers' statutory entitlements to workers' compensation.

Clause passed.

Clause 6 passed.

Clause 7.

Mr LEWIS: I now seek to determine whether, if an injury occurred in the first instance while someone was at work (and I am not necessarily restricting this to physical injury), and subsequently it was exacerbated by something that occurred not at work, does this provision, or indeed the whole bill, preclude the possibility of the injured party claiming damages under this legislation for that portion of the injury, or complication, and impact of the greater extent of the injury that did not occur at work?

The Hon. R.G. KERIN: The fundamental answer to that is no. The person would need to sue for the non-work injury.

Clause passed.

Remaining clauses (8 and 9) and title passed.

Bill read a third time and passed.

CO-OPERATIVE SCHEMES (ADMINISTRATIVE ACTIONS) BILL

Second reading.

The Hon. R.G. KERIN (Deputy Premier): 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.

The SPEAKER: Is leave granted?

Mr Lewis: No.

The SPEAKER: Leave is not granted.

The Hon. R.G. KERIN: This bill is part of a legislative response to the decision of the High Court in The Queen v. Hughes (2000) 171 ALR 155 and other related matters. The decision of the High Court in Hughes has cast doubt on the ability of Commonwealth authorities and officers to exercise powers and perform functions under State laws in relation to several intergovernmental legislative schemes. In Hughes, the High Court indicated that, where a state gave a commonwealth authority or officer a power to undertake a function under state law together with a duty to exercise the function, there must be a clear nexus between the exercise of the function and one or more of the legislative heads of power of the commonwealth parliament set out in the commonwealth constitution. Hughes also highlighted the need for the commonwealth parliament to authorise the conferral of duties, powers of functions by a state on commonwealth authorities or officers.

The object of this bill is to deal with doubts cast by the decision in Hughes on the ability of commonwealth authorities or officers to exercise powers and perform functions under state laws in relation to the following intergovernmental legislative schemes:

(a) the cooperative scheme for agricultural and veterinary chemicals; or

(b) the cooperative scheme for the National Crime Authority; or

(c) any other cooperative scheme to which the proposed act is applied by proclamation.

This bill ensures that functions or powers are not imposed on Commonwealth authorities and officers in connection with administrative actions under the schemes if their imposition would exceed the legislative powers of the state, and validates any such previous invalid administrative action.

The SPEAKER: Does the minister wish to insert the clauses?

The Hon. R.G. KERIN: Yes, sir. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

The SPEAKER: Is leave granted?

Mr Lewis: No.

The SPEAKER: Leave is not granted.

The Hon. R.G. KERIN: The explanation of the clauses is as follows:

Clause 1: Short title.

Clause 2: Commencement.

These clauses are formal.

Clause 3: Definitions.

This clause defines certain words and expressions used in the proposed act. The expression invalid administrative action is defined as an administrative action taken by a commonwealth authority or officer pursuant to a function or power conferred under a cooperative scheme established by a relevant state act to which the proposed act applies, and that is invalid because its conferral on the commonwealth authority or officer is not supported by a head of power in the commonwealth constitution.

Clause 4: Co-operative schemes to which this act applies—relevant state acts.

This clause defines the relevant state acts to which the proposed act applies, namely, the Agricultural and Veterinary Chemicals (South Australia) Act 1994, the National Crime Authority (State Provisions) Act and any other state act declared by proclamation of the Governor. The clause enables the relevant commencement time for the validation under the proposed act to be declared by proclamation.

Clause 5: Administrative functions and powers conferred on commonwealth authorities and officers.

This clause ensures that a relevant state act is construed as not conferring a duty on a commonwealth authority or officer to perform a function or exercise a power if the conferral of the duty would be beyond the legislative power of the parliament of the state. In the case of the co-operative scheme for agricultural and veterinary chemicals, the clause complements the commonwealth Agricultural and Veterinary Chemicals Legislation Amendment Bill 2001 (which seeks to authorise the conferral of duties on commonwealth

authorities and officers by state law to the fullest extent that is constitutionally possible).

Clause 6: Invalid administrative actions to which part applies.

This clause provides that the proposed part applies to previous invalid administrative action, namely, any such action taken or purportedly taken under a relevant state act before the commencement time in relation to that act (the relevant commencement time).

Clause 7: Operation of part.

This clause deals with the operation of the proposed part. Clause 7(1) provides that the proposed part extends to affect rights and liabilities that are or have been the subject of legal proceedings. Clause 7(2) provides that the proposed part does not affect rights and liabilities arising between parties to legal proceedings heard and finally determined before the relevant commencement time to the extent to which they arise from, or are affected by, an invalid administrative action.

Clause 8: legal effect of invalid administrative actions.

This clause provides that every invalid administrative action to which the proposed part applies has (and is deemed always to have had) the same force and effect as it would have had if it had been taken by a duly authorised state authority or officer of the state. The clause does not in terms validate administrative actions taken by commonwealth authorities and officers, but rather attaches to the actions retrospectively the same force and effect as would have ensued had the actions been taken by state authorities and officers (a similar distinction was drawn in The Queen v. Humby, ex parte Rooney (1973) 129 CLR 231).

Clause 9: Rights and liabilities declared in certain cases.

This clause complements clause 8 and does not affect the generality of clause 8. The clause declares that the rights and liabilities of all persons are (and always have been) for all purposes the same as if every invalid administrative action to which the proposed part applies had been taken by a duly authorised state authority or officer of the state.

Clause 10: This part to apply to administrative actions as purportedly in force from time to time.

This clause ensures that the proposed part does not reinstate administrative actions that, since the action was taken, have been affected by another action or process. For example, if a decision has been altered on review, the proposed part does not reinstate the decision in its original form. The proposed part applies to the decision as it is affected by later actions from time to time.

Clause 11: Act binds Crown.

This clause provides that the proposed act binds the Crown.

Clause 12: Corresponding authorities or officers.

This clause provides that it is immaterial for the purposes of the proposed act that a commonwealth authority or officer does not have a counterpart in the state, or that the powers and functions of state authorities or officers do not correspond to the powers and functions of commonwealth authorities or officers.

Clause 13: Act not to give rise to liability against the state.

This clause provides that the proposed act does not give rise to any liability against the state.

Clause 14: Regulations.

This clause empowers the making of regulations for the purposes of the proposed act.

Mr ATKINSON (Spence): The bill tries to rescue state-commonwealth cross-vesting arrangements whereby the public servants of one government could act with the authority of the other. These schemes were put in doubt last year by the High Court in R v. Hughes. That case was a challenge to the authority of the commonwealth Director of Public Prosecutions to prosecute breaches of the Corporations Law. Section 45 of the Corporations Law stated that an offence against a provision of the state act is to be deemed an offence against the equivalent commonwealth provision. Thus the commonwealth DPP prosecutes for breach of the state act (in the case of Hughes, the Western Australian act). The prosecution was upheld on the ground that the transactions the subject of the prosecution were partly overseas and, therefore, within the 'trade and commerce with other countries' head of commonwealth power. Although the prosecution was upheld, the reasoning of the court cast doubt on the validity of parts of the Corporations Law thought to be resting on commonwealth constitutional authority.

This doubt spread to cooperative schemes other than the Corporations Law. The Attorney-General puts it this way:

> The court indicated that, where a State gave a Commonwealth authority or officer a power to undertake a function under State law, together with a duty to exercise that function, there must be a clear nexus between the exercise of the function and one or more of the legislative heads of power of the Commonwealth Parliament set out in the Commonwealth Constitution.

The bill before us tries to rescue the agricultural and veterinary chemical scheme (AGVET scheme) and the National Crime Authority scheme. All states are enacting similar legislation to validate potentially invalid actions of commonwealth officers in the past. The bill deems actions or decisions of commonwealth authorities or officers already taken under the scheme to have the same force and effect under state law as they would have had had they been made or done by an authorised state body or officer under state law. The bill allows the state government to proclaim the legislation as applicable to other laws. The opposition supports the bill.

An honourable member interjecting:

Mr LEWIS (Hammond): No. This is bloody retrospective legislation; it is as simple as that. What they want to do is make legal what was illegal yesterday. They want to screw the poor sods who thought the law was different from the way the bureaucrats wanted it to be. By bureaucrats I mean policeman of one kind or another, or regulators—call them what you like. The end result is that we do not know what citizens may have done, or what they were coerced into doing at the time it was unlawful. It would be a good idea if the High Court were to stick to this kind of decision making where it interprets the law literally—the black law, as I think the member for Spence—

An honourable member interjecting:

Mr LEWIS: The black letter of the law, as the member for Spence has described it in previous remarks made today on another matter. That is what the courts are there to do. They are not there to legislate. They are not there to presume that parliament is stupid. They are not there to determine what parliament might have decided and written into the statute books if parliament were like minded to themselves. They have never participated in the electoral process. They have never known the discipline which that imposes on a person who seeks to be elected to the parliament and upon being elected seeks to exercise their responsibilities delegated to them by the electors in the electorate. They have never known, then, how to measure the rate of change or the direction of change in that innate way. They do not under-

stand the benefits to society of having a legislative chamber make those changes rather than a secluded unaccountable small group of individuals who may be brilliant in every respect academically and brilliant in every respect in understanding what they think ought to be so but that does not mean that it should be so, because they are not accountable.

Over the history of the development of the Judaeo-Christian law the derivative which we have of it from the British law in this country, the envy of so many other societies, has produced the institutional mechanism by which law is made. Mr Speaker, as I am sure you are aware, it has been found throughout our history that the judges of what is the law are not the appropriate people to make the law. Having said that—and none of them asked me to say it, so it is a gratuitous remark on my part—I then put that into the equation of what parliament has or has not done and the way in which a citizen should be entitled to believe that the law as they understand it is the law which must govern their action in the way in which they do things day to day, the way in which they relate to one another or their other corporate instrumentalities to the surroundings in which they live, be they other people or physical objects or the wider ecosystems of which they are also a part.

It is not fair to retrospectively change the law thereby enabling bureaucrats to say, 'Aha! Got you now!' when yesterday they were not unlawful steps, actions or decisions taken by the citizen at the time. Let me illustrate the point I am making by referring explicitly to that proposition by drawing attention to clause 9—'The rights and liabilities declared in certain cases.' I guess you would have to start at clause 8 and it goes on into clause 10; maybe that is the right place to start. Clause 10(1) provides:

> The purpose of this section is to ensure that this part operates to give to an invalid administrative action that has subsequently been affected by another action or process no greater effect than it would have had if the administrative action, or any other relevant administrative action, had not been invalid on constitutional grounds (arising from the circumstances referred to in paragraphs (a) and (b) of the definition of 'invalid administrative action' act in section 3).

If one looks at clause 3 one sees that 'invalid administrative action' means:

> . . . an administrative action of a commonwealth authority—

as the member for Spence pointed out—

> or an officer of the commonwealth taken, or purportedly taken—
>
> (a) pursuant to a function or power conferred, or purportedly conferred, by or under a relevant state act (the relevant function or power); and
>
> (b) in circumstances where the relevant function or power could not have been conferred on the authority or officer by a law of the commonwealth.

That is saying that what they decided they wanted to do yesterday, and did as commonwealth and state public servants of one kind or another which was invalid, is now going to be made valid. Well, I cannot cop that. I do not see why we should ignore the principle that we have always understood was sound, that is, that retrospective legislation is wrong. What someone did yesterday, if it was lawful to do it, ought not to be made unlawful by changes made to the law today or tomorrow. No-one, if that is the way we set out to govern a society, I state again with emphasis, will be safe. If we can do it for one piece of legislation then, God knows, where do we draw the line? I do not know, and I am sure that no other citizen will know.

I want now to make some further remarks—as I did earlier in the day—about dealing with legislation on the run in this manner. Just because this bill has gone through another place and the debate is there does not necessarily mean that it will be in the best interests of the citizens of South Australia. It has not been on the *Notice Paper* in this House. I do not take my riding instructions from the other House: I take my riding instructions from the people I represent in Hammond and the associated interested citizens and organisations whose activities will have a bearing on the welfare, benefits or disbenefits that will affect the people of Hammond as a consequence of changing or not changing the law.

That is my brief and that is what the constitution says about me as a person with the delegated authority to be here. They are not talking about Peter Lewis: they are talking about someone from among their ranks to whom they delegate their authority to make law on their behalf and to question government about the way its decisions are affecting them.

Mr Atkinson: Should the honourable member not refer to himself by his electorate?

Mr LEWIS: No. If the honourable member looks in Erskine May he will see that I am not compelled to because I am not a person here, though I happen to be an individual, and I may refer to myself by whatever term I choose. In making these remarks, then, I am saying that it is not reasonable for us to ignore the standing orders which we have adopted from other parliaments and which we have built up over more than a century. Indeed, it is close now to a century and a half of parliamentary practice, and we are just wiping those standing orders aside so that we can rush these bills through in the last week of this session of the parliament. This is one of them.

It is the government's wish to have the legislation before it rises on Thursday and it does not give us, as ordinary members in this place, the opportunity to examine properly such legislation. This legislation affects the kinds of people I represent because they are involved in primary industry as much as anyone can be in any part of this state. It is a very diverse kind of primary industry, involving the use of so many agricultural and veterinary chemicals. Cooperatives, as we have them, are to be found in Hammond, even if they are not to be found in Peake or Spence.

I know that the minister is a man with previous experience in this industry and I bet, sir, that if he were still in that industry today he would be disturbed by the decision of a parliament simply to set aside standing orders and ram through a piece of legislation which the majority of members in this place, I am sure, do not understand, merely because it is convenient for the government to do it in this manner when the government knew ruddy well that it could have sat the House earlier and longer during this session to obtain this legislation. We have never done it like this before and I wonder how many more bills of this kind we will get this week.

It is silly of us to do it because it brings us into further contempt from the people whom we represent. That is not just contempt for each of us as individuals but, more particularly, it is a contempt for the institution to which we belong: that we, as the individual members of it, choose to abuse the heritage given to us by past experience and the other parliaments from which we have derived.

Mr Atkinson interjecting:

Mr LEWIS: In this case, obviously, there were citizens and corporate interests—not so very big corporate interests

at that (they were cooperatives)—who believed that it was unlawful to be so treated.

Mr Atkinson: They might be wrong and they might not be.

Mr LEWIS: They thought they were being unlawfully treated.

Mr Atkinson: You don't know that until it's decided.

Mr LEWIS: This bill makes the actions that the High Court found to be unlawful retrospectively lawful.

Mr Atkinson: It might.

Mr LEWIS: It does. That is what the minister hopes it does: that is what he said in his second reading explanation, and that is what I recall the member for Spence saying at the outset of his remarks.

Mr Atkinson: I am sure he said it with great conviction.

Mr LEWIS: Not as great a conviction as the honourable member's, although I think that the honourable member's was a detached conviction in that he was frank about the fact that it was fixing something which was discovered as being wrong and which needed, therefore, in the honourable member's opinion, to be fixed. I do not know whom this will adversely affect. Administrative actions may have been taken against the cooperative in my electorate about which I have had no opportunity to consult, because we have suspended standing orders today to ram through this legislation.

Mr Atkinson: Quite true.

Mr LEWIS: That is what I am really cross about. It is what some people over a beer would say that they are PO'd about. That is why I therefore took the trouble to place on the record—and for the benefit of other members—the seriousness of the precedent we set not just by passing this legislation and making retrospectively lawful acts taken yesterday by these administrative officers that were unlawful: we have suspended standing orders here to enable us to do it and prevent me from being able to do my job in representing the people in Hammond.

If the member for Spence wants to jump into bed with the government on that deal, I say that party expediency of the ALP and the Liberal Party comes ahead of the public interest and the public good. I thought that the ALP in this instance, especially the member for Spence, would have agreed with the contrary view—the one that I am expressing—that it is not good enough for the government to patch up its mess by suspending standing orders and to say, 'Oh, stuff it, it doesn't really matter.'

The Hon. R.G. KERIN (Deputy Premier): In respect of many of the comments made by the member for Hammond, I point out that the honourable member refers to cooperatives in his area and the agricultural and veterinary chemicals but these are not cooperatives as in businesses: this bill refers to the uniform nature of the way the states work together with respect to such organisations as the NRA and the National Crime Authority.

So, we are actually talking about a different thing. This is strictly not retrospective validation; the bill requires the commonwealth authorities officers' actions to be regarded in the same light as with their corresponding state authorities to overcome unforeseen problems with these uniform schemes across the states. If the actions would have been invalid if taken by state bodies, the activities will still be invalid. It is about uniformity. I thank members for their contributions and once again wish the bill a speedy passage.

Bill read a second time and taken through committee without amendment.

The Hon. R.G. KERIN (Deputy Premier): I move:

That this bill be now read a third time.

Mr ATKINSON (Spence): I think it is appropriate that I respond to some of the remarks made by the member for Hammond, who is critical of the opposition for cooperating with the government in moving through the House of Assembly bills that have only just arrived here from another place. Because this is the last sitting week of parliament for, I think, eight weeks, the opposition has cooperated to expedite government business by responding immediately to a minister's second reading explanation which, notionally, we have only just heard. So, one might think that the opposition are speed readers to be able to respond to such bills, but, of course, the truth of the matter is that I keep in my office a Legislative Council bill file; I read the *Hansard* of the other place; and I try to keep abreast of bills moving through the other place.

I understand that the member for Hammond is a stickler for parliamentary propriety. On principle, he is quite right that these bills ought to be adjourned after the relevant minister's second reading explanation and considered in a subsequent week. But these are bills the passage of which I am well aware; the opposition is across these bills; the parliamentary Labor Party has considered the bills and reached positions on them; and, in order to help the government, given that we are going away for eight weeks, the opposition is cooperating in passing these bills. Although it is somewhat irregular, and I admit the member for Hammond's point, I do not think there is a great deal of harm in our doing it.

Mr LEWIS (Hammond): With the third reading straight out, I, too, will speak about the way in which the bill comes out of committee, because it did not go into committee. The misunderstanding that I had of the intended meaning of 'cooperatives' arises from the very fact that I cannot afford the time to read everything that goes on in the Legislative Council, given that it changes from the time that it arrives there to the time that it passes there—and there is no bloody point until they have actually passed it. We only got the message here earlier today; it is not on the *Notice Paper*; and I am not told that it is going to happen. We ought not to see parliament as something for the convenience of the party organisations because that will affect our ability to legislate on behalf of people.

I suppose one of the reasons I am standing here as an Independent is that I believe that, indeed, parties exercise far greater power that is never intended to be exercised in that manner in the process that is involved. I am not disparaging the member for Spence but he needs—as I think he does—to remember that he is here representing not the Labor Party but his constituents in Spence.

Mr Atkinson: That is quite true. How do you think I would go as an Independent?

Mr LEWIS: Probably better than you think you might.

Mr Atkinson interjecting:

Mr LEWIS: Maybe so.

Mr Atkinson interjecting:

Mr LEWIS: In good humour, I accept what the member implies, but it does not alter my view of the situation. The minister and the government are expecting me to agree to accept legislation and pass it on the same day without the chance to read and understand it and without their having told me that it was their intention to do so until I sit down in here

at question time and see these things, and I cannot find numbers for them. I do not know what that means or what they address. Hence, my concern and reservations, as expressed, about not only the legislation retrospectively fixing (and I use that word advisedly) but making lawful acts that were unlawful acts by the administrative officers acts so that they can avoid the embarrassment of being told that what they did was wrong, and doing it in such a way as we have done it and which denies me the chance to go through and understand it and make more constructive comment upon it than perhaps I have already.

Mr HANNA (Mitchell): I join with the member for Spence in rejecting the assertions of the member for Hammond that there is anything unparliamentary or wrong about the cooperation between the Labor Party and the Liberal Party on the passage of legislation this evening. It is absolutely correct that all members have the opportunity to inspect the *Notice Paper* for the other place and, in respect of these Attorney-General's bills, read the second reading contributions that have been given before today. If the member for Hammond has not done that, he really has to look to his own research, especially in the final week of the session.

Indeed, it is not that the public would think that some party machination is letting them down when Labor and Liberal agree on the passage of legislation, as we have done tonight. On the contrary, they applaud us when we cooperate rather than bicker—as they see on the TV news which shows question time. In fact, the member for Hammond is quite wrong in that. If the public were crowding out the gallery, they would be condemning the member for Hammond—and not the rest of us—for holding up proceedings rather than getting on with things in a sensible and cooperative approach.

The Hon. R.G. KERIN (Deputy Premier): I would like to point out that a couple of times today the assertion has been made that there was no notification that this bill would be dealt with today. I do understand that the member for Hammond was away until a day or two ago and that he has had a fair bit to do since then.

Mr Lewis: Representing the parliament.

The Hon. R.G. KERIN: That is true. I would just like to defend my staff member who sends out the program, because I have checked and the two members who have complained about not knowing about the program and what was to be debated were emailed on Friday. I understand the member for Hammond's position, but it is not the fault of the person who sends out the program. I have checked, and they did as they were supposed to, and emails were sent to the two members who complained about that today. I cannot ask for any more of my staff members.

Bill read a third time and passed.

CRIMINAL LAW (SENTENCING) (SENTENCING PROCEDURES) AMENDMENT BILL

Second reading.

The Hon. R.G. KERIN: 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.

The DEPUTY SPEAKER: Leave is sought. Is leave granted?

Mr LEWIS: No.

The DEPUTY SPEAKER: Leave is not granted.

The Hon. R.G. KERIN: This bill amends the provisions of the Criminal Law (Sentencing) Act 1988 dealing with sentencing procedures, and also makes consequential amendments to the Summary Procedure Act. First, the bill would amend section 7A of the Criminal Law (Sentencing) Act being the provision which allows a victim of an indictable offence to furnish to the court a statement about the impact of the offence on the person and his or her family. At present, while the act permits a victim to read the statement aloud to the court, it does not appear that the vulnerable witness measures which are available in the Evidence Act to protect certain witnesses while giving evidence can be used. That is, there no statutory provision for the victim in reading out this statement to be screened from viewing the defendant; to read the statement via closed circuit television; or to have a support person present. These measures are only available when the victim is giving evidence.

The government considers that there is no persuasive reason why the court should not be able, in its discretion, to permit the use of these measures at a sentencing hearing when the victim reads out a victim impact statement. This may make it possible for a victim to read out the statement when otherwise he or she would be too intimidated to do so. There is no need to limit these measures to a victim who would have qualified to use these measures when giving evidence. It is appropriate that they be available in the court's discretion to any victim who chooses to use section 7A. This is because, regardless of the nature of the offence or age of the victim, this can be a confronting situation. Of course, as always, the use of the measures is in the court's discretion. The court will need to be satisfied in the particular case that there is a good reason to permit the use of a measure.

Second, the bill would insert a new section 9B into the part of the act dealing with sentencing procedures. It is a normal practice of the superior courts to have the defendant present during sentencing. This section stipulates that a defendant who is to be sentenced for an indictable offence may be present in court throughout all proceedings relevant to the determination of sentence and when the sentence is imposed. This would include, for example, being present when a victim impact statement is read out in court or when the sentencing judge makes any sentencing remarks. The government believes this is what the public expects.

It is obviously a desirable thing that the defendant be there, in part, so that he or she can challenge any disputed factual material being put to the court as a basis of sentencing and, in part, so that he or she can hear first hand any victim impact statement and sentencing remarks. In this way the impact of the crime can be brought home to the offender. Of course, there may be some exceptional instances in which the defendant should not be required to be present. An example might be where the parties have agreed that a date set for some part of the sentencing process should be merely adjourned to another date, for example, because an expert report is not ready. For this reason, the bill permits the prosecution and the defence to agree that the defendant may be absent. However, where there is no agreement generally the defendant must be present.

The other exception is where the court considers it necessary to exclude the defendant from the courtroom in the interests of safety or for the orderly conduct of the proceedings. Of course, this will be rare. More often, I expect that the courts will deal with a problem of this type by placing the

defendant under restraint or by a short adjournment. Cases where misbehaviour on the part of the defendant should lead to him or her being excluded from the court will no doubt be very exceptional. However, where this occurs the bill provides that where it is practical to do so the court is to make arrangements for the defendant to see and hear the proceedings by video link. It is accepted that this may not always be practicable, of course.

In some cases, a company may be guilty of an indictable offence. An example would be where a company commits the offence of intentional and serious environmental harm under section 79 of the Environment Protection Act. In that case the bill requires that a director or some other representative of the company be present in court. However, either the prosecutor or the court may waive this requirement. For example, a waiver might be appropriate where the company has no local presence (as for example where the offence is committed by a vessel visiting South Australian waters).

The bill makes clear that the court has power to do what is necessary to compel a defendant to attend for sentencing proceedings. This includes a power to issue a warrant to have the defendant arrested and brought before the court. However, the bill does not invalidate a sentence which is, for whatever reason, passed in the absence of the defendant. In particular, it does not prevent a defendant from being validly sentenced where he or she has absconded or cannot be found.

Finally, the bill makes consequential amendments to section 103 and 105 of the Summary Procedure Act. Those sections deal with the procedure where a person charged with a minor indictable offence is tried summarily. As that act presently stands, those defendants, unless they otherwise elect, are tried in the same manner as if charged with summary offences. As a result, under section 62C, if the court intends to impose a sentence of imprisonment or a licence disqualification, the defendant must be given the opportunity to attend but if he or she does not do so the court may proceed in the person's absence. Attendance is, by implication, not compulsory. This procedure is inconsistent with what this bill intends in the case of minor indictable offences. Clause 4 makes clear therefore that the compulsory attendance requirement imposed by this bill is to be applied by the court in trying an indictable offence summarily.

I consider that the measures in this bill are matters of commonsense. Once it is accepted that a victim should be at liberty to read out a statement, it is reasonable that he or she should be able to have this process facilitated by the use of vulnerable witness measures where appropriate. Likewise, I believe the public expects a defendant who has been found guilty of an indictable offence to be required to attend court during sentencing proceedings and to hear any victim impact statements and any sentencing remarks which the court may address to him or her. The object is to bring home to the defendant, as directly as possible, the consequences of the offence and the way in which it is viewed by the court. I commend this bill to members of the House.

In relation to the explanation of clauses:

Clause 1: Short title.

This clause is formal.

Clause 2: Amendments to section 7A—victim impact statements.

This clause amends section 7A of the principal act which deals with victim impact statements. A victim is entitled under this section to read the statement to the court. This amendment empowers the court to exercise any of the powers that it has to protect vulnerable witnesses, to encourage or assist the victim in the exercise of this right.

Clause 3: Insertion of section 9B.

This clause inserts new section 9B in the principal act. New section 9B requires the defendant who is to be sentenced for an indictable offence to be present throughout the sentencing proceedings. The prosecutor may, however, allow the defendant to be absent during the whole or part of the proceedings and the court may exclude the defendant from the courtroom if it is necessary to do so in the interests of safety or to prevent the defendant from disrupting the proceedings. If the defendant is a body corporate, a director or other representative of the defendant satisfactory to the court must be present (subject to a provision that allows either the prosecutor or the court to waive the requirement). The court is empowered to make any order necessary to secure compliance with the requirements of the new section and, if necessary, to issue a warrant to have the defendant arrested and brought before the court.

Clause 4: Amendment of Summary Procedure Act 1921.

This clause makes consequential amendments to the Summary Procedure Act 1921. The purpose is to make it clear that the sentencing procedures apply where a minor indictable offence is dealt with summarily under the provisions of that act.

Mr ATKINSON (Spence): How swiftly heresy becomes commonsense! Two years ago, every member of the Liberal Party in this House, with the honourable exception of the member for Hammond, voted against oral victim impact statements. They said that the law on victims never contemplated oral victim impact statements; that it was a bad thing; that it should not come in; and that, if it did come in, it should only come in after the Attorney-General had completed his review of the law on victims. That was completed only about the time of the Liddy trial. So oral victim impact statements would not have been available but for the opposition getting together with the member for Hammond and the Independents, passing the bill here against the fanatical opposition of the Liberal Party, and then taking it to the other place and getting it passed with the support of the Democrats. But here tonight we hear from the Deputy Premier, no less, that:

> The government believes this is what the public expects. . . In this way, the impact of the crime can be brought home to the offender.

But there is more. He says:

> Likewise, I believe the public expects a defendant who has been found guilty of an indictable offence to be required to attend court during sentencing proceedings, and to hear any victim impact statement and any sentencing remarks which the court may address to him or her.

He goes on:

> The object is to bring home to the defendant, as directly as possible, the consequences of the offence and the way in which it is viewed by the court.

Every Liberal MP with the honourable exception of the member for Hammond opposed those very sentiments two years ago. Yes; you, the member for Colton, and you, the member for Waite, voted against this bill.

An honourable member interjecting:

Mr ATKINSON: No; I do not think he spoke against it, because the people who had the dishonour of speaking against it I can name for the benefit of the House. They included the Minister for Police and Correctional Services. It is he who drew the short straw in 1998 and was required to come in here and read out a statement prepared for him by

the Attorney-General in another place. We knew he was just reading out what was prepared for him, because he kept referring to me as 'Mr Atkinson' instead of the member for Spence. If he had prepared his speech himself I would certainly have been the member for Spence.

Ms Thompson interjecting:

Mr ATKINSON: Anyway, this lackey, as the member for Reynell quite rightly says, told the House:

> It should be noted that the Hon. Chris Sumner was always of the opinion that the victim impact statement should be conveyed to the court by the Crown on behalf of the victim and not by the victim.

So, if the Liberal government had got its way, the victims in the Liddy case would never have been able to make their statements orally; it would never have arisen. We would not have this amending bill, because the original bill would not have been there to be amended. It is interesting that they quote the Hon. C.J. Sumner. Of course, they did not take the precaution of checking what the Hon. C.J. Sumner thought of the oral victim impact statement legislation. It reminds me a bit of the story about Arty Fadden when as the Leader of the Country Party and the Deputy Prime Minister of Australia he was speaking against Ben Chifley's bank nationalisation bill. In about 1948 Arty Fadden told the House, 'If King O'Malley (the founder of the Commonwealth Bank) was alive today he would be opposed to this bill.' He went on to say, 'But, of course, he is not, so he is spinning in his grave about Ben Chifley trying to nationalise the banks.' The interesting thing is that an intrepid reporter from a Melbourne newspaper tracked down King O'Malley living in retirement in a cottage in Albert Park in Melbourne, and King O'Malley said he was all in favour of Mr Chifley's bank nationalisation bill. And that is certainly the case with the Hon. C. J. Sumner and oral victim impact statements. The Minister for Police and Correctional Services goes on to say:

> I have already noted that there are good reasons why that is not currently done.

He was referring of course to oral victim impact statements. He goes on:

> This bill is confused, unfair in its intended operation and not thought through.

Well, the bill became law and now the government is trying to take it further than I ever intended. In fact, they are not just in favour of it: they are fanatically in favour of it, because by this bill the government will compel the offender on pain of arrest to be in the presence of the victim to hear the oral victim impact statement that two years ago they did not want to be made. They will bring in vulnerable witness measures, so not only do they want the victim to make an oral victim impact statement but also, if the victim is at all put off by the presence of the offender, they are prepared to screen off the offender so that the victim cannot see the offender, or they are prepared to expel the offender from court and take him to another place where he can watch the victim impact statement by closed circuit television. This is quite an extraordinary turnaround but, as I told the television stations when the Attorney first proposed this bill, there is much rejoicing in the opposition over the repentance of any sinner, and the Attorney is certainly a sinner on this issue.

Not only did the member for Mawson get up and speak against the bill, but the member for Adelaide also thought he would get up and speak against it. When he got up to speak he picked up the same piece of paper that the Hon. Trevor Griffin had given the Liberal front bench and he began to read it. Fortunately, he did not read it all out. After that, when the debate progressed further, he tried to speak a second time on the second reading, not being the person in charge of the bill, and I was able to take a successful point of order on him. But that was not enough. No; there is more. The Minister for Minerals and Energy (the member for Bright) had to get up and make a contribution against the bill, too. The member for Bright mistakenly thought the bill was the member for Chaffey's. In fact, it was mine, but I was grateful for the member for Chaffey's support. He said:

> The matters raised by the member for Chaffey are being assessed and the Attorney-General will bring back to parliament the results of that review.

How long did it take to do the review? Almost two years. So, by the time the Liddy trial was under way the oral victim impact statement would have had no chance of being law. In fact, it would not be law now; the earliest we would be considering it would be in the next session of parliament or after the next election.

I am grateful for the repentance of the Liberal Party on this issue. I support what it is doing, but I am sometimes surprised by their zeal. Indeed, I understand that one of the amendments to be moved by the Deputy Premier is that this be regarded as a matter of procedural law rather than a matter of substantive law. You might ask yourself why the government wants to make that distinction. Well, it wants to make this bill retrospective. What it wants to do is, irrespective of the outcome of Mr Liddy's case stated by Justice Nyland to the Court of Criminal Appeal, make sure that this bill applies to Mr Liddy's case. That is retrospectivity in criminal law. The Attorney-General is always going on about the evils of retrospectivity. If retrospectivity is a vice, the greatest vice is to apply it in the area of criminal law. The Attorney-General is applying it to the Liddy case, which is quite extraordinary for the Attorney, and I can only presume that he was rolled in cabinet yet again on this matter.

One parting shot I want to make about this bill: in the aftermath of Mr Liddy's refusal to listen to the victim impact statements read orally by his victims in court, I was interviewed by a number of radio and television stations about my attitude to that. I spoke about my bill, how my bill had become law and how it was never the intention of anyone in parliament, whether they supported or opposed the bill, that an offender be able to avoid hearing the victim impact statement, and I stand by that. However, later that same day the Premier of this state came out and agreed with me, and he agreed with me for the same reasons. He came out and supported my statement. Good on him!

But the Attorney-General had the cheek to threaten Radio 5AN with contempt of court for interviewing me over this matter. He had the cheek to claim in the estimates committee that I violated the rules of contempt of court and had put Mr Liddy's fair trial at risk by what I had said. That was absolute nonsense. When he was challenged about whether the Premier had done the same thing, no, it was only the member for Spence who was doing it. The Premier's saying exactly the same thing as the member for Spence had not jeopardised Mr Liddy's trial and had not violated the canons of contempt of court. What humbug, from an Attorney-General who is now an albatross around the neck of the Liberal government, and they cannot wait to see the back of him.

I will be pleased to go into the next election with Trevor Griffin as the Attorney-General of this state, because it will be a reminder to the people of South Australia what a disgrace his occupation of that office has been. I am sure that,

if he is still in that post during the general election, he will lose votes by the dozen, if not the hundreds, for the Liberal Party.

Mr LEWIS (Hammond): I have two purposes in rising to speak about this legislation. First, as I have said earlier, this is yet another bill that comes in here today and is rammed through without there being any time between its introduction and the second reading explanation and the time at which the second reading debate and committee consideration—one assumes, given the fact that no-one here disputes that it is a good move—goes through. I do not dispute that it is a good move: I think it is. So, I will not dwell on that point too long, other than to make it, this being the third occasion today that it has happened.

Secondly, several points need to be made about the legislation and, more particularly, about the attitude of my former colleagues to it. In exactly the same vein as the member for Spence has mentioned, it astonished me that, when a member of the Liberal Party room, we (I say 'we' advisedly) could have come to the conclusion that was arrived at by the Liberal Party at that time, only to be here now proposing further changes in the same direction, of providing that our courts will be seen as more the institution hearing and thereby administering justice in the interests of all who are involved and affected by their proceedings. Victim impact statements are part of that.

Whilst children used to be told they were to be seen and not heard, that has changed—and probably for the better: children thereby are not in such great numbers injured by being told to shut up and speak only when they are spoken to. They are not then reduced in their level of self-esteem and, ultimately, are more likely to make a greater contribution to society. I am sure that all adults in our community, almost without exception, now agree that that is a better way to go—despite the greater difficulty for some of those adults as parents, some of them being people afflicted by the indiscretions of children who are heard as well as seen, though we see the greater benefit of doing it.

And likewise it is with victim impact statements. We see the greater benefit in allowing the victims to unburden themselves of the way in which they have been injured psychologically—injured in their self-esteem, their spirit. The court hears that, as it stood until this measure came before the parliament: the perpetrator need not have, and does not have to do so. The passage of this legislation compels the perpetrator to better understand just how it has affected the people upon whom he or she (or it, if it is a company) has inflicted themself on their lives, on their psyche, on their place in society, and injured their role and function as a consequence. That is an important element not only in getting the public to accept that our courts are relevant to their needs, but it is even more important in getting the process of rehabilitation under way for the criminal. If they have to understand what it was like to be on the receiving end of their nefarious acts, they begin the process of rehabilitation—if they can be rehabilitated—there and then. And that is much sooner than would otherwise be the case.

Secondly, it probably ensures that many of them, in fact, do begin rehabilitation before they get into prison and start to be institutionalised as prisoners, and it thereby averts the other undesirable consequence of sending people to prison, and that is to institutionalise them into the sociology (however pathologically distorted that behaviour is) of that institution, the prison. So, there is greater chance of rehabilitation and a much greater benefit as a consequence of having victim impact statements and having them heard by the defendant, and I commend the government for understanding that point.

Mr Atkinson: Now.

Mr LEWIS: At last. Yes, we can say 'now'. It has been a thoroughly brilliant Liberal backflip, and I am sure that it would get gold in any—

Mr Atkinson: Diving contest.

Mr LEWIS: Yes. For any judge of the elegance with which it has been done and the speed with which it has been done, it is beautiful to behold. And everyone is the better for it, so they can be commended. It is sad that so many of my colleagues saw me as a renegade, someone unworthy of a position in their ranks simply because I saw that—among other things.

Mr Atkinson: I don't think you were expelled over this.

Mr LEWIS: No, maybe not. But it was a contributing factor along the way—I have no doubt about that—that saw my redemption. I will not suffer the fate of so many other of the poor silly sods at the next election as a consequence. They did me a great favour. I thank them for extending my term in here and putting off my retirement. I also commend them for understanding the importance of this measure. I wish it swift passage. I am sorry, though (as I said, I feel compelled to say this), that it did not appear in the second reading explanation that the process of victim impact statements in our courts and compelling the perpetrator of the acts to hear and see those statements being made is a substantial contribution to the rehabilitation process of that person. It is very important. I commend the measure to the House.

The Hon. R.G. KERIN (Deputy Premier): I thank members for their wholehearted support of the government. This bill really reflects the will of the parliament; there is no doubt about that. I have a couple of amendments, and I will comment on those during the committee stage. I thank members for their contribution.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

The Hon. R.G. KERIN: I move:

Page 3, after line 9—Leave out 'encourage or'.

Mr LEWIS: We propose after line 9 to leave out 'encourage or' and in its place insert—

The CHAIRMAN: Order! For the clarification of the committee, we are dealing with the first of the amendments to clause 2 as follows:

Page 3, after line 9—Leave out 'encourage or'.

Mr LEWIS: We are taking that as a separate question?

The CHAIRMAN: Yes.

Mr LEWIS: That is a grammatical nonsense. The effect of that would be that the principal act would be amended to read, by adding this:

If a court considers there is a good reason to do so, it may exercise any of the powers that it has with regard to a vulnerable witness in order to assist a victim to read out a victim impact statement to the court.

I can accept that.

The Hon. R.G. Kerin interjecting:

Mr LEWIS: Yes, it is. Given that that is the case, I am not sure why we are deleting the word 'encourage' because it may be that somebody who has low self-esteem might be,

if they were to read the word 'encourage', more inclined to participate in the process and to provide the court with a victim impact statement by seeing the word 'encourage' there, since the word 'assist' is a bit more formal. Anyway, if the government believes that the inclusion of the word 'encourage' detracts from the provision, then let it be on the government's head, not mine. It is not a bad idea to have it there so that, as I said, somebody feeling apprehensive about doing it might be less apprehensive once they read this new provision, as I am sure it will be incorporated in the legislation.

The Hon. R.G. KERIN: The reason for the measure is that the court must remain impartial. This avoids any suggestion that it is the duty of the court to encourage the victim to read aloud a victim impact statement as provided by section 7A of the act. The decision whether or not to read aloud the section 7A statement is really a matter for the victim. As I said, the court should remain impartial.

Mr ATKINSON: First the government did not want to give people the right to make oral victim impact statements; the next minute it was encouraging them legislatively to do it; now it has pulled back a bit to a middle position, whereby they are free to do it if they wish. It seems reasonable to me.

Amendment carried.

The Hon. R.G. KERIN: I move:

Page 3, after line 10—After 'victim' insert:
who wishes

Amendment carried; clause as amended passed.

Clause 3.

Mr LEWIS: Can the minister tell me of other instances in which there are included in legislation words that have different type from that in which the body of the law itself has been written and what is the meaning of having different type? This is the more particular part of it. I think I have seen it before, and I know it will come up later in the week. However, I am not sure where I have seen it in the body of statutes, other than in the schedules previously. I am amazed that it is included in the body of the law. Therefore, I ask—and this is what I want the Deputy Premier to answer—what is the difference in emphasis and meaning of having different sized type in the statute? Why is it done? What assistance does it provide? What benefit is derived from it?

The Hon. R.G. KERIN: Yes, it does appear in other statutes. One instance where you would use it is in a bill or act where you are trying to give examples or make a differentiation. It really makes no particular difference. It is used to highlight an example or make something stand out.

Mr LEWIS: So why do we not draft it in a form which says 'subject always that the following will be accepted or excluded' and state what those matters will be, namely in this case that the defendant may, with the prosecutor's consent, be absent during the whole or part of the proceedings, if that is going to be an exception, and that the court may exclude the defendant from the courtroom if it is satisfied that the exclusion is necessary in the interests of safety or the orderly conduct of proceedings? However, if such exclusion is made the court should, if practicable, make arrangements to enable the defendant to see and hear the proceedings by video link. It will not always be possible, we were told in the second reading explanation, but we are in the clauses now. I do not know why it needs to be written into statute and why it could not be included in the rules of procedure of the court.

It strikes me that some sod will try to use this as a means of claiming there has been a mistrial, because it is not stated in the usual terms in which law is stated and written. I do not believe that it is necessary to make the distinction in this case. I do not know anything about those examples other than that they are to be in legislation that is to come up on the *Notice Paper* later this week. I do know that this is rare, and I also know that it is possible to draft it so it is not necessary to leave it in this subscript type (although the minister used the term 'highlight') meaning that it is of lesser consequence than the legislation itself since it comes after that bit which says 'subject to the following exceptions, a defendant who is to be sentenced for an indictable offence must be present when the sentence is imposed and throughout all proceedings'—and that is the important part of it—'relevant to the determination of the sentence,' then state in the same terms why an exception would be there and make it law.

The Hon. R.G. KERIN: It is an integral part of the statute. As for why it is written in the way it is, that is the format that Parliamentary Counsel has chosen. If the member is not happy with that, perhaps he should talk to Parliamentary Counsel. That is the way it has chosen to do it within this. Obviously, it wanted to highlight the exceptions. It has chosen this way of doing it. I cannot answer for the typeset of Parliamentary Counsel.

Mr LEWIS: Would the minister be able in the near future to provide a list of the statutes in which this approach is taken of using different sized type and not stating things in precisely the same way as the other elements of the clauses and subclauses are stated and written?

The Hon. R.G. KERIN: In an effort to satisfy the honourable member, I will endeavour to provide him with some examples. To have someone go through the whole lot would be a waste of time. I will supply the honourable member with examples where such a format has been used.

Clause passed.

Clause 4 passed.

New clause 5.

The Hon. R.G. KERIN: I move:

Page 4—After clause 4 insert:
Transitional provision
5. The amendments made by the act are to be considered procedural rather than substantive.

Mr ATKINSON: Let me mention the forbidden word in debate on this bill: 'Liddy'. Is it the government's intention that this bill and, in particular, this amendment should apply to the sentencing process for prisoner Peter Liddy?

The Hon. R.G. KERIN: The intent is that it would apply to all proceedings from the date at which the bill commences, including current proceedings.

Mr ATKINSON: Let us just draw it out of the Deputy Premier. Let us get the tweezers and pull it out. When prisoner Peter Liddy faces his sentencing process after the case stated to the Court of Criminal Appeal is dealt with, whichever way it goes, if the victim impact statements are read out after that case is decided and prisoner Peter Liddy's sentencing hearing is after the proclamation of this bill, will this provision apply to prisoner Peter Liddy's sentencing process and, if so, could the Deputy Premier share with the committee whether that is a retrospective enactment and, if not, why not?

The Hon. R.G. KERIN: It is a procedural provision that does apply from the date the bill comes into effect, which is when it is assented to by the Governor.

Mr Atkinson: It comes into effect on assent?

The Hon. R.G. KERIN: Yes.

New clause inserted.

Title passed.

Bill read a third time and passed.

STATUTES AMENDMENT (LOCAL GOVERNMENT) BILL

The Legislative Council agreed to the bill with the amendments indicated by the following schedule, to which amendments the Legislative Council desires the concurrence of the House of Assembly:

No. 1. Page 4, line 6 (clause 2)—Leave out 'Subject to subsection (2)' and insert:

Subject to subsections (2) and (3)

No. 2. Page 4 (clause 2)—After line 8 insert the following:

(3) Sections 7A and 24A must be brought into operation on the same day.

No. 3. Page 5—After line 16 insert new clause as follows:

Repeal of s. 359

7A. Section 359 of the principal Act is repealed.

No. 4. Page 6, lines 12 to 15 (clause 13)—Leave out all words in these lines after 'amended' in line 12 and insert:

—

(a) by inserting in subsection (2) 'a road or' after 'land forming';

(b) by inserting in subsection (2)(b) 'a road or' after 'land that formed';

(c) by inserting after paragraph (c) of subsection (2) the following paragraph:

(d) the council may grant an easement or a right of way over community land or a road or part of a road.

No. 5. Page 9—After line 21 insert new clause as follows:

Certain road closures to cease to have effect

24A. (1) The closure of a prescribed road to vehicles generally or vehicles of a particular class in force under section 359 of the Local Government Act 1934 immediately before the repeal of that section ceases to have effect (unless already brought to an end) six months after the repeal of that section (and the relevant council must, on the closure of a prescribed road ceasing to have effect pursuant to this subsection, immediately remove any traffic control device previously installed by the council to give effect to the closure).

(2) However, subsection (1) does not apply—

(a) if continuation of the closure of the prescribed road is, before the expiration of the six month period referred to in that subsection, agreed to by resolution passed by the affected council under this subsection; or

(b) if, before 1 May 2001, exclusive occupation of the prescribed road had been granted to a person for a period that is due to expire after the expiration of the six month period referred to in that subsection.

(3) In this section—

'affected council', in relation to a prescribed road, means the council into whose area the road runs;

'prescribed road' means a road that runs into the area of another council.

(4) For the purposes of this section, a road that runs from the area of a council into an intersection and then changes to a different road in the area of another council on the other side of the intersection will be taken to run into the area of another council.

(5) For the purposes of this section, a road that was, on the making of a resolution under section 359 of the Local Government Act 1934 with respect to the road, a road that ran into the area of another council within the meaning of this section will continue to be taken to be a road that runs into the area of another council (and therefore to be a prescribed road) despite the fact that a council, either before or after the commencement of this section—

(a) alters the road; or

(b) changes the name of the road, or of any part of the road; or

(c) takes any other action to alter the circumstances that applied to the road at the time of its closure.

No. 6. Page 9, lines 34 and 35 (clause 25)—Leave out subclause (4).

No. 7. Page 9—After line 35 insert new clause as follows:

Application of Acts Interpretation Act 1915

26. The Acts Interpretation Act 1915 will, except to the extent of any inconsistency with the provisions of this Part, apply to any repeal or amendment effected by this Act.

SUPPLY BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT

At 9.36 p.m. the House adjourned until Wednesday 25 July at 2 p.m.