HOUSE OF ASSEMBLY

Thursday 27 September 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 10.30 a.m. and read prayers.

RESIDENTIAL TENANCIES (CARAVAN AND TRANSPORTABLE HOME PARKS) AMENDMENT BILL

In committee.

(Continued from 26 July. Page 2134.)

Clause 2.

Mr MEIER: I did not have an opportunity to make a second reading contribution and, as this clause is the interpretation provision which identifies such items as 'caravan', 'caravan park', 'caravan park residential tenancy agreement', 'caravan park site', 'mobile home', 'premises', 'transportable home', 'transportable home park', 'transportable home site' and 'transportable home site residential tenancy agreement', I believe that a few of the comments I wanted to make as a second reading contribution actually relate exactly to these particular definitions and the bill in general. I understand entirely what the honourable member is seeking to do here and that is to give some greater certainty, I guess, in the leasing arrangements for any mobile home. I do not know if they are called mobile homes; it depends what definition you use—but living in transportable homes and caravans in caravan parks.

Ms Key: Dwellings.

Mr MEIER: Yes, the dwellings that they occupy there. However, from the research that I have done, it seems to me that it is simply going to add to the mass of paperwork and add to the confusion, particularly for the caravan and transportable home park operators. One thing that I have always pushed for, over many years, is to try to decrease the amount of paperwork that applies in our society. I guess if there is one thing that has grieved me over the last eight years it is that this government has not been able to get rid of as much paperwork as I would have wanted it to get rid of. In fact, in some cases it has brought in more paperwork. This is perhaps just a characteristic of our society or it may be a characteristic of the public service and the bureaucracy that seem to be insistent on using the regulatory means to impose more paperwork.

In clause 2, when we consider the various definitions, I acknowledge that they are needed. However, we are now literally setting up a second tier of paperwork, and I do not believe it is going to solve the problems that currently affect some caravan and transportable home parks. If we have a look at the bonds and security deposits that relate to this we find that the proposed amendments would create two sets of rules relating to bonds: one for bonds representing two weeks rent or less and one for bonds of more than two weeks rent. So, how are we going to determine in our caravan parks, in our residential tenancy agreements and in our mobile home definitions whether it is going to be for two weeks or less and, therefore, whether we apply one set of rules or another?

But the worst thing about this would be that, if a caravan park manager or owner does not follow the appropriate set of rules, he or she could be prosecuted. This is the last thing that I would want to see, to add the potential for more draconian measures on people who seek to operate caravan parks and transportable home parks to make a living. I think all of us are sick and tired of the amount of paperwork that is currently around.

Furthermore, I notice that under the proposed amendment where a bond is not more than two weeks' rent, landlords would be able to manage such a bond themselves. Now that is fine, but who is going to determine whether it is going to be two weeks or whether it is going to be more than two weeks? I would suggest that it would not take long for people coming in to say, 'For heaven's sake, never say that you are going to stay for more than two weeks.' And if they want more security they would say, 'We are going to be here for three weeks,' and then the operators have to do all the paperwork and if they cannot handle it themselves it then has to go to the Office of Consumer and Business Affairs.

So this is muddying the waters. It is causing confusion and, therefore, I do not think that this is good legislation. From that point of view let us make sure that we do not allow the argument to hold that this will actually be a help: it can well be a hindrance. There are a few other points that I want to make but probably some of them can come out further in the committee stage. From the word go I see problems with this. I recognise what the member is endeavouring to do, but I do not think it is going about it in the right way.

Ms WHITE: I will respond briefly to the comments by the member for Goyder. While we are on clause 2, they were comments of a general nature and some refer particularly to clause 7; I will pick them up a little further on. The member talks about increasing the amount of paperwork and his being very much opposed to that. That was an interesting comment from a Liberal member of parliament, his party having just introduced for the businesses of Australia an enormous amount of paperwork in the GST legislation. I point out to the honourable member that the paperwork involved is much less under my legislation than it is in other states of Australia. I have purposely kept it so.

The purpose of my bill, as I have indicated previously, is to redress a balance that currently out there is incorrect, namely, that tenants of caravan parks and transportable home parks do not have tenancy rights, have nowhere to turn and, in some instances, are being treated appallingly in ways that I am sure not one member of this House would agree to. I appreciate the member's support of the definitions which are the substance of this clause, because they are necessary to subsequent clauses of the bill.

The member referred to two systems of bonds and treatment of security in caravan parks. He was relating to clause 7 in those comments. If he reads the measure carefully, the member will find that it is an additional option given to caravan parks and transportable home parks that is not given to any other group of landlords under the Residential Tenancies Tribunal legislation. Under the Residential Tenancies Act all bonds must be for four weeks rent and must be lodged with the tribunal and put in the Residential Tenancies Fund. Under my bill, landlords, owners or managers of these caravan and transportable home parks are given an option in that, if their security is of an amount less than two weeks rent, they do not have to lodge it with the tribunal and can handle it in another way that is outlined.

So, what the member referred to as an encumbrance is actually an option afforded to landlords for their convenience if they wish to take it up. They do not need to: if they prefer they can treat security bonds in the same way in which all

other landlords in South Australia treat them. That option is up to them under this legislation.

Ms HURLEY: The member for Goyder rightly represents the many caravan park owners in his electorate and many, of those owners are very good managers and do the right thing by their tenants. In my electorate, which has varied considerably over the eight years I have been a member of this place, some caravan parks have come and gone, and managers have been quite good to most tenants. However, I can also show—

The Hon. W.A. Matthew interjecting:

Ms HURLEY: All of them. I can show the member for Goyder my files on tenants who have been treated appallingly by one or two managers of those caravan parks. In one case the manager was eventually replaced because his personality was completely unsuited to running a home park where there were many permanent residents. What appalled me about the process was that none of these tenants had any recourse to protection from these managers. It could and was very arbitrary: contracts were changed and charges put up without any consultation or notice and, occasionally, it seemed to me without any reason.

Two of those people who came to me were forced out of the caravan park as the situation got so bad and stressful for them that they had to leave. Many of the people in home parks are retired people, and it is indeed a very good lifestyle. You have a good mobile home, a secure environment, good neighbours generally, and you can leave your home and go travelling around Australia for months at a time knowing that your house is safe and being looked after. There is little in the way of maintenance to be done, and it is a way of life that has much to recommend it. However, if there is a manager or an owner of that home park who seems intent on making life difficult for some of their tenants, there is nothing that the tenants can do currently. I commend the member for Taylor for introducing this legislation. If it results in a little extra paperwork—and I know that the member for Taylor has consulted extensively with the industry and tenants on the legislation—I can only say that this is a reasonable compromise to give some degree of protection to tenants and some security for them.

Mr LEWIS: Questions which arise in my head about the definitions in clause 2 and which give me great cause for concern relate to the manner in which title can be established, and that is what I think is at the foundation of the concern by the member for Taylor. At present no division is recognised by the Lands Title Office of the title of 'caravan park' or, for that matter, how that might then be stratified. I think that is what she is getting at. She wants to have security of tenure in the legislation such that the land and vehicle or facilities placed upon it in which a person is living are that person's exclusively and that surrounding facilities such as walkways and access to ablution blocks, which include toilets, bathrooms, wash houses and drying facilities, are accessible in common with other people on that same single title as it now stands and which, in planning law, is described as being for special purposes (recreation).

That being the case, we as a parliament have not provided the basic foundation on which this legislation would attempt to stand and on which the property rights of the individual can be constructed. It is not there. This is building a house of cards in the air. The other worry for me is that, if we pass this legislation without that foundation, we put obligations on the owner of the caravan park that cannot be properly dealt with, according to law, in the case of disputes about whether or not someone was lawfully on premises; so the law of trespass becomes extremely difficult to interpret. The three categories of that include a stranger coming onto the caravan park and then walking along the ground that belongs to the caravan park owner. That is in fact trespassing unless they are there with the permission of the owner of the caravan park, or presumably one of the tenants, but that should not arise unless there are parts of an agreement between the tenant (the site occupier) in the document that is signed, whatever that is. I will not even call it a head agreement, but it relates to the rights to occupancy of the site for the period specified in that agreement which has to spell out the rights of visitors to the person on the site.

That is not such a difficulty but it may be in some circumstances where it is not spelt out. The person who is on the premises but not on the individual site occupier's premises may be on those premises unlawfully and may have a nefarious intent. You get into the area of the Wrongs Act and the Crimes Act if they commit an offence while they are there. Who will be able to prosecute them for so doing?

The second category of concern I have is when they trespass on the title of the person, who is ascribed that title notionally if this legislation were to pass, to steal, assault or do other acts of felony such as arson or whatever. Under the present law the action against them still has to be brought by the caravan park owner unless it is a crime against the person per se, but the mitigating circumstance is that it was not on property belonging to the person. The person had exclusive rights of occupancy of the space, but not the property. We are getting ourselves into an awful fix. And don't anyone in this place tell me that caravan parks are places where no crimes of this kind are committed. Damn it! I know about the situation from the problems I have had to sort out at Murray Bridge and in other places around the electorate where caravan parks are located and people live in them.

I know from the problems that have been brought to me, when I go to talk to the park owners, that this does happen and that it happens with greater frequency than it does in residential properties in our towns and suburbs, because it is easier to get onto those titles. In my primary remarks in the second reading speech I drew attention to that. I am asking the member for Taylor to understand the sincerity of my concerns about the construction of this which is in the air. It does not have adequate foundation yet it provides the expectation that the property rights so established are identical to those of people who own or rent a home.

This brings me to my third point, that is, the circumstances where some unprincipled caravan park or holiday home site property owners say they have sold the cabin to an individual as though it were secure title—and it is not. Individuals are paying between $25 000 and $40 000 in cash, quite mistakenly in the belief they are buying themselves a cheap home: they are mistaken and they are being defrauded. Those who are defrauding them think it is legitimate to do it. It is not. There is no secure title to the land upon which the cabin sits. There are no rights of continuing occupancy that transfer when the ownership of the cabin sitting on the land transfers to the next occupier.

We are going into an area of the law which will lock us up in legal aid costs and fights between people where disputes are already arising as to who owns that site and the cabin or caravan or whatever facility has been erected upon it. It is already happening. I would not be standing here talking now if I had not had to deal with it. I guess it is because I am one

of these nuts who talks to people or allows them to talk to me about anything and everything that results in my getting involved in these sorts of things. I repeat that I am disturbed by the definitions in the bill of 'caravan park' and 'caravan park residential tenancy agreement'. Those two terms do not stand on any solid base in law to enable the people concerned to get any joy whatever in the event of a dispute between themselves and someone who has done them an injury or damaged their property (that is an injury in law), or between themselves and the person who owns the head title of the land, the proprietorship of the total holiday home complex, the total area of the caravan park.

We must have provisions that will enable us to resolve those disputes very simply. The law needs to be established about that before we can give the kind of security of tenure that the member for Taylor seeks. She must convince me that the words 'caravan', 'caravan park', 'caravan park residential tenancy agreement' and 'caravan park site' have some better meaning than is described here or some implied meaning in addition to what is written here. Does she have such explanation of that for us?

Ms WHITE: I thank the honourable member for his question, which is an important one. The member asked me to acknowledge his concern about tenancy rights, and I certainly do acknowledge that. I am aware of difficulties in the past where tenants have taken action or sought to take action concerning their tenancies and tenancy rights. It was some of these people who came to me in the first place after having approached the Residential Tenancies Tribunal to act as arbiter, only to find that they did not have rights under any present legislation.

I point out to the honourable member that one of the assertions he made is not quite correct. He said that no title of any of these sites was recognised by the Land Titles Office. That is not actually correct. There are caravan parks in this state which individually are set aside caravan park sites. I have not checked recently, but when I first proposed this legislation the Lands Titles Office told me there were two caravan park sites at that time which had been individually evaluated. I believe that those two sites were both council owned caravan parks. I cannot say if there are more since then.

Another issue, of which some members at least are aware, because certain local councils have approached Liberal government members about it, is the changes that came into effect with the amendments to the Local Government Act in 1999. It is the view of a number of chief executives of councils who have talked to me that under those changes they are compelled to individually value and set aside sites in caravan parks. In those caravan parks that currently set aside sites, my understanding is that the common areas—the ablution blocks, recreation rooms, parkways, car parks and the like—are the responsibility and under the control of the landlord. That is the advice I have been given. So, while I understand the issues the member for Hammond raises, I also understand that there have been some sales of transportable homes under current legislation. I was not aware of any cabins being sold where there was not an entitlement to sell. I was not aware of those, but I am certainly aware of managers and landlords of caravan parks selling personal property of tenants where I would say that their legal right to do that was very questionable.

Mr Lewis interjecting:

Ms WHITE: Yes; I agree with the member for Hammond and I do not think they would have the legal right to do that, but cases have been brought to my attention where that has occurred. In summary, some caravan parks in this state have individual caravan sites registered with the Lands Titles Office. My understanding is that in those caravan parks the common areas are under the legal control of the caravan park operator.

Mr MEIER: I asked a question in relation to the definition of the word 'caravan' and how this applies to this bill. I am well aware that in many parts of Australia people take their caravans and go off for extended periods of time. I can think of people in my own area who apparently head up to Queensland for the better part of three months during our winter period. Obviously they would be in their caravan for three months or so—certainly well in excess of 60 days. I therefore wonder whether the amendments that will be moved later would apply in that situation.

What is the situation with those people who leave a caravan in a caravan park and have it rented out? There are two ways it can be done. First, the caravan park owner or proprietor can be the agent bringing in new people on a fortnightly or monthly basis or whatever. The other way of doing it is for the owner of the caravan, who may live a long way away or around the corner (that is pretty irrelevant), to keep their caravan sitting in the caravan park and the proprietor says, 'I want nothing to do with the leasing of that; you get your people in and out as you see fit. You arrange for the cleaning. As far as I am concerned that's your caravan, and who you have in there is your business.' In relation to that definition of 'caravan', would a caravan that sits in a caravan park for 12 months but have lots of different people coming in and out be drawn into this legislation?

Ms WHITE: That can occur in several ways; clearly, it depends on who is the tenant. Particularly in the case of a caravan, my bill allows for a periodic tenancy, which would normally be a term of a week if it is paid weekly or a fortnight if it is paid fortnightly and the tenancy is on that short term. So, if the tenancy in total does not exceed 60 days and this bill does not kick in until it exceeds 60 days, my understanding is that those people would not be covered, because the term of that agreement is that weekly rent.

Mr LEWIS: Given that the member for Taylor has helped me understand that there are a couple of places that have strata title in them, I ask the member for Taylor if she would be kind enough to tell me where she thinks they are. I would like to talk to those people who are the proprietors or the proprietor-managers of those locations so I can better understand how they are dealing or failing to deal with the situation at the present time. Would the member for Taylor let me know where those two van parks are that have the strata title facilities or what their names are so I can talk to them?

Ms WHITE: I will have to consult my notes, but I can give you those names. From memory I think one of them was Hahndorf. They were two country caravan parks, but I will have to get that information for you.

Clause passed.

Clause 3.

Mr MEIER: I come back to the question I raised in clause 2 about people who occupy a caravan in a caravan park for a period of time which would exceed 60 days. I will use the reverse example from that where people from South Australia go to Queensland and occupy a caravan for the better part of three months. Let us assume that that situation were reversed and people come to South Australia and occupy a caravan for a three month period, such as November

through to the end of February or a similar period. The way I read this is that, if it is for a fixed term of 60 days or more, then a caravan park residential tenancy agreement would be required. Can the member enlarge upon that further? In other words, if a couple came and rented a caravan for, say, 90 days, would they have to enter into an agreement for that 90 days?

Ms WHITE: For 90 days, yes. The trigger point in this legislation is 60 days. Around the country there are various trigger points in other comparable legislation; some provide 30, some 90 days and some 60. I have chosen 60 days as a compromise between holiday making and long term residency. The measures in this bill do not apply to anyone whose stay is shorter than 60 days.

Mr MEIER: Thank you very much for that answer. I put the following scenario. What if one arrives at a caravan park with one's own caravan and says to the caravan park owner or landlord, 'We hope to stay here for a couple of weeks or so,' so there is no need for any agreement. The two week period finishes and they say, 'We are enjoying it so much here that we'll stay for another week or two,' so I assume there will still be no agreement. At the end of those two weeks they say, 'This is a really fantastic place; I reckon we'll continue here for another week or two.' So, suddenly it is six weeks and it could go out to eight or 10 weeks and perhaps at the end of 12 weeks they say, 'We really must move on; it's been fantastic here.' I assume that during the whole of that 12 week period they would not have had to enter into an agreement, yet the landlord, owner or manager of the caravan park would be found to have breached the act if an investigation were undertaken.

Ms WHITE: No, that is not quite correct. There are two types of agreements in this bill: a written tenancy agreement and a verbal tenancy agreement, if you like. Transportable homes must have a written tenancy agreement. They are more permanent structures. When someone moves a transportable home into a park or buys a transportable home in a park, the assumption is that they will be there for some long-term period. That is why they must be written agreements. Where someone comes as a holiday maker and ends up staying more than 60 days, they would most likely have a verbal agreement that they pay so much rent a week, perhaps. At the end of that 60 days, the measures contained in this bill kick in, but they are not required to have a written tenancy agreement.

The other measures—for example, rent increases—cannot be made part way through the week. So, there is an agreement, just as there is an agreement, in effect, for those caravan park residents before 60 days, but the other measures of this bill kick in. So, there is no requirement for a written agreement in those circumstances, but there is a requirement for the other fair practices that are dealt with in this bill.

Mr MEIER: That comes back to the crux of my concerns about this bill. Why on earth do we want to go down this track, when the member is now saying that there will be written agreements and there will be verbal agreements and when, I assume, things are working quite satisfactorily (there is always an exception or two; you never get the perfect situation) around the state at present? Why would we want to bring in these sorts of conditions, which would create extra paperwork for the owners and managers of the caravan parks and a responsibility being placed on people who come into a caravan park to determine how long they intend to stay? I cannot see any sense in wanting to go down this track. Why does the member advocate that we need this legislation?

Ms WHITE: We need this legislation because there are operators out there who are not doing the right thing. The Caravan Park Association of South Australia has for some years been distributing a brochure which is, I guess, if you like, a voluntary code. The version that I have in front of me is entitled 'Permanent living in relocatable homes in caravan parks'. Many of the measures in this brochure are as stringent as, if not more stringent than, the measures in this bill.

I have received complaints from a couple of park owners that they find this bill too stringent, but when I show them the code of ethics which their association distributes (and which, I understand, they are supposed to give out to residents), they look at some of these measures and say that they are too stringent. So, we need this bill because there are operators out there with no sanction whatsoever and who are unfairly disadvantaging tenants.

This bill, in my view, is a balance between the flexibilities needed by operators and the rights of these sorts of tenancies. These are predominantly older South Australians in this form of tenancy. They choose to have this form of tenancy because they want the close proximity living in a village type environment, but they also want independent living. Some members opposite have said that they should not be there in the first place. The thing is that they are, and some of them are not being treated very well. The purpose of this bill is to provide them with some protections and, quite clearly, balancing the needs of operators to run businesses—and it is certainly accepted that the people who operate these places, whether they be council operators or private operators, need to run businesses and need certain flexibilities.

This legislation is far less onerous on owners than other legislation interstate—to the point, in fact, where the equivalent Victorian group of the caravan park association is, in negotiations with the Victorian government, hailing my legislation as a model. I point out that a number of operators do support this bill and say to me privately (not through their association) that they think it will weed out the unscrupulous operators—and there are some of those around; we do not know how many.

The fact is that thousands of people are living permanently in these caravan parks and, currently, they do not have any rights. Even the code of ethics from the caravan park association, in some cases, is not being upheld; hence the need for this legislation.

Mr LEWIS: So that members can understand, we are dealing with clause 3, which amends section 5 and provides:

[This act does not apply to—]
(ca) a caravan park residential tenancy agreement unless—

that is the way it should read—

(i) the agreement confers a right to occupy premises for a fixed term of 60 days or more; or
(ii) in the case of an agreement for a periodic tenancy having a period of less than 60 days—the tenant has occupied the premises for 60 days or more pursuant to the agreement; or

Section 5(d) of the principal act provides:

An agreement conferring a right to occupy premises for the purpose of residents but under which no rent is payable.

There are also other provisions where the legislation does not apply. So, the act does not apply unless these things arise. These are catch-all provisions. In the one instance, I guess it is the intention the member for Taylor, by stating it in these terms, to ensure that those people who are already in what they regard as permanent residency in a caravan park are able to retain that status of permanent residency even though, once the legislation is passed, or looks like being passed, the owner

of the caravan park serves notice on them to get out within 60 days. This bill, if it becomes an act, will cover that, because it will prevent the caravan park proprietor saying, 'I do not want to have permanent residents under this new law; it will cause me too much hassle and too many problems. So, I am giving you notice now to move on.' Well, tough, you cannot, because clause 3(ca)(ii) provides:

> in the case of an agreement for a periodic tenancy having a period of less than 60 days—

in other words, he is saying, 'I am giving you 30 days—or 59 days—from now to go; be reasonable'—

> the tenant has occupied the premises for 60 days or more pursuant to that agreement;

That is what the member for Taylor intended, I guess. The member for Taylor, by passing this legislation, is conferring retrospectivity to property rights that never existed in law prior to this bill becoming an act. That is not a good idea. I do not believe that is the way to dovetail in the legislation. I am not comfortable with that provision.

I know of dozens of caravan park owners who will confer three months' rights of tenancy, that is, over 90 days, on people who wish to stay there for a particular season. This bill gives them automatic new property rights against the interests of the owner and at the expense of the owner where these new property rights might incur the owner—and in almost every instance almost certainly will incur the owner—in having to make additional provision for better cabling of electricity supplies and maybe other communication systems, and so on, according to whatever planning law applies in the district council or city area in which the van park has been established.

I do not think that other members in this place would agree with the member for Taylor that that is a good idea. I believe that there are other ways in which we could achieve the same desired outcome, but we must enable a dovetailing period to occur. I do not think, then, that it is fair to require the van park owner to find suddenly that they are going to be up for several hundred thousands of dollars to make the new titles—that are created by this bill—compliant with the needs of the rest of the Residential Tenancies Act. I do not see in here a requirement on the part of the tenant to meet the cost of providing those services to that site, or the protection of the strata title created by this legislation from incursions of criminals or felons.

In common law, under the Wrongs Act, that is an implied responsibility for strata title managers, yet this is not the same as strata title units in residential areas because, under their constitutions, they, as owners of the strata title, have the responsibility to provide themselves with the security for their garbage bins, sprinklers, garden plants, and things like that. However, under these provisions, the title of occupancy is established but the responsibility to service and look after it is not, and the cash costs of doing it reside with the proprietor of the total van park or holiday home park site.

I therefore cannot support that provision, as I cannot support other elements in the legislation that we will come to. I never thought that we would get to this stage. I think that the member for Taylor really thought that this would be a lapsed bill, ready for restoration. My intention at the end of July was to go to the member for Taylor and suggest that it ought to go to a select committee, because that is the only way in which you can work out how to give the people who are presently de facto permanent residents some de jure comfort within a new structure of law but, at the same time, leave the rights of the proprietors of the caravan parks intact so that you can have a phase-in period if you want this kind of thing to be part of our society.

I am not sure, can I say to the member for Taylor in drawing attention to this problem, that all members in this place see this approach as the solution to the problem that she has quite properly identified. I have seen it and it is a vexed question. The honourable member quite properly said that the majority of residents are older people—many of them from either broken marriages or marriages where they have lost their spouse and they have decided to spend the rest of their time living in the social comfort of close proximity with other people who have always been families making holidays in the traditional context.

However, I do not think that they are safe there any more, because I have noticed that an increasing minority of people going into caravan parks as permanent residents are really nasty bastards, and I use that word very deliberately. They are illegitimate in social terms. They do not come descended from any previous social structure that we have had in society: they have simply split the scene from whatever home they were in, if any, and they have gone into caravan parks to live. They are predatory and they will create trouble for their neighbours just for the hell of it. They are terrorists on a small scale. They are the problems that I have had to sort out in some instances; and the police hate it.

The other even smaller problem growing in significance is the hiring of caravan park sites for the rapid production of pot plants, that is, Cannabis sativa, marijuana. They hire the cabin, lock it all up, fit it up with hydroponics and they are not there. They are part of a group. It is an organised criminal activity. The person whose name appears as the tenant is non-existent. All the bills are always paid and, when they are finished with that site, they move onto another van park somewhere else and it is a matter of only 10 to 12 weeks. They have done their job; they have turned out between $60 000 and $200 000 worth of pot, depending on the size of the cabin and the sophistication they have introduced to it. They back in underneath the annexe with the trailer.

One of my cop mates showed me photographs of an instance where they watched one site. They followed a person who was setting it up. The police watched one site and photographed it. It was very sophisticated. They came in with a drop-down trailer that contained all the equipment. The trailer went in under the annexe, stuff came out of the trailer, obviously, and it went into the cabin. Of course, that person has been caught and prosecuted. No names or anything else: it does not matter. I do not want to embarrass the van park. These sites are becoming the convenient transitory bases for criminal activity, and we are going to confer residential tenancy status on the owners and occupiers of them, such that if someone who was a real person took one of those sites and then went to prison the same law as applies in the principal act about tenancy—while someone is in prison—will apply to the caravan park site, and that is not at all good.

The point I am getting across, I hope, to the parliament and to the member for Taylor is that the best thing we can do with this problem is, as quickly as possible, get it into the hands of a select committee to collect the evidence from the police, the Residential Tenancies Tribunal, the people I know and the honourable member knows who are tenants and who have been adversely affected by bad practices of the landlords who do not even uphold the code of practice to which they agreed when they joined the association (and which is more onerous than they are prepared to commit to), and to clean up,

then, the kinds of people who move into caravan parks; and enable us to distinguish in law those sites—those bits of land—which we agree are suitable for residential occupation in this form and those sites which otherwise ought to be segregated for holiday makers.

I would say in all sincerity to the member for Taylor that we would discover in the process of that select committee's analysis of the problem that there were the two groups and that, in respect of the group involving the permanent residents, in some instances those sites that are pretty well predominantly permanently occupied are becoming slums and, down the track, there will be health problems. I know that it happened after the proprietorship of a caravan park which is on crown land and which is not far from this city changed hands. The person who went in there did not bother to take the trouble that the previous proprietor—who had owned it for several years—took to keep out lice.

There were many permanent residents and it was too much of a hassle for him to try to keep the place congenial for everyone. He sold his interest in it for as much as he could get and got out. The residents have subsequently had a lice epidemic. I do not know what you call that. People have been lousy. It is terribly unfortunate because, in that case, older pensioners who came there and who were fairly frail were suddenly infested with lice. They thought that the lice were from the dogs. No, they were not: they were human lice and they came there from itinerant people who did not wash properly. Caravan parks are not ideal places, because you must walk to go to the ablutions. If you are cheek by jowl with someone who lives like that—you lay down with dogs you get their fleas. It is not your fault but there is no protection in law to make that person next door clean up, nor make the manager make that person clean up, and the manager and owner of the premises cannot make that person clean up. Under this law, if they have resided there for 60 days, they can stay there and the owner and the neighbours are powerless to require them to behave in a civilised way.

I have used lice as an example, but there are other similar things that also annoy such as if your caravan park neighbour has four cats. There are no rules—and there is nothing in this law—as to the number of cats allowed. If four or five cats walk all over your car, because it is only two metres from their cabin, what can you do about it? Nothing—and people get upset about that. These cats can walk over the car, fight with one another or fight with other strays that come through the van park. Have you ever tried to herd cats? It is great fun.

Altogether, I am disturbed by this provision, which is an extension of section 5. Whilst in principle, it seeks to do something that would be seen by an honourable decent tenant as useful, compassionate and fair, it will create a hell of a lot of problems, because not all the dishonourable people in this world are caravan park owners and managers—some will be tenants.

As well, because of the close proximity of those tenants to their neighbours, and the joint use of facilities and so on, we need to refer this to a select committee to more accurately identify how to avoid the problems that would otherwise arise such as communicable diseases creating epidemics, the plagues to which I have drawn attention, and the nuisance of pet animals and other kinds of conduct, and also to define the amount of space that is really needed for these strata title holiday home-type establishments so that there is sufficient insulation against being under one another's feet, and creating those tensions that result in petty criminal acts and antagonism when trying to get rid of a problem and, finally, some form of violence that cannot be resolved.

In conclusion, I cannot support this clause. I will call and vote against it, because it is section 1(3)(ca)(ii) that is a worry overall. It does not allow for the consideration that I have demonstrated to the House is necessary.

Ms WHITE: I will try to remember all the points raised and briefly respond to them. First, in relation to illegal activity and the types of people who live in caravan parks, an 'illegal activity' is an illegal activity under any legislation and, obviously, that is a matter for the police and will remain so. The fact that some conditions in some caravan parks are not good is established. At the moment, the only recourse that tenants have is to call in council health inspectors, which is the only legislatory protection that exists under current legislation. However, there are measures in my bill that go towards ensuring that people in caravan parks, whether they be tenants or their neighbours, are treated properly.

There is a requirement in this bill that landlords take steps to ensure that tenants are not interfering with the rights of other tenants, such as that they do not make too much noise or damage property. Provisions in this bill ensure that tenants themselves do not damage property, common areas, or interfere with the enjoyment of others. So, there are requirements in this bill that go some way towards that that do not exist in any other South Australian legislation

The member for Hammond made the point that the clause was not fair because it kicks in for those tenants who have lived in caravans for 60 days or more. The member said it was not fair that caravan owners could not kick out everyone they wanted to before this legislation is introduced. Well, I do not agree with that point of view. Ethically, tenancy rights have been given to those tenants in caravan parks who have been paying their rent for more than 60 days and they have been given an undertaking that they can continue to rent the property. I do not agree with the member's point that there should be something in the bill that allows landlords to kick out anyone they want before this legislation is introduced. I do not think that is the way to go.

A point was made by the member about costs and landlords being able to share those costs. I agree with that point, but it is only reasonable that they be spelt out to tenants. The problem at the moment is that, in many cases, they are not being spelt out. Do you know, for example, that there are operators around this state who hiked up rents when new services and charges were introduced, for example the emergency services tax that was introduced a couple of years back? Profiteering has been going on in this state by operators who have been charging much more than they are entitled to. They get one bill from the government and then they recoup whatever charge they will from their tenants. The minister, the Hon. Wayne Matthews, wants me to name these people, and perhaps I will, at his request, and he can take the consequences. It is not my intention to do that.

An honourable member interjecting:

Ms WHITE: In fact, they do exist. In fact, Minister Robert Brokenshire, the Minister for Emergency Services, knows exactly, because constituents have contacted his department, which has been telling them that the only way their problem can be fixed is by the passing of my legislation. So, the government itself has said that it is powerless to stop unethical practices in terms of charging tenants in this way.

I do not accept the member for Hammond's point about this being unfair legislation. I am aware that the member for Hammond has previously had problems with residential

tenancies legislation and does not approve of this mechanism. However, I also point out about consultation that over a decade there have been government committees set up involving all the stakeholders, promises have been made for legislation, but nothing has happened. In that decade, most other states of Australia have introduced legislation and, in some cases, they are up to their third version of legislation to protect these people. Yet, in South Australia, we lag behind and are seeing the consequences for the thousands of long-term residents in this state who do not have rights. Some of them are paying fairly high rentals for the plot of land that they occupy. Even though they mortgage their own home they do not have the rights that someone in a normal rental situation has. That is just not fair.

The Hon. W.A. MATTHEW: I have listened with interest to the points made by the member for Hammond and also, in response, the member for Taylor. I think the member for Hammond has raised some very far-reaching but relevant points that need to be taken into consideration. I believe the member for Hammond has succeeded in pointing out to the House that this is a far more complex issue than the member for Taylor would have us believe. I find his suggestion of referring this to a committee for thorough examination—

Mr Lewis: The Social Development Committee.

The Hon. W.A. MATTHEW: Yes, indeed, that committee would be the most appropriate to research this issue properly. I have no doubt that the member for Taylor has received complaints from constituents about matters that need to be resolved. However, the purpose of the parliament is not simply to knee-jerk respond through legislation but to respond appropriately and to ensure that legislation does cover all the problems that need to be addressed, no matter what the situation. So, I do have a lot of sympathy for the point of view put forward by the honourable member. And, to help me make up my mind on how I should vote on the member for Taylor's legislation, I would like to ask her exactly how many constituents she has had complain to her about aspects and what the details of those complaints were, so that I can be sure that this legislation is being brought into the parliament by her on the basis of thorough review and thorough examination of a wide-ranging point of view, rather than, perhaps a rather narrow point of view. I do not dispute that there are problems that the member is endeavouring to address, but I am not convinced that this bill is capable of addressing the wider-ranging issues that need to be resolved; certainly the member for Hammond has alluded to a lot of those in his questions.

Ms WHITE: As I have indicated in my second reading speeches on both this occasion and two years ago when I introduced this legislation, it has involved many constituents. Initially, they were constituents from my own electorate, in which I have four caravan parks. After introducing my first version of the bill into parliament, I have received hundreds of complaints and matters raised with me by long-term caravan park residents from all over the state.

The Hon. W.A. Matthew interjecting:

Ms WHITE: Hundreds of complaints, hundreds. They have been everything from unfair rent increases, discrimination and harassment of individual tenants. They have been about quality of facilities; unfair charges in terms of electricity bills and other charges; discriminatory payments where some tenants have been charged different rates of charges than others; and access of relatives and guests to caravan parks. I could go on and on with a list of issues that have been raised with me.

I wonder whether the minister has any caravan parks in his electorate or has not had any constituent complaints. Has he had any constituent complaints?

The Hon. W.A. Matthew interjecting:

Ms WHITE: No constituent complaints. Well, maybe his constituents just do not feel comfortable coming to him. A number of these people feel very intimidated. They do not have rights in their caravan parks and they are very intimidated. I have had elderly ladies in tears in my office about the treatment that they have received following deaths of their spouses; about refusal of access for their grandchildren to visit them at times—all sorts of issues that have meant that they are not being treated fairly. So, if there are doubts in the minister's mind that this is occurring all over the state, he is just not across the issue.

There are some very good caravan park operators out there, and I have heard from a number of them who do support this legislation, because they feel that it might weed out some of the other operators that they do not support. I think it is a very balanced piece of legislation based on aspects of interstate legislation but avoiding some of the encumbrances that are put on businesses interstate. So, in my view it is a good balance. It may or may not be the minister's view, but let us debate the legislation on its merits. And it is about time that this state put in place something to protect the interests of these residents because, while this state has been consulting over more than a decade with all stakeholders, we are yet to see legislation and we have been surpassed by other states of this nation.

The Hon. W.A. MATTHEW: I certainly wish to debate this legislation on its merits, but the problem is that the House has not been provided with sufficient information to be able to debate it. I have seen the honourable member's second reading speech and, yes, I have seen her speech from two years ago as well. The honourable member is telling the chamber that she has had hundreds (that was her word) of complaints about this. Well, in just talking to four of my colleagues surrounding me who do have caravan parks in their electorates—as I do—none of them has received any complaints. I have regular communication with people who are residing longer term in the caravan park in my electorate, the Kingston Park caravan park. One of the reasons I have had communication with many of the tenants there is that that caravan park is used regularly by people who are building new homes. True, it is a tourist park, but it also derives a considerable portion of its income from people who might be building a new house—particularly with some of the new building that is occurring through Brighton (there is a lot of urban regeneration and infill occurring there). And I have cause to talk to many people there, but their complaints to me have usually been about the problems in building a new home and some of the issues involving timeliness of the building industry, rather than complaints about the caravan park.

It might be that the caravan park in my electorate is a very good one compared to the rest—I know it is a very good caravan park: it is well-run. People who stay there tell me that it is a fabulous place to stay and, indeed, many advocate that it is almost a hidden secret in South Australia and that, if more were aware of that, they would have to increase the size of the area because it is such a good park. It might be that the parks in the member for Taylor's electorate are particularly bad ones. I just find it astounding that the member has had 'hundreds' of complaints. I have not had any, and four of my

colleagues to whom I have just spoken have not had any. We would like to know where these complaints are.

The member for Hammond has proposed an appropriate solution. He is suggesting that this whole matter be referred to one of the parliamentary committees, perhaps the Social Development Committee. He has raised a whole wide-ranging list of issues that need to be addressed, and I do not doubt that some of the things that the member for Taylor is advocating need to be changed may well need to be, but it would be a very poor legislator who legislated on the basis that hundreds of hidden faces, unknown faces, have made complaints. Of course, the benefit that is offered by the process suggested the member for Hammond—the Social Development Committee—means that those hundreds of people can be represented before that committee and their hundreds of complaints can be appropriately examined and appropriate legislation put in place. But, I just do not see that word 'hundreds' being so accurate. How many complaints has the member really had—299, 199 or one? I would really like to know.

Ms WHITE: This Liberal government clearly wants to vote against this legislation but does not have the guts. What I say to you is, 'If you do not want to see this legislation pass, do not refer it off to a committee; vote against it.' Why do you not want to vote against it? It is because you know that thousands of people are living in permanent residency in caravan parks and that this is a problem. So, you can pander to special interests and do what you like but, if you are not going to vote for this legislation, then do that; do not just shunt this off to a committee.

The Hon. G.M. GUNN: I am surprised at the comments of the member for Taylor. I have a large number of caravan parks in my electorate, and some very large ones, and I have not had one complaint from a tenant. However, the people running those caravan parks have had great difficulty with vandals and with antisocial behaviour which affects their parks. One of the things about caravan parks is that, if you know anything about them, the people running them are very aware that they must have good public relations, because word of mouth is the most important thing to get people to stay at your park. If you are at Coober Pedy one night and you are talking to the people around you, you do not want them to say, 'Don't stay at x, y or z.' You want people to say, 'We had an enjoyable time elsewhere. It's a good place; you should go there.'

Last weekend I spoke with people involved with caravan parks in my electorate, having sent them this legislation. From discussions I have had with them they were far from impressed. If you put unnecessary and unwise restrictions on these people that will prevent them from making further investment. I want to see people improve their caravan parks through further investment, because a lot of people enjoy travelling around the country and staying at caravan parks. When I was there at the weekend an amazing number of people were coming and booking in. If you look around the north of South Australia you see people who have worked hard to establish these parks, and they must have a right to manage them. Normally the people who complain are like difficult Housing Trust tenants. When they are chastised they come whingeing to the member making out they have been badly treated. In most cases you find out that they have terrorised the whole street, annoyed people and have no regard for others, their property or privacy.

Before I support the measure I want to ensure that the people running the caravan parks have the ability to protect the ordinary, good, decent caravaner against the activities of a small minority of irresponsible people. Unless I have that assurance, I will not support this bill.

The Hon. R.L. BROKENSHIRE: I rise to put a few points on the *Hansard* record about the member for Taylor's proposal. Of all members opposite, one member I would have thought would do some serious homework—and not knee-jerk reacted to what I understand may have been some isolated incidents—before coming into this place trying to grandstand on something that has horrendous ramifications, is the member for Taylor. In my electorate I have several caravan parks. I have had virtually no representation, virtually nil—

Ms White interjecting:

The Hon. R.L. BROKENSHIRE: We will talk more about that in a moment. There has been virtually nil representation, and when there has been a concern it has been easy to work it out between the local member, the caravan park proprietor and the individual in question. This matter should be referred to the Social Development Committee to examine from the viewpoint of issues involving these people in desperate situations who need to have accommodation. If this bill were to go through in the way the member for Taylor has proposed, it would do unbelievable damage to those people who often have the capacity to have a roof over there head only by virtue of the fact that caravan parks are well managed and there is goodwill. Admittedly, people have to make a profit as they are in business.

I can give examples here, one involving a family who have tried everything they could with a young adult in that family. Sadly, they could not keep that young person in their home any more because of cannabis. He got involved with cannabis because of the 1987 legislation that came in when the opposition was in government. That is where it all started and we will continue to debate that matter as well, because many young lives are being destroyed. The member for Mitchell can simply flick that away, as he has just done, but I will not flick it away. That person got so difficult and down with respect to illicit drugs that he started stealing from his own family, who at present are working through rehabilitation.

If that individual, who is living in a caravan park somewhere in the metropolitan area, gets into more difficulty there, is the member for Taylor saying that there should be an agreement, notification and things that occur when you have a tenancy agreement? A lot of decent people live in caravan parks—the majority are—but now and again you get transient people who are disruptive and cause major concerns to the rest of those in the caravan park and who can disrupt the other occupants overnight. For the member for Taylor to put these sorts of impost on the people who manage in these difficult circumstances is totally unacceptable to me. They are great people operating those caravan parks, which are well managed and give people an opportunity they otherwise would not have.

If someone is losing the plot, the manager of the caravan park must have the right to very quickly remove that person, otherwise you do enormous damage to the other people going about their day-to-day activities as citizens in a normal civil way. I am very concerned that the member for Taylor has introduced this legislation. It is not the right way to go, and I would support other members in this place who have said that if there is an issue it should be referred to the Social Development Committee and not dealt with by way of a

knee-jerk reaction in private members' time in this parliament.

Progress reported; committee to sit again.

SUMMARY OFFENCES (SALE OF SPRAY PAINT) AMENDMENT BILL

(Second reading debate adjourned on 15 March. Page 1093.)

The Hon. R.B. SUCH (Fisher): I move:

That this bill be discharged.

Motion carried.

BUDGET REPORT

The Hon. R.B. SUCH (Fisher): I move:

That this House request the Treasurer to provide to the House a synoptic half yearly budget progress report, outlining any significant changes and trends which have arisen since the budget was presented in May, to be tabled by the first sitting day in the next calendar year, providing that if the House is not sitting within one month of the end of the six month period, the report is to be forwarded to the Speaker who is required to distribute to all members.

This is an important matter. Currently, we have the presentation of the budget in this chamber by the Treasurer. Clearly, that is an essential part of the process of financial accountability, but if members look at what has happened in other jurisdictions and other parliaments, for example, Victoria, they have in place exactly what I am proposing here. There is a half yearly budget report presented to the parliament.

Members may be a little confused because currently we have what is called a mid year budget review, but that is not presented to the parliament. It is published in the *South Australian Government Gazette* in line with requirements for commonwealth grants and so on. It must conform in its format to the rules of the Australian Bureau of Statistics. It is presented strictly in terms of accrual accounting, which is the proper way in which budget information should be presented. It is in the *Government Gazette* but it is not presented directly to the parliament, and certainly it is not provided in a way which would allow questioning and scrutiny.

The annual budget that is presented earlier in the year is still presented essentially in cash accounting terms. Even in respect of that mid year budget review, so-called, and the annual budget we have two different formats of presentation. The cash accounting approach of the annual budget generates usually a balance or a surplus, but when one takes into account and uses accrual procedures one finds it is a different situation. That is not the main issue although it is an issue of concern. In addition to that mid year review, the Treasurer produces what he calls budget results which are published at the end of the calendar year. Members would recall receiving one in their pigeon hole. Once again, this is not presented to parliament. Basically, it is the Treasurer's information to members of parliament; it is interesting and useful but, once again, not conforming to what my motion would require.

Bearing in mind some major corporations probably need more scrutiny than they have in the past, they provide more frequent accountability in terms of their financial status than what we have here in South Australia in regard to budgets presented by the government. One could argue that, if it is good enough for major corporations required by law to do it, surely something as important as the budget of this state should require a half yearly update presented to parliament. I am not asking for the full presentation that we get with the annual budget, but it is appropriate and prudent that we get a synoptic outline of where things are at so that as members of parliament we are in a better position to know whether there are emerging or worrying trends.

Members may know that this week the Economic and Finance Committee is looking at a reference that has been put forward by the member Stuart, that is, the possibility of having balanced budgets required of the government of the day. As part of that committee process, witnesses, including the Under Treasurer and other senior Treasury staff, have given evidence. That exercise this week was a most useful activity because members of the committee were able to ascertain very quickly some of the key elements of the current financial situation. One of the points pursued was in relation to the exposure of the superannuation funds of the state government to the world share market. I do not know whether members realise, but it is quite likely that the main fund will suffer somewhat because of the downturn in the international equities market.

That is just one aspect, but if we as a parliament got a half yearly synoptic report, a snapshot if you like of where the current budget is, including significant changes and variations, those things which are showing concern or which could cause concern would probably be brought to light. I am not in any way reflecting on the officers in the Public Service, but they are charged currently with keeping an eye on government agencies and departments and reporting back to the Treasurer. This is not a partisan matter: this is regarding the finances of the state. I believe that if we had this situation we could have avoided some of the costly financial errors of the past 10 years or so.

The motion is self explanatory and I will be interested to hear the view of the members in relation to it. It is already the practice in some other parliaments and I believe it should be part of the practice of this parliament. The Treasurer, as I say, already puts information in the *Government Gazette* in order to qualify for commonwealth grants and so on. It would not be difficult to have the report or a variation thereof presented to parliament. In terms of the budget results, which is provided for the information of members, that does not provide the information that would enable us to pinpoint activities which potentially could be unwise financially or which could impact on the economy of South Australia in a very negative way.

In short, I ask members to support this motion. I believe it has merit. It is not about trying to score points in a partisan way but, rather, it is a simple request that for something as important as the budget of this state we should get a half yearly report presented to parliament. It does not have to be in the sense of the Treasurer coming into this chamber to present it, but the parliament should be given in a proper formal way accurate information on what has happened in the six months since the annual budget was presented to the chamber by the Treasurer. I commend the motion to the House.

Mrs GERAGHTY secured the adjournment of the debate.

LOWER EYRE PENINSULA FIRES

Mrs PENFOLD (Flinders): I move:

That this House commends all people involved in the fighting and in the aftermath of the Lower Eyre Peninsula fires.

The fires on southern Eyre Peninsula have been a grim reminder to all of us of the perennial dangers posed by bushfires and the tragic situations they can bring about. It was very late on Friday night after checking that everyone was safe, housed and fed that I finally sat down and saw the news and photos of the towering infernos that engulfed the small town of Tulka. It was surprising to me that we did not have any deaths; these were probably avoided only by the close proximity of the sea. On the other hand, it has been wonderful to see the tremendous effort put in by so many volunteers, service clubs, departmental personnel, businesses, the fishing industry and just ordinary citizens.

The cooperation and community spirit that has been evident during this trying time has been inspirational. Spontaneous acts of generosity have been common, with a local school donating the food from a barbecue they had intended to have on the Friday night, and a young man from Adelaide organising for toys to be collected and given to the young people of Tulka. Unsolicited boxes, bags, trays of food and goods were delivered to check points and charities. In addition, many thousands of dollars have been given and distributed to those in need.

Many people worked around the clock at the height of the fire and subsequently worked long shifts to repair plant and equipment, supply food, man fire trucks and do the many unseen jobs that were necessary. I appreciate that at times it took an heroic effort just to maintain utilities such as water and electricity, especially when the fire was at its fiercest. Power lines fell and cut power to the pumps for Eyre Peninsula's main water supply. The massive pipes from the basin broke apart in the heat and had to be reconnected. The level of difficulty was far greater than any of us who were not directly involved could ever have imagined.

That there was not a major disruption to the lives of the people of Port Lincoln can be directly attributed to the work done by the ETSA Utilities, SA Water, CFS and MFS service personnel who worked above and beyond the call of duty. Then there were those who donated their time and that of their employees and often their equipment, trucks, bulldozers and even aeroplanes to the effort. I acknowledge with pride the people from across Australia and the local community and their generous response and support, especially their compassionate efforts in assisting Tulka residents to come to terms with the loss of their homes and possessions. I commend the motion.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): It gives me a great deal of pleasure to support the member for Flinders' motion and her kind words about the commitment of so many people to address the difficult issue of the Tulka fire. Over the years I have been in quite a few fire situations myself. I have been involved in more intense fires even than Tulka, and I think particularly about Ash Wednesday. But the Tulka fire was a particularly difficult fire. It had a wide front; the weather conditions were spasmodic and changed quickly; and the general conditions over and above the wind were less than desirable, which is typical of what happens with a major fire like that, because clearly it is those sorts of conditions that fuel the fire.

Going over there with the member for Flinders just a few days after the main front of the fire had gone through so much of that section of Eyre Peninsula and Tulka and seeing the commitment of the volunteers and the paid staff gave me enormous pride and further appreciation of how dedicated all these people are in major trauma incidents.

The fact that the SES worked logistically with the CFS; the SAMFS was involved in this fire; St John Ambulance, Salvation Army and people like that worked as a committed team using the racecourse as their headquarters in providing food and refreshments for people coming in quite exhausted all presented an awesome picture of how emergency services and communities rally together in adversity. The South Australian community should be proud to see this dedication and commitment.

Clearly, the paid people also worked very hard and tirelessly during the entire event. I know that, when I went over to visit the Tulka residents and have a chat to them about the incident, they were overwhelmingly supportive of the great effort that the volunteer firefighters from the Country Fire Service put into dealing with this fire.

This is just one example, but an important one, of what volunteers and paid people are prepared to do every day. They give up their own time to go and support others, often to the point where businesses sacrifice income, always knowing there is the potential risk that they themselves could suffer injury or even worse, yet they do it because they believe in the community and in South Australia. The community around Port Lincoln and Eyre Peninsula were supported by all those who came across from other parts of the state. As part of the incident strike tasking planning operations that were put in place, we had volunteers hopping in fire appliances from right across the state, some of them giving up a week to travel from the Adelaide hills, Fleurieu Peninsula, the Mid North, other parts of Eyre Peninsula, the Mallee and the South-East. They came from everywhere to back up and provide support. No wonder I am a proud minister when it comes to the Country Fire Service, the State Emergency Services, SAMFS and all the volunteer emergency services organisations. I have much pleasure in supporting the member for Flinders's motion.

Motion carried.

CARNEVALE

Mr SCALZI (Hartley): I move:

That this House commends the Italian Coordinating Committee for once again staging another successful Carnevale in Adelaide, not only as one of our state's major events, but also as a demonstration of our state's rich cultural diversity.

It seems a long time since I gave notice of this motion after the successful Carnevale. Only the other night when I attended the coordinating committee AGM I saw that they were planning for the next Carnevale. So, in a way this motion confirms that it has been a great success, because they are well on the way in preparing for the next successful Carnevale. I well remember attending the Carnevale with the Premier, and this year the crowds were some of the best on record. I know that all those who participated and contributed, as well as the public who attended, were testimony to its success.

It is important to have celebrations such as the Carnevale, because these are the signs of the success of multiculturalism in our community. The fact that Carnevale originated from the Italian Festival shows that we were not only celebrating Italian culture and tradition: given the number of people who attended, the reality is that we were celebrating Australian culture and tradition. The two are intertwined, and that is what multiculturalism is all about.

I remember Alexander Downer, the federal Minister for Foreign Affairs, stating that this was really a celebration of Italian culture within the Australian culture, or something to that effect. That is what it is all about, and we must continue to celebrate this festival—as, indeed, we celebrate the Schutzenfest, Glendi, the Dimitria festival, and all the other festivals that really show what South Australia is all about.

I will not talk at length. However, I wish to congratulate Tony Tropeano, the President of the Italian Coordinating Committee, his committee, the volunteers and all those who have put in a tremendous effort in the organisation of the festival. Obviously, it was a success and, like many members, I look forward to attending next year's Carnevale—the preparations for which, as I said, are well under way—so that, again, we can come back and say that it was a success and we had a great time.

Mr SNELLING (Playford): I wish to add my comments to those of the member for Hartley, and also to congratulate the coordinating committee for staging such a successful Carnevale. My wife is Italian, and I think it is probably Carnevale almost every day in our house. The member for Hartley neglected to say that Carnevale is, essentially, a religious festival. It is always staged the weekend before the beginning of Lent. It is a mardi gras type festival, where there is feasting before the arduous six weeks of fasting during Lent leading up to Easter. My congratulations go out to the Italian community, especially to those members of the community who put in so much hard work for a successful Carnevale. I can only say how much I am looking forward to attending next year.

Motion carried.

RADIO STATION 90.3 GULF FM

Mr MEIER (Goyder): I move:

That this House congratulates Yorke Peninsula's community radio station 90.3 Gulf FM on becoming the number one radio station on Northern Yorke Peninsula in a recent McGregor Tan research survey.

It is a real pleasure to move this motion. The recent survey probably now has been eclipsed, because I moved this motion some time ago. It certainly shows how legislation can get bogged down in private members' business. Weeks can turn into months, and I was starting to wonder whether the months would turn into years. I am absolutely delighted to have the opportunity to formally move this motion, and I take this opportunity to congratulate everyone who is associated with Gulf FM.

The listener research survey conducted in December 2000 indicated that Gulf FM has the highest proportion of regular listeners and is the most regularly listened to radio station in the Northern Yorke Peninsula area. In fact, Gulf FM has three times more listeners than any other local radio station in the area. That is fantastic news, and it shows how much has been achieved in a very short time.

The listeners of Gulf FM cover a wide range of age groups (the survey also showed that), and half the respondents listened daily, or most days, and find the music quite appealing. I have to support that fully, because—

Mr Hanna: What is it—country and western?

Mr MEIER: It has country and western on some evenings. In fact, I know very well the lady, Lorraine, who runs the country and western show, and I compliment her on her program—when I get to listen to it. It is really very much a community/home-type radio station. Its broadcasting outlet is situated in Kadina, whilst its transmission tower is located not far from Arthurton. I can see that quite a few members opposite are interested to hear more about Gulf FM. They should, in fact, be interested to hear that 65 per cent of listeners use the station for the purpose of local information and entertainment, and 88 per cent of listeners tune in during weekdays.

But there has been a significant advance since that McGregor Tan research survey. The station now has a news broadcast on the hour (which it has to tape half an hour before, because at present it comes from interstate), and this has really opened up even more the information broadcast on this radio station. In fact, when I was being interviewed there the other week I had to finish by midday, because at midday they were going to broadcast the news by hook or by crook. They are as good as the ABC in their accuracy of times these days.

The big announcement that I want to make today is that Gulf FM 90.3 on your dial is about to change to 89.3. That will be—wait for it—from Thursday 25 October. I think that will be a significant step forward to Gulf FM becoming a radio station with a permanent licence. Members would probably appreciate that, when a radio station starts up, the operator receives a licence only for a period of a few months and then has to apply for renewal; the licence is granted for a few more months, and so it continues until the broadcasting authority is satisfied that the operator can run a radio station in their own right. That will be a significant step closer with the radio station receiving its new frequency of 89.3 as of 25 October. By the way, most people with radios in their cars can pick it up quite well here in the city. I could not pick it up properly on the radio in my previous car (which I changed about seven months ago). But with the radio that I have in my current car (which should be a standard fitting in all cars these days), you tune in—

An honourable member interjecting:

Mr MEIER: It will be 89.3 from 25 October, or 90.3 if you want to listen a little later today, or perhaps slip out during the lunch break. It is a great radio station. I want to compliment everyone who has been involved with it over the years. It began as a brand new venture. I remember being interviewed when I think they had something like one watt, or one kilowatt, of power, and now it has 1 000 watts. The first interview in which I was involved took place in a caravan at the Moonta Show, and the coverage was only a few hundred metres from that site. But, interestingly enough, as I walked home from the show that afternoon, someone said, 'John, I heard you on the radio a little earlier.' I said, 'Well, there you are. It's starting to spread far and wide.'

I am delighted that Gulf FM has made the progress that it has. It really is great news. My only disappointment is that this motion, which has been on the books now for many months, has taken this long to be reached. Perhaps it is another example of how we have to consider private members' time and try to more quickly get up some of these motions and bills. I can see one member opposite, who I am sure would not be that happy with her bill again not having got up. But that is part and parcel of private members' time. Those of us who have been here many years have almost got used to it, but I still feel frustrated when I realise that it does not matter what you do; you just have to sit and wait. I commend the motion to the House, and wish Gulf FM all the very best for its future.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): It gives me great pleasure to second the honourable member's motion. I have had the opportunity of speaking on Gulf FM (I think in about December 2000), so I hope that my input might have assisted the station to achieve such an extraordinary rating.

Gulf FM is also about volunteering. Initially, as the honourable member said, these radio stations start on the smell of an oily rag. They do not get big injections of capital from anyone. These sorts of community-based radio stations are in my electorate and, I am sure, in most members' electorates across the state. When I visited the Gulf FM studio I was amazed to see the quality of the technology. People at the station have worked so hard to raise the funds to buy that technology and, as the honourable member said, it is that sort of commitment that has allowed the station to grow so far and wide.

It must be a huge benefit for people in the northern Yorke Peninsula to listen to interactive radio and to hear the local member talk about issues of concern. It also provides the listeners with the opportunity to voice their opinions through that network. Certainly, it was a huge benefit to me to be able to report to the community about the new fire appliances and stations, as well as the policing increases. I am aware, as a minister in the government and as I travel around rural and regional South Australia, that these volunteers are prepared to put so much into their local radio station and to build community spirit in that area.

In the International Year of Volunteers it gives me great pleasure to support the member for Goyder, and I congratulate Gulf FM. I look forward to turning my dial from 90.3 on 25 October to 89.3 as I travel through that great and vibrant region of the northern Yorke Peninsula.

Motion carried.

SYRINGES AND NEEDLES

Adjourned debate on motion of Mr Lewis:

That this House calls on the government to provide free syringes and needles to diabetics and any other people requiring syringes to administer pharmaceutical drugs to themselves for so long as they continue to provide 'party packs' from South Australian public hospitals which contain free needles for use by people injecting drugs, such as heroin, into themselves.

(Continued from 5 July. Page 2023.)

Mr MEIER (Goyder): This measure is already in operation because, in the last budget, the Minister for Health announced that the government would be providing free syringes and needles to diabetics and other people who require syringes to inject pharmaceutical drugs. I believe that this measure is long overdue in this respect. Certainly, the whole issue of injecting has always been controversial. I have some views on providing free syringes to people who inject drugs into themselves. I still have enormous problems with it but, I guess, it relates more to the way in which our society should tackle the problem of drugs.

In fact, it has been highlighted in this House today how some drug problems have again affected our society. It is a very big issue and we cannot solve it in this motion. The idea of at least providing free needles to those who genuinely need it as a result of their pharmaceutical needs is very sensible. I hope that the House will formally endorse this motion, especially in the light of the fact that the measure was announced in the May budget and that it is already in operation through the Minister for Health's department. The whole issue of free needles for people who inject drugs is something that must be considered further.

The Minister for Police announced only recently a major crackdown in the area of marijuana usage. He has also announced a crackdown on some of the gangs that trade in the illicit drugs and the more we can do about that the better. I think that it is just a matter of continuing to exert pressure. This last budget also allocated more police resources to tackle the issue of drugs. Without doubt, so much of our crime, particularly the crime of theft, is associated directly to the drug situation and we cannot sit back and let it continue. In a sense, I guess, it is a cancer in our own society, as we found out recently with the attacks on New York and Washington.

There is a real cancer in our society in terms of the activities of terrorists in our world. Perhaps those disastrous attacks, the tragedy that has occurred and the massive loss of life will help jolt us out of our complacency and make us consider the society in which we live and make sure that we do everything we can to stamp out terrorists and any association with undesirable and unwanted types of actions. Certainly, I support this motion calling on the government to provide free syringes and needles to diabetics and I trust that it will have the support of the House.

Mrs GERAGHTY (Torrens): A number of my constituents who are diabetics have found the cost of providing themselves with syringes and other aids they need for their diabetes has caused great financial hardship. They certainly welcome this initiative. I support this motion.

Mr SCALZI (Hartley): I, too, support the motion. I believe that diabetics should have free syringes and needles because it is addressing a medical condition and, in a way, I support the motion regardless of the other issue that relates to the injection of drugs that are not for medical purposes. I welcomed the government's announcement—as mentioned by the member for Goyder—that needles be provided to diabetics. One can imagine, especially in terms of pensioners who have a limited disposable income, that the cost of treating a medical condition, such as diabetes, is really unfair. The government's support for free needles is welcomed.

So, this motion, in a way, has been addressed by the government but, nevertheless, I think that it should be supported because it makes the statement that medical conditions should be treated in such a way that they should not impose an unfair cost on the person who suffers a condition. For those reasons, I support the motion.

Mr SNELLING (Playford): I support the motion. It has long been a source of anger for many of my constituents who are insulin dependent diabetics that they have had to pay for needles and syringes in order to inject their insulin, yet drug users have been able to access free needles. I was a member of the select committee into heroin distribution and I must say that from the evidence presented to the committee I have grave doubts about the success of needle distribution. What started as a needle exchange program quickly became needle distribution. While it is true that we have been very successful in keeping down the rate of AIDS transmission amongst injecting drug users, the rate of transmission of hepatitis amongst injecting drug users is extraordinarily high. One has to wonder how successful the needle distribution program is when the rates of hepatitis transmission remain so high.

I am pleased to support this motion, and I believe that it is only fair that those who are required to inject their medication for conditions such as diabetes have access to free needles and syringes.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I, too, rise to address what is a very important and serious issue. I am very pleased to see that the government, through the Minister for Human Services, is now to provide free syringes and needles to diabetics. In fact, some diabetics in my electorate have raised this issue with me, their argument being that, if needles and syringes are available for those people who have sadly become involved in illicit drug activity, people who, sadly, have an illness should also be entitled to free needles and syringes. Given that, whilst still a lot more work needs to be done in this state, we are on a positive rebuilding path and program. We are, for the first time, starting to get some head room in the budget where these important initiatives that the government has always desired, that is, to deliver social benefit, are coming into the budgets and are being made available to the community. This is a very good decision by the government and the Minister for Human Services. I know that those people who have the misfortune to have that illness will very much appreciate this initiative.

Motion carried.

WHEAT MARKETING

Adjourned debate on motion of Mr Venning:

That this House supports the Australian Wheat Board and Australian farmers in the retention of the current single desk marketing arrangements for Australian export wheat.

(Continued from 29 March. Page 1231.)

Mr MEIER (Goyder): I support the motion, and I am very pleased that the member for Schubert moved it—some time ago now—because the importance of single desk selling has shown itself to be such a strong factor in Australia's position on the worldwide market for the selling of its grain, in particular its wheat. I also extend that across to barley.

Whilst there has been deregulation in so many areas of our economy, I emphasise that Australia is competing against countries and traders that really could not care less about Australia. We would be very silly to forgo our single desk marketing, because it gives our sellers one voice on the international trading market. It stops overseas markets from trying to pick off different merchants and trying to undermine the price that Australian farmers deserve and need for their produce.

Certainly, I am realistic enough to know that, in the first instance, farmers would probably not receive a reduction in the price paid for their produce. In fact, I would say that they would probably receive an increase in the amount of money that they receive for their wheat or barley, because the traders would be sensible enough to know that, if they can offer a higher price to one particular trader for the wheat, they would get those people to start trading with them. But give them time and the day would soon come where the price would start to go down at a steeper rate than would be the case if there had been one single desk selling unit. So, the importance of single desk selling cannot be over-emphasised, and it would be to Australia's great disadvantage if that should disappear.

We also have a situation that most countries do not have, and that is a receival system that is probably the best in the world. It is the best in the world from the point of view that we can separate quite clearly the different grades of wheat and we can separate the subqualities within those grades. So, we can offer literally any market anywhere exactly what they want. The advantage of that is that not only do they get the quality they want but also they are able to pay the correct price for the product for which they are looking. So often, other countries have been done out of a good deal because they have been sold inferior grain together with higher quality product. One could well understand how that would affect the overseas markets if they found that Australia does not have to give them what they pay for. Certainly, it is part of the reason why other countries sometimes discount their price considerably to get rid of their product. Australia has always prided itself on its quality, prices and the fact that it has one marketing authority which has access to all the different qualities available in the grain market. So, we should be very pleased that the Australian Wheat Board has retained the current single desk marketing arrangements. I know that it is open to argument and, certainly, it will be considered again in a few years' time. I guess that will continue to be the case in a deregulated world.

I would like to offer my thanks that the Barley Board in South Australia also continues single desk selling. As the member who represents the largest barley growing area, or certainly the best barley growing area—I think it is both—in South Australia, I know that the importance of quality barley is just so important to South Australia, to my constituents and many others, as well as to the overseas market because, again, buyers know that they are getting the very best (if they want the best) and they know that they are paying the correct price for the particular product they are ordering.

There are so many arguments to retain the current single desk marketing system. I thank the member for introducing this motion and I trust that it will receive the support of this House.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I also rise to support the motion and, in fact, congratulate the member for Schubert on bringing this motion forward. It is no secret in this House that the member for Schubert's tenacity, his passion and commitment for the rural sector is up there with that of any other member in this parliament: he is forever in there batting for rural and regional people.

I am delighted to support this motion. As honourable members would know, I am, outside of parliament, a farmer myself. We have been through some pretty interesting times in the last couple of years as a result of deregulation of the dairy industry: interesting to the point where what we have actually seen is hundreds of families go off the land and out of dairy farming, particularly in the states of New South Wales and Queensland more so than South Australia, where we went through the pain a few years ago. We did it carefully—we partially deregulated and we brought in statewide equalisation—and we were forced to become more efficient. Because of all those initiatives that we had to take up several years ago in South Australia, we were cushioned, albeit that we found it pretty tough—to describe it in a few words—with respect to the deregulation of the dairy industry. But fortunately, in South Australia, most families and most of my friends who also dairy farm with us in this state are going to survive and get through.

I raise that point because in rural and regional South Australia we need strong families. We need families that are going to stay in those communities to support the local businesses, the schools, the police, the hospitals and all those other infrastructure issues involving rural and regional South Australia. What we do not need is to see the children of farmers, whose families have been on those properties for generations, moving to Adelaide for jobs because we have moved too fast with deregulation. As a result of that, of course, who misses out? It is the people who supply the base product, it is the farm gate price, it is the farmer and farming family and it is the community that loses. You do not see the multinationals losing; you certainly do not see the big importers from overseas that come and purchase bulk product losing: it is always the price at the farm gate that suffers.

I believe that for the Australian Wheat Board and Australian farmers the retention of the current single desk marketing arrangements for Australian export wheat is the very best way to go. There are times when farmers need to be united and, in my opinion, this is one of the things that we do not do very well in this country, compared with many other countries. I highlight France as an example, where farmers are united and get their message through to the parliament in no uncertain manner. As a result of that they have been able to maintain smaller holdings that have been very important for community development, the social fabric of rural France. It is time that farmers focused on the fact that we need to be closely knit when it comes to not only opportunities but also threats on the export market.

As other members in this place have said, we are significant grain exporters. We are probably one of the biggest grain exporters in the world. In South Australia only last year we had a record grain harvest of $1.4 billion, from memory. When one gets a chance to go across rural and regional South Australia at the moment, one sees that the crops are looking superb. I would be very surprised, unless something unforseen occurs, such as no finishing rain (we still need a finishing rain across the state) or something catastrophic like frost or rust, we will see around a $1.4 billion grain harvest again. What a superb opportunity that is for growing jobs right across South Australia.

It always gives me enormous pleasure as the symbols in this chamber are a wheat sheaf and grapes. In my electorate, thanks to the commitment of my constituents, I know how much is generated in the way of jobs and economic activity for not only my electorate of Mawson but also to contribute towards the total income base for South Australia. The message in the House of Assembly with the wheat sheaf and grapes is that South Australia proudly, ever since we became a colony, primarily has ridden on agriculture. Through Food for the Future—the Premier's initiative—we are seeing growth in agriculture, finally in a value added form. That is creating jobs for South Australians and for those people who live in metropolitan South Australia. If we could get another good season we will see extra strength and vibrant opportunities for rural and regional South Australia.

If we go to the South-East, the Riverland, Port Lincoln, Yorke Peninsula or the Mid North, we are starting to see strong economies. With strong economies you see strong communities. That is what the government's focus has been about for the past seven years: rebuilding the state, growing South Australia with the help of the community. As a result of that we are now seeing stronger economies and therefore stronger communities.

We cannot afford to let the big bidders and players from overseas play farmers off against each other. How do you do that? You do not rush too fast down the deregulation track or cause the damage to the dairy industry we saw through the competition policy and the Hilmer reports. I saw heartache with a lot of families around us. We found it tough ourselves, but we had another income. The fact that the Wheat Board has a single desk marketing opportunity for farmers in Australia is fantastic, I congratulate them and I am proud to support this motion.

Mr VENNING (Schubert): I will try to finish off in the time left. I thank all members who have taken part in this debate and for their support. There has been no dissenting voice in this debate and it is great to see the solidarity of this House, as with the grain industries, on this very important issue. Collective marketing and selling of the Australian wheat crop has been our single biggest advantage, as all speakers have said. It is the biggest advantage we have over our international competitors, the only tool we have to counter our competitors' heavily subsidised grains into many of our traditional markets. As the member for Mawson just said, the season is looking very good out there right now, as are the prices, which are in a state of flux because of the world turmoil. I hope those prices return to what they were three weeks ago with good yield and prices. Our farmers are looking at prosperous times as it means prosperous times for our state. I thank members for their support and urge members to support the motion.

Motion carried.

[Sitting suspended from 1 to 2 p.m.]

RAIL TRANSPORTATION FACILITATION FUND BILL

His Excellency the Governor, by message, recommended to the House the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

STATUTES AMENDMENT (GOVERNOR'S REMUNERATION) BILL

His Excellency the Governor, by message, recommended to the House the appropriation of such amounts of money as might be required for the purposes mentioned in the Bill.

TAB BETTING

A petition, signed by 1018 residents of South Australia, requesting that the House amend legislation to allow the TAB to offer fixed odds betting on races, was presented by Mr Lewis.

Petition received.

MATTER OF PRIVILEGE

Mr De LAINE (Price): Mr Speaker, I rise on a matter of privilege. I ask for your ruling, sir, as to whether there is a prima facie case for a breach of privilege with respect to the carrying out of my duties as a member of parliament. Today, by letter, my electorate personal assistant for the past 12 years, Mrs Lorraine Harris, received a letter from the State Secretary of the Australian Labor Party, Mr Ian Hunter, advising her that a letter she had sent out under her signature

but at my instruction, seeking support for my candidature for the seat of Cheltenham, was viewed by him as a breach of ALP rules that may lead to her expulsion from the ALP, of which she has been a member for the past 19 years.

Members interjecting:

The SPEAKER: Order!

Mr De LAINE: The issue is: does the action of a third party threatening disciplinary action against a staff member of a member of parliament for simply carrying out instructions from a member of parliament potentially impede my ability to carry out my functions as a member of parliament?

The SPEAKER: If the honourable member would care to provide me with the material that he has in his possession, I will consider the matter and report back to the House at the first opportunity.

The Hon. R.L. Brokenshire interjecting:

The SPEAKER: Order, the Minister for Police!

The Hon. M.D. Rann interjecting:

The SPEAKER: Order, the Leader of the Opposition!

Members interjecting:

The SPEAKER: Order! The House will come back to order.

Mr Conlon interjecting:

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

OLD TREASURY BUILDING

In reply to **Mr LEWIS** (24 July 2001).

The Hon. J.W. OLSEN: The Attorney-General has provided the following information:

I am advised that the Crown Solicitor provided advice that inquiry and report into the Old Treasury Buildings redevelopment project by the Public Works Committee is not mandated pursuant to Section 16A of the Parliamentary Committees Act, 1991.

PAPER TABLED

The following paper was laid on the table:

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

Abortions Notified in South Australia—Committee Appointed to Examine and Report on—Report, 2000.

QUESTION TIME

HOSPITALS, QUEEN ELIZABETH

The Hon. M.D. RANN (Leader of the Opposition): Will the Minister for Human Services apologise to 125 people and their families for the distress caused by having had their elective surgery cancelled at the Queen Elizabeth Hospital during the past three months? A memo from the Chairperson of the hospital board states that in July this year 60 operations were cancelled at the QEH, and medical staff have informed the opposition that a further 65 operations have been cancelled in August and September to date. Last year, after the Director of Emergency Services at the QEH revealed that 50 operations had been cancelled during July 2000, the minister publicly apologised to those affected, saying it distressed him. The minister also said he would find a solution. That was last year.

The Hon. DEAN BROWN (Minister for Human Services): In asking this question the Leader of the Opposition clearly does not understand the operation of a hospital, because surgery would be cancelled for a range of reasons. Let me state three of those reasons. The latest figures reveal that more than half the cancelled surgery was due to circumstances completely beyond the control of the hospital. Let me specify some of those reasons: first, the patient failed to attend; secondly, the patient was not well enough for surgery (which is hardly under the control of the hospital); and, thirdly, the patients themselves cancelled. In fact, I happened to look at the figures for the latest period available, and I found that more than half the cancelled surgery was due to those factors beyond the control of the hospital. From the outset I point out that, where we are required to cancel because of pressure on the hospital, we always automatically apologise for that occurring.

I also point out that in some weeks—such as last week—the level of activity in our emergency departments is very low indeed. If you had looked around all our public hospitals last week you would have found that we had vacant beds and were able to proceed with the full load of elective surgery. The previous week it was fairly busy. On Monday of this week we had spare beds and carried out the elective surgery load. On Tuesday this week we suddenly had a significant increase in the number of people attending, particularly at the Queen Elizabeth Hospital, where some surgery was cancelled. We apologise to those people, but I point out that the figures used by the Leader of the Opposition are entirely on the basis that all that surgery was due to factors concerning the hospital. In fact, the latest figures show that more than half the surgery was cancelled for reasons beyond the control of the hospital.

HOSPITALS, EMERGENCY DEPARTMENTS

Mr HAMILTON-SMITH (Waite): Can the Minister for Human Services advise the House of government efforts to reduce waiting times in emergency departments in southern suburbs and in our public hospitals generally?

The Hon. DEAN BROWN (Minister for Human Services): I am only too pleased to do so. In fact, on Monday morning I was down at Noarlunga, together with a number of members from this House—the members for Mawson, Kaurna, Reynell—for the opening of the new emergency department at the Noarlunga Hospital, and a very good facility it is indeed, and I think members would agree with me that it is a marvellous facility, for several reasons. It has 20 cubicles; it doubles the capacity to accept emergency patients at the Noarlunga Hospital; it increases the capacity, as a result of that, for day surgery—an increase of 40 per cent for day surgery patients in terms of their admission; and it expands the medical records area. But, very importantly, it also introduces for the first time dialysis chairs at the Noarlunga Hospital.

In fact, having eight dialysis chairs at the Noarlunga Hospital means that 16 patients who otherwise would have had to travel past the Noarlunga Hospital to the Flinders Medical Centre (which is the system that was set up by the former Labor government), under our system, in fact, will now receive their dialysis treatment at the Noarlunga Hospital. So, 16 patients now receive treatment locally, whereas in the past they have had to travel much farther north to the Flinders Medical Centre. This is part of the commitment by this government to rebuild the hospital facilities of this state. In this case, we have spent $6.5 million on this immediate upgrade and expansion of the Noarlunga Hospital.

It is also part of a broader commitment of this government to make sure that we carry out a vast refurbishment of the capital facilities. We have now spent, as a Liberal government, over $700 million over the last eight years in terms of

upgrading our hospital facilities. We have a commitment, on just three of those hospitals, to spend a further $200 million on top of the $700 million already spent—that is the Royal Adelaide Hospital, the Queen Elizabeth Hospital and the Lyell McEwin Hospital. Just putting those together, without other capital improvements this year, that is a $900 million commitment that this government has made. If we roll in the rest of this year's program, we have about a $1 billion program over what will be a nine year period. So, people can see that this government has picked up the shortfall left by the previous Labor government.

Members interjecting:

The Hon. DEAN BROWN: I am delighted that the member for Elizabeth has come in, for a couple of reasons. The last time there was a Labor government, it spent $59 million on capital works. This Liberal government this year is spending $145 million on capital works in our hospitals. Another reason why I am delighted that the member for Elizabeth has come in is because she has put out two press releases today. And guess what? True to form, they are wrong again. Let me just touch on some of the issues that the member for Elizabeth has raised in these two press releases today. The first is her opening sentence, in fact, in one of the press releases, where she describes the Queen Elizabeth Hospital as 'already crashing from pillar to post under the weight of huge debts'. All members in this House have heard before how I pointed out that the Department of Human Services has picked up all the debts of the Queen Elizabeth Hospital. So, the member for Elizabeth is wrong once again. She has the gall to be out there claiming that the hospital is crashing from pillar to post under the weight of huge debts when, in fact, the Department of Human Services has picked up all the debts for that hospital.

The second point that the honourable member picks up in her press release is as follows:

> Ambulances put on bypass because patient safety could not be guaranteed.

On the latest figures, if I put all of the public hospitals in the metropolitan area together, the fact is that they were on ambulance diversion for only three tenths of 1 per cent of the time—0.3 per cent of the time only for the latest period, which is August. The private hospitals were on divert for more than half the time. Again, the honourable member's press release is quite wrong. Ambulance diversion from the public hospitals is not putting pressure on the system: it is the ambulance diversions from the private hospital system, and the figures back that up fully.

The next point that the honourable member makes in her press release relates to a claimed $13.4 million debt at the North Western Adelaide Health Service. About three or four weeks ago I pointed out that that so-called projection was based on one month's figures only.

Ms Stevens: Three months.

The Hon. DEAN BROWN: No, one month's figures only.

An honourable member: She is wrong again.

The Hon. DEAN BROWN: She is wrong again. The projection was based on one month's figures only, and it was the figures for July. This is State Bank stuff again. You have a front bench member of the opposition Labor Party saying that, based on one month's figures (and I might point out that July is a pretty busy month at the best of times), she is able to project exactly what the deficit will be over a 12 month period. I might add that I have spoken to the acting chair of the hospital today, and he pointed out that that claim, in terms of the deficit, is wrong.

The next point raised by the member for Elizabeth in her press releases was the fact that we were going to restrict outpatient services to pensioners only. In fact, her letter states:

> . . . a series of cuts, including restricting outpatient services to pensioners only.

Ms Stevens interjecting:

The SPEAKER: Order! The member for Elizabeth will get a chance in a minute to ask some questions.

The Hon. DEAN BROWN: I pointed out some weeks ago that that is counter to the Australian Health Care Agreement and cannot be—

Ms Stevens: I said that.

The SPEAKER: Order, the member for Elizabeth!

The Hon. DEAN BROWN: Again, we have the member for Elizabeth knowing that it is not going to occur; and she has just acknowledged that she knew that it was not going to occur. Why has she bothered to pick it up in her press release and make claims of a series of cuts, including restricting outpatient services to pensioners only? This is incredible stuff. Here is a front bench member of the Labor Party, claiming to be a responsible person, making claims when, in fact, she knows that that is not even the truth.

Another issue which the honourable member has dealt with in her press release relates to—

An honourable member: There's more?

The Hon. DEAN BROWN: Yes, there is more—the issue of cancelled surgery and trying to make out that 60 surgical cases were cancelled and that the state government was to blame for all that cancellation of surgery. I looked at the figures in that respect, and I found that more than half of that cancelled surgery was due to patient issues, such as the welfare of the patient, the patient's not turning up or the patient themselves cancelling the surgery.

In her press release, the honourable member said that we are funding the Queen Elizabeth Hospital to do less work this year. Well, let us look at the budget. In this year's budget we have allocated an extra $215 million to the hospitals—a 10.5 per cent increase. Yet here we have the member for Elizabeth claiming that we are funding the hospitals to do less work, and that just is not correct at all.

I move to the next point made by the honourable member in her press release today, because I received a telephone call early this morning asking whether I would comment on this extraordinary board meeting that was being held today. I discovered that, in fact, it was not an extraordinary board meeting at all: it was the routine board meeting.

Members interjecting:

The Hon. DEAN BROWN: You mention the word 'crisis'. That is exactly the phrase that the member for Elizabeth used—'the crisis meeting'. It was a routine board meeting.

Ms Stevens interjecting:

The Hon. DEAN BROWN: Yes, you did say that it was a crisis.

Members interjecting:

The SPEAKER: Order! The chair asks the minister to come back to the question and start winding up his reply.

The Hon. DEAN BROWN: Yes, Mr Speaker. Here is this crisis board meeting, an extraordinary board meeting, which the chair of the hospital will not be attending. So, it is hardly a crisis.

The other issue I raise, because I have heard the member for Elizabeth say this on numerous occasions, is that we are the ones closing the hospital beds. Do you know how many hospital beds the Labor Party closed during their last two years? They closed 440 beds in their last two years. Let me assure the House that there is no crisis at the Queen Elizabeth Hospital, and there is no crisis meeting today of the Queen Elizabeth Hospital board. I object to the way the member for Elizabeth plays the politics of fear, particularly for the most vulnerable in the community—those who are sick.

HOSPITALS, BED SHORTAGES

Ms STEVENS (Elizabeth): My question is directed to the Minister for Human Services. Can the minister tell the House the cost this financial year to public hospitals of having to cancel elective surgery because of bed shortages? In addition to the personal cost and distress to people preparing for an operation and their rehabilitation, there is a waste when highly skilled surgical teams are stood down. The opposition has been provided with details showing that the cost of cancelling a theatre session for two operations at the Queen Elizabeth Hospital is about $2 000. On the basis that 2 252 operations initiated in our public hospitals were cancelled in the 11 months to May 2001, this would amount to a loss of more than $2.2 million in that period. So what has it cost so far?

The Hon. DEAN BROWN (Minister for Human Services): Again, the honourable member is either extremely naive or is deliberately distorting the facts. She has just talked about a figure of 2 200 cancelled operations and multiplied that by an amount of money and come to a figure. Well, in fact, it is a wrong figure. Based on the figures that I have already provided to the House, for the latest period the majority of surgery cancelled was, in fact, due to the patients. A patient not being well enough to have surgery is a very legitimate reason, or a patient not turning up for the surgery is, again, a very legitimate reason. Sometimes they forget or, when it is elective surgery, they may have other priorities. The patient not turning up is another very legitimate reason.

The whole basis from which the honourable member operates and tries to create an impression of crisis and fear is, in fact, entirely wrong. I think it is abhorrent that here is an opposition which, at a press conference prior to this afternoon's session of parliament, could not give any undertaking whatsoever as to how much extra money a Labor government would put into health care. I can tell this House how much money we have put in. We have put in an additional $213 million. But the alternative government—the Labor Party—cannot give any specifics whatsoever.

BASIC SKILLS TEST

Mr SCALZI (Hartley): My question is to the Minister for Education and Children's Services. Can the minister release to the House the results of the 2001 state year 7 literacy and numeracy tests which were conducted in May?

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I thank the member for Hartley for his question. The government is delivering on literacy and numeracy standards in our schools, and this year, for the first time, year 7s sat a state test. Their progress from year 3 and year 5 has been nothing short of dramatic. When these students were first tested in year 3, three out of every 10 students were in the lower span of the basic skills test. This year when they were tested, less than one in every 10 was in that lower span. Congratulations must go to their teachers, to their parents and to the students themselves because it is a great effort. Not only that, the parents have embraced this testing program—over 96 per cent of students sat the test this year. That shows that the parents of South Australian students are very much behind this test.

Even though these are outstanding results and exceptional participation rates, I doubt that this will silence the detractors and the collaborators in the union. I know one thing: the state government has got testing of students' literacy and numeracy right and we have also got the funds right. We are right with parents, we are right with the students and we are right with the funding. But what has the Opposition shadow got right? Not much. The member for Taylor could not have got it more wrong on ABC Radio last Friday. This was another botched attempt on trying to score a run—struck out with the amount of the risk fund; struck out with the timing of advice to schools and struck out with the operation of the fund. That is three strikes and you're out, and any good captain knows that. Will she be the next education batter struck out?

HOSPITALS, QUEEN ELIZABETH

Ms STEVENS (Elizabeth): My question is to the Minister for Human Services—

Members interjecting:

The SPEAKER: Order!

Ms STEVENS: My question is to the Minister for Human Services. Given that a year has passed since the Director of Emergency Services at the Queen Elizabeth Hospital warned the government that overcrowding at the emergency department meant that surgery was being cancelled and that patient safety could not be guaranteed, can the minister justify the conditions at the hospital yesterday which indicate that nothing has changed? I will explain: yesterday the minister's office was asked to explain why a patient at the Queen Elizabeth Hospital had her elective surgery cancelled for the second time—the same person, second time. The minister's office replied that, while the patient was booked in for preparation and anaesthetic review, the surgery was cancelled because of the admission of more urgent cases. The minister's office said that all surgery except one cancer operation was cancelled yesterday because there were 25 patients in the emergency department waiting for admission at 9 a.m. By midday there were still 18 patients waiting for admission and the hospital was on ambulance diversion to the RAH for all emergency cases. Nothing has changed.

The Hon. DEAN BROWN (Minister for Human Services): First, I have to again correct something that the honourable member has said. She just keeps getting it wrong time after time. What I said was that all but one elective procedure had to be cancelled. In fact, other urgent surgery went ahead. There is a difference.

Ms Stevens interjecting:

The Hon. DEAN BROWN: Well, the honourable member made the claim that all surgery yesterday was cancelled. In fact, that was not the case at all, except one. The facts are that she is not differentiating and not reading what I have said, which is in terms of elective surgery.

I made the point that last week the hospital was relatively normal in terms of activity and coped with a full load. On Tuesday night, an unprecedented number of people came in, interestingly cardiac cases for some reason, and a particularly high percentage of them had to be admitted to the hospital.

Whereas last week across the public hospital system they were able to carry out the normal load of elective and urgent surgery, on Tuesday night at one hospital we had a particular load of emergency cases come in and a particularly high level of admissions of those cases.

For the woman who had to have her surgery cancelled yesterday, we have apologised. We cannot predict, when you have something like a 50 per cent variation in the numbers of emergency patients coming in or patients being admitted from emergency into the hospital, when that might suddenly occur. We plan our hospital procedures based on what appears to be the workload at the time. In the previous nine or 10 days we had coped extremely well indeed, not only at that one hospital but also at other hospitals. Yesterday, or Tuesday, other hospitals did not experience the same level of increased demand as did the Queen Elizabeth Hospital, and we coped very well indeed.

I also pick up something else that the member for Elizabeth said at the press conference immediately prior to question time today. Members would recall that for about nine months I have been trying to get the member for Elizabeth to put down on the record in this House whether or not she would close any of the public hospitals in South Australia. It is almost the anniversary to the day that the Labor government on a Friday afternoon made the public announcement that it was closing the Blyth Hospital. It had not even bothered to consult the staff. Recently I sat next to a nurse who was employed at that hospital and who heard it first on her car radio as she headed back to Blyth. It was the Labor government that went around closing hospitals in this state. It was this Liberal Government that in 1993 made a commitment not to close any public hospitals. For nine months I have been trying to get a commitment from the health spokesman for the opposition whether or not they will close any public hospitals in South Australia. I have to report that, having been asked four or five times at the press conference today, finally and reluctantly after nine months, she has claimed that Labor will not close any public hospitals in South Australia.

Members interjecting:

The Hon. DEAN BROWN: We should formally record that in *Hansard*, and if the member for Elizabeth thinks I am misquoting her in any way I suggest that she get up and correct it immediately.

Ms Stevens: And we will not privatise either, unlike you.

Members interjecting:

The SPEAKER: Order!

COMMUNITY CABINET MEETINGS

Mrs PENFOLD (Flinders): Can the Premier comment on the success and importance of the community cabinet meetings in helping to develop government policy?

The Hon. J.W. OLSEN (Premier): There is no doubt that community cabinet meetings have been an outstanding success, proving to be an important tool of government in developing policies for our state; it is about government listening, learning and adapting policies for all South Australians. A crucial part of governing for the state is consulting with the community and informing them of our decisions and why we have put those decisions in place. We have had a program of community cabinet meetings for a number of years now. It has been quite extensive. In fact, in the last two years we have had 23 community cabinet meetings across the state. That is almost one every month, from Port Augusta to Mount Gambier to Port Lincoln, Berri, Clare, Marion, Pinnaroo, Peterborough, Renmark, Tea Tree Gully, Mount Barker, Millicent—and the list goes on.

What is the old saying—that imitation is the best form of flattery? On that basis, I note media reports emanating from the Leader of the Opposition, who is talking about his plans for regular meetings in regional areas of the state. Snap! The leader also says in his press release that a Labor government will travel to regional areas six times a year; and he would take senior public servants with him on those six visits to country areas. It seems that the leader's photocopier has been working overtime yet again. He has been hard at it, because we have been taking chief executives to these country cabinet meetings for the past couple of years. We have been doing on a very regular basis what the leader proposes to do. We are not talking about just six a year: we have been going out into the metropolitan, country and regional areas about once a month. I note that Labor's 1997 promise was to hold only four regional meetings a year. Well, at least we have a policy.

The Hon. I.F. Evans: He's going to ignore Adelaide.

The Hon. J.W. OLSEN: He is going to ignore Adelaide; he is going to ignore Tea Tree Gully and the southern suburbs. That would be typical. The one thing for which I would like to thank the Leader of the Opposition is that he has put out one policy. It has not cost him a lot: it is a mirror image of what we have been doing for a couple of years. I thank the leader for the endorsement of this government's policy direction over the past three to four years. At least it is a policy, unlike the member for Hart. The member for Hart, the doom and gloom shadow treasurer—

An honourable member interjecting:

The Hon. J.W. OLSEN: Well, he did not read yesterday's *Financial Review*, so I suppose he was a little embarrassed, given the good glowing report of South Australia's economy in yesterday's edition; or perhaps he is out preparing an apology for his inaccurate question in the parliament yesterday. Here he is! Perhaps he has been drafting an apology for that. We would welcome the member for Hart's apologising in the grievance debate for the inaccuracy in his statement. What we would also like to hear from the member for Hart is something about taxes and charges. The member for Hart could not rule out them out. He could not rule out increases in taxes and charges under a proposed Labor government.

As I advised the House yesterday, in Western Australia Premier Geoff Gallup has broken his election promises within six months with a $140 million whopping increase in land tax and payroll tax. That was Geoff Gallup's legacy. What is Steve Bracks doing? He has put up WorkCover. What are the headlines in the Victorian papers today? Premier Bracks will not meet with CEOs about job losses in Victoria, or look at reductions in WorkCover and payroll tax to stop the haemorrhaging in jobs in Victoria. So, there is a Labor government to the east and another to the west, and members opposite should look at their track record. What do we have opposite? We have a Labor Party with exactly the same policy prescription.

We have now diversified the economy, reestablished the finances of South Australia and got it on a solid footing for the future, where we wiped 5 per cent off the unemployment queues; where in the past five years the growth in our private sector new capital was second only to Victoria; and the projection from the National Australia Bank is that we are on the path for good economic fortunes in South Australia to continue. Why risk it with a formula that to the west and east

of us under Labor governments has destroyed it? The momentum we have at the moment we need to keep going in the future. The only way the momentum—

Mr Foley interjecting:

The Hon. J.W. OLSEN: The polls are doing all right. I am glad the member for Hart is still keen on an election. Are you reading the polls at the moment?

Mr Foley interjecting:

The Hon. J.W. OLSEN: You are? Very good. The member for Hart will get his election. We know he is an impatient character; he will get his election in the fullness of time, and South Australians will be able to compare our track record, performance and delivery and contrast it to what Labor left in this state seven years ago—a bankrupt and demoralised state without a future.

EDUCATION, SPENDING

Ms WHITE (Taylor): I direct my question to the Minister for Education and Children's Services. Why has a 2 per cent cut been imposed as an education departmental savings target, and why was this cut not detailed in this year's budget papers? The opposition has a copy of the budget strategy for 2001-02 which shows that, in addition to specific savings targets and cash flow reductions, a cut of 2 per cent will be made across the board.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): The answer is very simple. We are always looking for savings within the department and ways in which we can undertake our operations in a more efficient way. This is very much unlike a Labor government, which figures that there is a bottomless bucket and a money tree down the end of the garden somewhere that simply produces money, or we can just crank up the money machine and print some more. We are always would looking for ways in which we can do better.

Mr Foley interjecting:

The SPEAKER: Order, the member for Hart!

The Hon. M.R. BUCKBY: The 2 per cent that will be achieved will be spent on other education programs within the department.

BRANCHED BROOMRAPE

Mr LEWIS (Hammond): Why does the Deputy Premier not simply tell the proponents of pipelines and other underground infrastructure that they may not enter the branched broomrape quarantine area for the purposes of constructing a pipeline? At present, a provocative and painful process is under way in consulting local land holders in the branched broomrape area in my electorate, wherein they have to state the terms and conditions upon which they would agree to allow access to their properties and try to negotiate when they cannot move their own machinery around in their districts on their farms without complying with extremely expensive quarantine provisions which are sensibly in place. I point out to the House that this provocative action is causing great distress and involves threats of violence against anybody who may be a servant of the pipeline or its construction organs and companies if they attempt to enter the property, especially if the property at present has no record of broomrape on it. I therefore put the question to the Deputy Premier on behalf of those concerned constituents.

The Hon. R.G. KERIN (Minister for Primary Industries and Resources): In the first place, I do not know what right I have to tell anyone that they cannot have any development, or whatever, in a particular area. What we can do is work through the required protocols where quarantine measures are in place. But to go to where the member for Hammond is suggesting would be for me to say that no-one can do any undergrounding. As an extension of that, I do not know what other development the member might want stopped in the area—for example, maintenance. When there is a power blackout, or whatever, there may be a need for an ETSA truck to go onto those properties. The people in that area are doing it hard enough as it is with the broomrape. To go down the line of 'nothing happens' is not one of the options.

What we need to do—and we do this with the community there—is work through the protocols under which we feel it is safe for them to do so. We do not want to see broomrape spread; there is no doubt about that. It has spread enough now, and we are working through the protocols in order to stop it. But to go to where the member for Hammond suggests and stop all development in the area is just not an option.

SCHOOLS, MAINTENANCE

Ms WHITE (Taylor): My question is directed to the Minister for Education and Children's Services. Has funding for repairs and maintenance of schools, including minor works, been cut since the budget was handed down? On 2 August 2001, the minister provided the opposition with a written statement that this year's budget for repairs, maintenance and minor works on schools would be $74 million, a reduction of $12 million over the previous year. On 4 September 2001, the minister wrote to the Labor candidate for Morialta, advising that the budget for school repairs, maintenance and minor works this year is now $37 million.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): To my knowledge, it has not been cut. In fact, the external paint and repair program that the government has put into place in the budget involves an additional $15 million to schools over three years. That will address some of the very issues in terms of exterior painting and repairs to buildings that are required in our schools. Quite a number of schools have already approached the government for that funding. It can be used for paint and repairs; it can be used for sun shade; and it can be used for landscaping, all in an effort to make sure that we can continue the upgrading of our schools.

Let me mention the backlog that we inherited from the Labor government in 1993. I still have parents approach me and say that in the 1980s they could not get a lick of paint for their schools, particularly in rural areas. They could not even get a can of paint out of the Labor government. This government is addressing that issue, and we are putting money there for repairs and maintenance for schools.

POLICE, INDEPENDENCE

The Hon. D.C. WOTTON (Heysen): Can the Minister for Police, Correctional Services and Emergency Services advise the House on the importance of police independence, particularly in regard to operational matters, and can he also advise the House whether any actions have been taken or statements made that have jeopardised that independence?

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I thank the honourable member for his very important question.

Members interjecting:

The Hon. R.L. BROKENSHIRE: Well may the opposition laugh about this. I would hope that the media take note of the laughing with respect to the opposition on this most important issue. Separation of powers is one of the fundamental principles of the Westminster system. It is one of the fundamental principles of democracy and justice. It is about giving the police force integrity, and it is about stopping political interference. The member for Spence is nodding, and well should he nod.

The Police Act clearly sets out both the powers and the responsibilities of the Police Commissioner. The Police Complaints Authority is also a statutory body which is totally unfettered and absolutely independent from me, the Attorney-General and the government—and so it should be. It should be unfettered from ministerial influence and interference. What concerns me and should, I am sure, concern every South Australian are three recent examples: first, the member for Spence said that, should the Labor Party fall over the line and come back into office and destroy South Australia, if a police officer was traffic policing in a particular street he would order them to Ceduna. Of course, you cannot do that and nor should you. Recently, the member for Taylor told the media that the police minister, namely me in this instance, should order the police commissioner to do certain things. Clearly, I cannot do that and nor should I.

Then, worst of all, when the shadow spokesperson for police on ABC radio this morning was asked a question about the Police Complaints Authority, his answer, I understand, was that, should he get the opportunity to fall over the line and go on and destroy all the good work that we have done, he would carry out a review of the Police Complaints Authority, as well as the intelligence investigations branch of the police with respect to putting time lines on its investigations. That is absolutely outrageous.

Why should time lines ever be placed on an important issue where separation of powers is necessary? There must not be time lines. If you are to have true justice, if people are to carry out proper investigations, you must never impose time lines.

Members interjecting:

The SPEAKER: Order! I would ask members on my left to settle down.

Mr Conlon: But he's being very stupid.

The SPEAKER: Order! I ask members on my left to settle down. The minister.

The Hon. R.L. BROKENSHIRE: Of course, the member for Hart says that it is the courts area that involves the separation of powers. That shows how much he knows about policing. He should read the Police Act and he might understand something for a change. What this says to me—

Mr Foley interjecting:

The SPEAKER: Order, the member for Hart!

The Hon. R.L. BROKENSHIRE: —is that, if members opposite manage to get into office, they have not learnt a thing from the Dunstan/Salisbury fiasco, and we all know about that. Also, they have not learnt a thing about financial management and they have not learnt a thing about developing policy, and there is no way that a risk should ever be taken of putting them in government, because they bring down the fundamental principles that South Australians desire and want.

EDUCATION, BUDGET

Ms WHITE (Taylor): My question is directed to the Minister for Education and Children's Services.

Members interjecting:

The SPEAKER: Order! The member for Taylor has the call.

Ms WHITE: Excuse me; your question. Will the minister give the House an unequivocal assurance that his department is operating within the budget allocations presented to parliament just over three months ago? Senior officers in the minister's department are telling the opposition that education has a massive budget blow-out, including allegations that the payment of accounts to suppliers is being delayed in the department and at TAFE institutes as a result of serious cash flow problems.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I had discussions with Mr Spring only a couple of weeks ago and he assures me that we are on budget.

EMPLOYMENT FIGURES

Mr CONDOUS (Colton): Will the Minister for Employment and Training inform the House about the implications of the latest employment figures released by the Australian Bureau of Statistics?

The Hon. M.K. BRINDAL (Minister for Employment and Training): I am very pleased to report to the House that there were several positive aspects to the August unemployment figures recently released by the ABS, not the least of which was an increase in seasonally adjusted terms.

Members interjecting:

The Hon. M.K. BRINDAL: I am not surprised that the opposition is not really interested in good employment statistics for this state. It wants to talk things down. Every opportunity members opposite get they want to talk about the problems. Never do they want to talk about the positive benefits for workers in South Australia.

Members interjecting:

The Hon. M.K. BRINDAL: Almost 678 000 South Australians now have jobs, more than ever before in the history of this state—six, seven, eight, zero, zero, zero workers in South Australia, more than ever before. Opposition members did not come up with that in all their years in government, with the man who now purports to be your leader sitting there. They have a 12 per cent unemployment—

Mr CONLON: I rise on a point of order, Mr Speaker.

The SPEAKER: Order! I ask the minister to resume his seat.

Mr CONLON: The minister is pretty excitable but he should address his comments through the chair.

The SPEAKER: Order! I uphold that point of order, but I remind members that it does apply on both sides of the House.

The Hon. M.K. BRINDAL: As a government, under this Premier's leadership, we have stripped 5 per cent off the unemployment figures. We have almost halved it. And what thanks have we got from the carping, crazy mob opposite? Not a bit. They home in on this and home in on that and generally get it wrong. The shadow minister made the mistake of saying that I did not answer the question about the Ansett Call Centre. So, let me answer her quite specifically in the face of this House. There are 243 trainees under

contracts of training at the Ansett Call Centre. We believe that every one of those trainees was legally and lawfully employed according to the rules set down by this government and enunciated in this parliament. If the member has any notion at all of people who were improperly contracted and cares to let me or my departmental officers know we will follow up on it. She might also tell me how to chase a company in receivership to get any redress, but perhaps that is a separate matter.

Importantly for the 243 traineeships, the trainees can continue to receive off-the-job training. Their training and user choice access to funds will continue. We are also doing our best to see that their continuity of employment continues, but that is difficult. As the centre is in the hands of an administrator, they have a legal responsibility for those trainees. As far as is practicable, we will see that that legal responsibility is met, and we will guarantee that their training continues.

I have every confidence that the climate created by the Premier, the Minister for Trade, and all my colleagues along the front bench, is such that within a fairly short space of time all of those people will be re-employed, because they have training in a skill for which there is a demand. Now, that is a complete answer to the member's question. I point out to the member that, in fact, all her suppositions were not right. This government has acted properly and rightly in addressing the matter and in protecting the needs of those workers, particularly the trainees. One thing that the member should give the Premier credit for is that, when the Ansett collapse was announced, about the first thing the Premier did was to express his concern for those people in that call centre, and that South Australia, having concern regarding the total collapse, was particularly concerned for the loss of South Australian jobs, and the Premier mentioned specifically the call centre.

Our figures and record on unemployment is something we can take proudly to the next election. I can go back over the last four years and—

The SPEAKER: Order! I am sorry to interrupt the minister. I remind the cameramen that they can film members on their feet but they do not film papers or any other matters in the chamber. Let us be very clear about that. Minister.

The Hon. M.K. BRINDAL: Mike Rann was calling for a summit. The Premier sent me out, and the previous minister, stomping up and down South Australia to get the opinions of people, to work with the community. We had a day in this parliament. Our record is on the board. We have pulled the unemployment statistics down; not as much as we would like and not as much as we will have done by the end of our next term in government. In four years' time, the figures will be much better and this will be a much more prosperous state. We will go to the next election absolutely confident that, if the voters of this state were to make their decision on one factor alone, that is, this government's record on employment—on securing jobs for South Australians and obtaining a better future—we would do very well.

I note in sitting down that the leader is helping those opposite. He is being very bipartisan in this matter in terms of those opposite because he is spending all his time electioneering in Unley. Either he has his polling wrong or he is there to keep well away from the marginal seats you need to win. I think they are very good tactics because if you have one liability over there—

The SPEAKER: Order! I bring the minister back to the question that has been asked.

Mr FOLEY: It is very hard to take seriously a minister who has a Pokemon tie on.

The SPEAKER: Order! There is no point of order, either.

EDUCATION, CASH RESERVES

Ms WHITE (Taylor): My question is directed to the Minister for Education and Children's Services. What cash reserves are currently held by the minister's department, and can the minister assure the House that the reserves are in line with the budget and not being run down? Cash reserves held by the education department have fallen by $80 million over two years from $144 million in 1999-2000 to $64 million at the beginning of this financial year.

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I will seek an answer from my department about the current level of cash reserves for the member.

TOURISM INDUSTRY

Mr VENNING (Schubert): Can the minister advise the House on what role peak bodies and representative groups should play to assist the tourism industry following the impact of recent events?

The Hon. J. HALL (Minister for Tourism): I thank the member for Schubert for that question because the tourism industry, as we know, is extremely important to this state. On Tuesday I outlined to the House some of the challenges facing our industry, and I outlined very clearly what the state government, the federal government and the industry across the state are doing about it. This is very important because an approach and a response to the events of the last few weeks has, I am sure, to be understood to be a cohesive, responsible and measured one across the country.

It is therefore with great concern that I raise the issue of an article that was published in the *Advertiser* yesterday. In the lead-up to the events of the last few weeks, a role that has traditionally been that of the Australian Tourism Commission (ATC) and the combined cooperative approach of the industry and the states has meant that state governments, working with the ATC, look after domestic marketing, but the federal government looks after international marketing, also working with the states. It has for the first time seen a cooperative approach by the federal government and the states in a big campaign with which, I hope, we are all familiar, and which is called See Australia. It is a campaign that is worth more than $17 million and it came into operation in November last year and is scheduled to finish in September of next year.

As I said, we have had the extraordinary events of the last few weeks, and very soon after that the Prime Minister and the federal government moved to establish a tourist industry working group. It has wide representation across the industry and it is going to report directly to the Prime Minister on 12 October. All state governments and all industry associations are supportive of this initiative. More than 30 000 surveys of operators are being used to put together the response to the horrific activities of the last few weeks.

So, it was with great concern that I read an article from the Chief Executive of the Tourism Task Force published in the *Advertiser* yesterday. It is an article that uses extremely extravagant language, and it is my view that it is venturing into a political journey that is very counterproductive to the future growth of the tourism industry in this state and across the country.

I suspect that many members would have read the article, which has been written under the guise of being concerned about people's job prospects. Members can look at it, because I was rather surprised to read that a young woman on Kangaroo Island had just landed a job as an eco-tour guide after studying environmental science for four years. We know tourism is doing great things on Kangaroo Island, but I was even more surprised to read a similar piece by Mr Brown, the Chief Executive, in the Melbourne *Herald* just the day before. In that case a young woman in Cairns had landed her dream job on a dive boat after years of marine studies at the James Cook University. Imagine my absolute intrigue when I read in the Brisbane *Courier Mail* that in Hervey Bay a young woman had just landed her dream job on a whale watch boat after years of marine studies at the Griffith University. The connection, you may ask? All three are 'scared about being laid off'.

The fiction component of these articles is more concerning when we read that in the Barossa Valley a retired couple has invested their life savings refitting a farmhouse into a winery and b & b and are now panicking about their decision. I wonder if they are related to the middle-aged couple in Tasmania who also invested their life savings refitting a farmhouse into a b & b and who are panicking about their decision. Perhaps they are the same retired couple on the Gold Coast who have invested their life savings refitting a farmhouse into an eco-friendly b & b and are panicking about their decision. Obviously this retired couple's pension fund is paying good returns if they are setting up b & bs in South Australia and Queensland—or I wonder whether they are the same couple who started off in Tassie, middle aged.

The Tourism Task Force is an important international tourist body. It represents some of the biggest tourism operators in this country, and it is outrageous that its spokesman for political reasons is describing the state of the tourism industry in such colourful language. We all know that there are difficulties that must be faced and we have to be realistic about the solutions, but let us deal in fact and let us not deal in fiction for political reasons. My understanding is that no-one from the Tourism Task Force, certainly not Mr Brown, spoke to anyone related to our industry on Kangaroo Island or in the Barossa. They certainly did not speak to our marketing managers.

The reason this becomes of concern is that there should not be anyone, let alone one of our industry leaders, out there unnecessarily panicking this industry for politically motivated reasons. We can do without the scaremongering as it affects jobs in this important industry. We need facts and not fiction. We all know that the Chief Executive of the Tourism Task Force has been in a political environment since his childhood. He knows the politics and should not be out there flying these kites that are such a dangerous sort of action to be taken at these crucial times. With so many leaders of the tourist industry acting in a very responsible, measured and balanced way, we ought to be alert to the difference between fact and fiction.

There is no point in people asking for money to be thrown at the industry at the moment. The considered response that must come out of the Prime Minister's task force report has got to be measured, balanced and cohesive across the industry. It must be coordinated. I am very troubled that Mr Brown should embark upon this political mischief. The thing that might be of interest to the House, and I would be very happy to share, indeed, is a letter that I received from Mr Brown in June this year. In the letter, he congratulated this government and this Tourism Commission for having the foresight to increase the budget in South Australia. The letter also states:

> Unfortunately, your ministerial colleagues in other states—

and you can read into 'the other states' what you may—

> have not been able to do the same. . . In one case, I'm afraid to say, the budget of their tourism marketing agencies were cut.

I am terribly concerned that this sort of article gains a credibility that it does not deserve. I think that governments, agencies, private operators and many industry associations across this country are showing leadership. I really believe that we all should be very cautious in actively getting out there and scaring and panicking in an already delicate situation.

PORT AUGUSTA AERODROME

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

Leave granted.

The Hon. D.C. KOTZ: Yesterday, in another place the Hon. Sandra Kanck MLC made certain allegations concerning the application of the Aboriginal Heritage Act 1988 in relation to the extension of the airstrip at the Port Augusta aerodrome in 1998. The honourable member used as a basis for her allegations an article written by an archaeologist in edition No. 52 of the journal *Australian Archaeology*, published earlier this year.

Before dealing with each of the Hon. Sandra Kanck's claims, I wish to put on the public record the background to the issue. On 23 December 1997, the City of Port Augusta applied for authorisation under the Aboriginal Heritage Act 1988 section 23 to destroy any Aboriginal site or objects located in a sand hill in an area on which it proposed to build an extension to the Port Augusta aerodrome. Following receipt of this correspondence, I advised the City of Port Augusta that the consultation process with all relevant Aboriginal organisations and people with an interest in the area would need to take place before further consideration of the application could be undertaken.

No aboriginal sites or objects were recorded in the central archive, nor on the register of aboriginal sites and objects in the area under question. The City of Port Augusta undertook a site clearance program with the native title claimants, the Bargarla, Nukunu and Kuyani people. The proposed extension of the runway measuring 500 metres by 200 metres was inspected by the Aboriginal people and two archaeologists, as was the surrounding area of dunes up to 600 metres to the west, north and east of the runway end. The resulting reports, one of which was prepared by the same archaeologist whom the Hon. Sandra Kanck is using as a basis for her allegations, described archaeological material on the sand hill that was to be removed during the extension works. However, the native title claimants, once again the traditional people of the area, stated that the area was not of significance to Aboriginal tradition and that numerous similar sites exist in the vicinity of at least equal value.

The Aboriginal people were clearly of the view—and this is confirmed in the archaeological reports—that the work on

the runway extension should not proceed. In addition, it was stated in the report:

> The women are aware that archaeological material exists both within and outside of the study area and that this material will be impacted upon. They do not see that this is an objection to carrying out the proposed works but did support a suggestion put forward by Darcy Evans (the Nukuna representative) to collect surface material which will otherwise be destroyed.

In fact, the *Australian Archaeology* article confirms that the Port Augusta working party representatives, representing native title claimants, agreed to the developer proceeding with the proposed runway works thus allowing permission for site destruction to be sought from the Minister for Aboriginal Affairs (page 3, *Australian Archaeology*, No. 52, 2001).

In August 1998, as Minister for Aboriginal Affairs and following advice from the Department of Aboriginal Affairs and the traditional owners, I authorised the disturbance and interference of an area measuring some 500 metres by 200 metres at the northern end of the Port Augusta aerodrome, pursuant to the Aboriginal Heritage Act 1988 and subject to certain conditions. These conditions included:

- That the artefacts within the proposed construction area be collected and relocated within the aerodrome property by representatives of the Aboriginal people as identified in the reports by the archaeologists.
- That the dune to the west of the runway not be impacted.
- And that the fence line running the southern boundary of the current runway and continuing beyond the runway to the west be taken as the southern limit of the new development.

This procedure complies with the provisions of the Aboriginal Heritage Act 1988. Therefore, the Hon. Sandra Kanck's claim that there has been a breach of the act is incorrect. The claim by the honourable member seems to be of her own concoction because there is no suggestion of this in the *Australian Archaeology* article which she has used as her reference. The archaeologists in their reports made comments regarding the significance of some sites to the west of the existing runway, but these were not in the development area.

As a result of the Hon. Sandra Kanck's claims, and at great time and expense, an officer of the Department of State Aboriginal Affairs has revisited the site within the last 24 hours and has reported that there has been no destruction of sites outside the authorisation granted by me with the approval of the Aboriginal people as a result of the runway extension. In the article in *Australian Archaeology*, the archaeologist discussed the possible scientific significance of sites in the vicinity of the aerodrome. However, there has been no advice from the Aboriginal community that these sites are of significance to Aboriginal people, and the archaeologist has not contacted the Department of State Aboriginal Affairs to submit any information about further sites that need to be afforded protection as a result of her original or subsequent field work.

In relation to the artefacts that were removed from the development site, the archaeologist stated in the same article as follows:

> . . . the material was transported to the archaeology laboratory Flinders University in March 1999 for further research and curation under an agreement with Nukuna People's Council Inc.

As a result of this matter being raised by the Hon. Sandra Kanck, I am advised that the Chairman of the State Aboriginal Heritage Committee is seeking to verify this matter with the archaeologist. The Hon. Sandra Kanck also showed her continued lack of understanding of the Aboriginal Heritage Act 1988. As I have already explained to her on at least one previous occasion, a site once recorded on the central archive, is afforded protection under the Aboriginal Heritage Act 1988. This fact is confirmed by advice from Crown Law which stated:

> . . . a site or object may be an 'Aboriginal object or site' within the meaning of the act notwithstanding that it has not been entered on the register.

Under section 9(2) of the act a register of aboriginal sites and objects is established as part of the central archive. Indeed, so great is this government's commitment to the identification and protection of Aboriginal heritage that we have provided funding of some $300 000 to implement a site conservation strategy where information held on Aboriginal sites on the central archive has been systematically verified and entered on the newly developed heritage database. One component of this conservation strategy included revisiting approximately 500 sites throughout the state to verify the previously recorded information. Following this work, the most extensive ever undertaken by any government, the verified sites will be authorised for entry in the register of Aboriginal sites and objects.

It is of concern to me—and I know also to many others—that the Hon. Sandra Kanck continues to make these wild and unsubstantiated assertions. On this occasion, as on many others, she has plainly got it wrong.

GRIEVANCE DEBATE

Ms STEVENS (Elizabeth): On 31 August 2001, Ms Anne Skipper, the Chair of the board of directors of the North Western Adelaide Health Service, sent a memo entitled 'Board synopsis' to every member of staff of the service. This very detailed memo was preceded by the following statement:

> The following is a synopsis of the meeting of the Board of Directors, which was held on Wednesday 22 August 2001. It should be noted that the items referred to in this synopsis are subject to confirmation by the board at a meeting of 26 September 2001 and are subject to amendment.

The meeting of the 26 September (yesterday) did not occur. The meeting to which she referred is occurring at 3 o'clock on 27 September (today). I raised matters in relation to this memo a couple of weeks ago and again today, and I would like to put some of these on the record for members to ponder in the light of responses to questions by the minister in the House today.

The paper went on to talk about the budget activity and financial performance of both the Queen Elizabeth Hospital and the Lyell McEwin Health Service. The paper projected a budget shortfall for the Lyell McEwin Health Service of $5.4 million and for the Queen Elizabeth Hospital of $8 million. Members might recall how the minister poked fun at the fact that this projection could be made at this early stage into the financial year.

Members, please note that over the past few years this has been a familiar experience for administrators of public hospitals. I would say that the administrators who have been running our hospitals over recent years have a very good idea about how activity changes throughout the year and what they are potentially looking at towards the end of the year. I should have thought it was good practice that they took action at this point, three months into the year, to try to do something to address the situation that quite clearly they believed was very critical—unlike the minister who, from his response,

apparently believed there was nothing much to worry about and that they should continue.

The synopsis then reverted to talking about the measures that each of those campuses would take to address the situation. For instance, in relation to the Lyell McEwin Health Service, the paper states:

> In terms of non-inpatient weighted outpatient occasions of service there has been a significant funding reduction from 153 000 to 139 000.

Interestingly, in his answer to my question the minister denied that hospitals had been budgeted for less activity. Clearly, the minister does not understand his own budget. I refer him to page 6.25 of budget paper 5, where it clearly describes a decrease in outpatient numbers this year of 111 000 across metropolitan hospitals and 7 000 in country hospitals. The Lyell McEwin Health Service's contribution to that reduction is 14 000, and that is clearly pointed out here in this paper.

The paper goes on to state that, given that the Lyell McEwin Health Service exceeded outpatient targets last year, reductions would not easily be achieved. The paper goes on to mention a number of other important issues. It talks about the fact that there would be reductions in outpatient services at both the Queen Elizabeth Hospital and the Lyell McEwin Health Service. It mentioned that both those hospitals would be in big trouble.

Time expired.

Mr De LAINE (Price): I wish to speak about the matter I raised as a matter of privilege today in the parliament. Following my resignation from the ALP and becoming an Independent member of this parliament, my—

Mr ATKINSON: I rise on a point of order, sir. The matter is currently before the Speaker. Is it appropriate for canvassing the merits of a matter of privilege currently under consideration by the Speaker?

Members interjecting:

The DEPUTY SPEAKER: Order! The matter is currently in the hands of the Speaker. The chair finds himself in a difficult situation, because the grievance debate is usually a time when members can refer to any issue they may wish to discuss. As the matter is with the Speaker at this stage, I would suggest that the member not take the matter any further until, as Deputy Speaker, I have the opportunity to consult the Speaker and, that having been done, the member for Price will be called at that time. I ask the member for Price to take his seat until I, as Deputy Speaker, have had the opportunity to consult the Speaker. The member for Price will be advised at that time.

Mr MEIER: I assume the member for Price will have his full time allocation?

The DEPUTY SPEAKER: It is intended that that would be the case.

The Hon. M.K. BRINDAL: I rise on a point of order, Mr Deputy Speaker. Mr Speaker has consistently ruled that his authority in matters of privilege is solely to advise the House in terms of—

The DEPUTY SPEAKER: Order! I suggest to the minister that I have made perfectly clear that I will make it my business to consult with the Speaker, who is in the building at the present time, to ascertain his ruling on this matter. I am not indicating that the member for Price will not be given the opportunity to speak but, as the matter is before the Speaker at the present time, I believe it is important that the Speaker be given the opportunity to make a ruling on this matter.

Mr De LAINE: I will abide by your ruling, of course, sir. I would like to continue my remarks in relation to matters other than the particular privilege matter.

The DEPUTY SPEAKER: If the member for Price wishes to refer to matters other than those relating to privilege, there is no objection to that and, if the member wishes to do so at this stage, he may proceed.

Mr De LAINE: Thank you, Mr Deputy Speaker. My personal assistant, Mrs Lorraine Harris, has been a loyal member of the ALP for the past 19 years and has worked for me for the past 12 years.

Mr CONLON: I rise on a point of order, sir.

Members interjecting:

The DEPUTY SPEAKER: Stop the clock. The member for Elder has a point of order.

Members interjecting:

Mr CONLON: Sir, can I have a little protection from the ignorant and rude members of the government?

Members interjecting:

The DEPUTY SPEAKER: Order!

Mr Hamilton-Smith interjecting:

The DEPUTY SPEAKER: Order, the member for Waite!

Mr CONLON: I ask the member for Waite to withdraw the suggestion that I am intimidating and bullying. I have not said a word as yet. I suggest that it is unparliamentary for the member for Waite to suggest that I am intimidating or bullying anyone, and I would ask him to withdraw.

The DEPUTY SPEAKER: Is the member for Waite prepared to withdraw?

Mr HAMILTON-SMITH: I do not think my words were unparliamentary; what is happening here is that members opposite are trying to silence the member for Price. I think the member for Price should be heard, sir.

The DEPUTY SPEAKER: Order! Is the member prepared to withdraw the comments that he has made?

Mr HAMILTON-SMITH: At your request, I do so, sir.

Mr CONLON: Sir, I rise on a point of order. I have no wish to gag the member for Price; he can say whatever he wishes. I do wish to be clear: if the member for Price does go on to address matters surrounding his alleged matter of privilege now, will he be allowed then to continue the debate on a matter of privilege later? It seems to me that it would be rather a case of double dipping and inconsistent with your earlier ruling.

The DEPUTY SPEAKER: Order! The member for Price has advised me, as chair, and the House that it is not his intention to speak on matters in this grievance relating to matters that were raised earlier in the House. The chair has made it clear to the member for Price that, if he is given the opportunity to speak at this stage, he will not refer to matters of privilege that were raised earlier in the House. If he does speak on matters of privilege, I will ask him to withhold those comments, for the reasons that I have already indicated, until I have had the opportunity to take up the matter with the Speaker.

Mr De LAINE: Out of respect to you, sir, and other members of the House, who seem to be getting a bit up in arms about it, I will desist from saying this now, but I will deliver my complete grievance speech after the Speaker has ruled on my matter of privilege.

Ms THOMPSON (Reynell): In this chamber yesterday, the Premier made some extraordinary statements about wages

growth in this state and also about a decrease in unemployment. I just want to put some facts on the record about this matter, because the Premier was quite imprecise in respect of the period of this wages growth, and it is very difficult—in fact, it is impossible—to see where this wages growth greater than the national average (as the Premier has claimed) has occurred in the last year, in any case.

The latest figures available in relation to average weekly earnings are for May 2001 (this has been checked in the library, and that is the latest data that it has available) and, indeed, there has been a very small increase in wages in South Australia. If we look at the average weekly earnings original series, which is the accurate data about just how much people receive (it is quite valid to compare those figures from 1 May to the next May, for instance), we see that the total wages of people in South Australia (that is men and women, full and part-time) is $628.90 per week, which is quite a modest wage and one with which people have to work very hard to balance a budget. Across Australia, the similar figure for all employees is $662.60. That is over $30 a week more than it is in South Australia. There had been a slight growth at that stage from the previous month: in the case of South Australia, there was an increase of $1.20, whereas in the case of Australia overall it was $2.30.

The Premier comes in here and makes very wild statements about just how well things are going in South Australia. If one looks at a series of major indicators, pleasingly, one or two of them usually have improved. But if we take an average of about 15 major economic indicators, unfortunately, we consistently see that, under the stewardship of this government, South Australia has collapsed.

If we look at my region in the south, I have now obtained some information about the number of people who are working and the participation rates. I have previously referred in this chamber to the fact that South Australia has the lowest work force participation rate of mainland Australia and, unfortunately, that means that, if we looked at the 1990 work force participation rates, instead of currently having unemployment of somewhere between 7 and 8 per cent, it would be 14 per cent. So many people have decided that they have no hope under this government and have given up looking for work. This is particularly strong in the southern statistical region of South Australia, which includes my electorate of Reynell.

In November 1993, just before the Labor government lost office, and when it was grappling with the problems induced by the State Bank collapse (a collapse which, as you know, sir, was somewhat less than the Westpac collapse, but Westpac was able to trade out of its problems; the State Bank was not able to, or was not permitted to), at that stage, 62.4 per cent of the population in the south was participating in the work force. In November last year, that figure was down to 58.2 per cent. That must be one of the lowest participation rates in the whole of Australia. It explains why so many people in my area just feel poor. It does not matter that there is some part-time work around, that there are people employed full-time; indeed, the number of people employed part-time and people employed full-time in the south has decreased since this government came to office. That huge reduction in work force participation means that there are just so many more people who are attempting to live on one wage in the family instead of two, or who are dependent on social security. The transfer of people from job search allowance to disability allowance just masks the many people living in poverty.

Time expired.

The Hon. G.A. INGERSON (Bragg): I rise today to comment on a couple of articles in relation to travel that have appeared in the *Advertiser* in the last couple of days. I make these comments because I think it is about time that this parliament started to say to a few journalists that, if they decide to write a story about a particular person having travelled, they ought to make the effort to find out the facts. I noticed that the journalist in question said I was angry. I do not remember using any expletives in the first sentence, or the second one—I might have in several sentences after that. One of the things that concerns me is that, if the journalist had telephoned me (as he had done on several occasions two or three days before on different matters), he would have been told that I went as the delegate of this parliament to a parliamentary seminar, and that the cost of that kind of trip was changed under the rules of this parliament some years ago, so that, instead of the parliament paying for it, it was to be paid for out of our parliamentary allowance.

I do not have any problems with that. What I am concerned about is that the article has a different inference—that I had deliberately decided to go overseas and spend money on travel and that, obviously, I was a big spender. I have had the opportunity, over the last three years, to spend $24 000 in travel allowance. I have spent $4 100 in that time. If I had wanted to—to use the word that the journalists want to use—'abuse' travel, I could have done that very easily, but I chose not to, because I did not have a reason to go.

I do not know any member in this parliament who has deliberately abused their travel allowance. I think that there are some who have done some questionable things, but I do not think that anyone has deliberately abused it. If we, as members of parliament, are to get any credibility at all in this community it is about time we made a stand when this sort of stuff is written about us and when we have been given no opportunity to comment prior to it being written. I have played this game as hard as anyone. I have accepted the good and the bad from the media, and I always will. But what I do not accept is that, when the *Advertiser*, particularly, is deliberately making all members of parliament look as if they are abusing their travel allowance, a simple telephone call could have cleared up this matter. That is what I was concerned about.

The next matter I am concerned about is my reply. I asked of the particular journalist a simple request. All I wanted was for the *Advertiser*, the next day, to apologise and acknowledge that it had made an error; that, in fact, the money spent from my travel allowance was because I was an elected delegate of this parliament. That is all I asked for. I should have known better. I have been around long enough to know that someone would find a spin on something. I never spoke to the whip. I do not know how this appeared in the article from the whip, but I notice that the whip happens to be under a contact of O'Briens@advertiser.newslimited.com.au. I can only assume that this article has been translated, and I would have to say to this parliament that it has been incorrectly translated. On behalf of this parliament I willingly went to the seminar in Bermuda. There was no question of my saying that I did not want to go overseas on a trip, and all members know that that would be quite stupid and foolish for it even to be suggested. I hope this sort of thing never happens again. I hope that the parliament—

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

The Hon. G.A. INGERSON: —separates parliamentary versus—

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

Mr CLARKE (Ross Smith): I would also like to have a go at the media but, in this case, it is the ABC Radio's *Grandstand*, and I will come to that in a few moments. First, I want to pay tribute to the club that I am patron of, the Kilburn Football Club, which did an outstanding job last Saturday in winning the Division 1 grand final against University at the Adelaide Oval. It was an outstanding result made even better by beating such a good team, which University has always been and was on this occasion.

Mr Atkinson: Any reports?

Mr CLARKE: No, there were no reports. In fact, as the *Sunday Mail* commented, it was a game played in good spirit and no spite. It was a hard fought game. University has beaten us on two occasions this year in the minor round and we beat it when it mattered most: the two major rounds. I pay a tribute to University as being a good team but Kilburn, fortunately, was much better. I pay a tribute to all of Kilburn's players who put in so many long, hard yards to get there, not only this year but on previous years. I particularly pay a tribute to our captain, Danny Ryan, who was unfortunate not to be able to play in the grand final because of an injury at training on the Tuesday night prior to the grand final.

He had done much to get the team into the grand final. In fact, I said to him on grand final night (when he was obviously disappointed that he not been able to run out on the oval himself) that, had it not been for his abilities and skills during the major round final (the second semi-final), at Salisbury Oval against University, when University was closing on us, and had it not been for his steadfastness and going hard at the ball it may well have been that we might not have won that match and got into the grand final.

I would also particularly like to extend my congratulations to the volunteers of the club; not just the board members, represented by the Chairman, Danny Parks, the President, Phil Martin and the secretary, Carol Martin, but by the endless number of volunteers who have put in so many hours from line marking around the oval to serving at the sausage sizzle, to doing all of the things that make a community sporting club like Kilburn as great as it is. And a special thanks to the KDFC mound men for their unflagging support of the club over the years.

The issue I take with the ABC concerns a news report given at about 12.20 p.m. on the Sunday after our grand final, just prior to the Port/Norwood match, when Dwayne Russell was interviewed as a guest commentator. In part, the interview was as follows:

> Russell: No crime last night in the whole of Adelaide either, which was fantastic, because all the thieves and looters were all celebrating Kilburn's grand final win. Well done to Roger Delaney. I was there last night at the Kilburn footy club. Well done, Rog and well done to the Kilburn boys.

I know that those remarks were meant in jest. He certainly was at the club that night and his family has had a past good association with the Kilburn footy club. But I do take exception, and I phoned up the ABC on the Sunday, but I could not get through to the commentary box, to object to the terms used by Dwayne Russell, and I quote again: 'because all the thieves and looters were all celebrating Kilburn's grand final win'. That is a slur on the people who support Kilburn and, in particular, on the people who live in Kilburn and in the Blair Athol area, which is the home ground of the Kilburn footy club.

It is a tough working class area and we love beating University, and we do not mind taking it as a 'them versus the rest', and we play better for that. But I do object to the people in our areas being described—even if it was meant in jest—as thieves and looters, because it is simply not true. It is often a common term used against teams from working class areas because we do play a tough game, but a fair game. It is like saying that, for example, if Burnside had housed Christopher Skase, all the supporters of whatever footy club exists in Burnside are a bunch of spivs and white collar crims. I just think that the ABC and, in particular, Dwayne Russell, would do well to dwell on that point about stereotyping areas, which we are fighting hard against, and to offer an apology to the supporters and the club at the next opportunity.

Mr HAMILTON-SMITH (Waite): I want to continue the series of grievance debates that I am putting on the record in respect of the terrorist attacks in New York on 11 September and the events that have followed since and which are likely to ensue. In my first debate I spoke of the root causes of the new phenomenon of this transnational terrorism. In my second debate I went into a bit more detail about what I felt was the nature of that new strategy emerging from those countries that support terrorism. In the next five minutes I want to talk more about what I think will happen in Afghanistan and how I think the situation will develop.

I do so on the basis of having spent 23 years in the army, most of that time having been spent on counter-terrorist operations or training. As I mentioned earlier, I commanded our counter-terrorist force in 1980. That was preceded by a period of service with the British SAS in 1979, during which myself and another person looked at how they did things and then adapted what we had learnt to Australia's situation. Australia has a very well developed and very professional counter-terrorist plan. It is a very capable response to the sort of terrorism to which we have been accustomed: hijacking, hostage situations and seizure of key buildings.

This new phenomenon, however, as I have explained, is a new step. What we had previously known as international terrorism is now taking the form of a transnational guerilla warfare strategy. In this strategy the terrorists seek to establish bases in a number of countries—Islamic states—from which they will base their operations. I imagine that they see that they will eventually liberate other Islamic countries and get them to the cause, therefore spreading their base, and they will attack what they perceive as their enemy, the states of the west, and slowly work them down in some sort of a sustained transnational guerilla operation. That is far more than the sort of international terrorism that we have seen in the past three to four decades. It is a completely new phenomenon that needs to be looked at very carefully and understood.

As I mentioned earlier, what we need to do is recognise that appeasement never works. These people must be pursued, they must be brought to justice, but we need to wield a scalpel, not a sledge hammer. The sort of massive invasion we saw in Iraq simply will not work; history tells us that is so. We need to see a far more selective scale of operations based on extraordinarily sound intelligence, and there needs to be a much greater emphasis on human intelligence and espionage in order to establish the facts as to exactly where these people are, what they are doing and, to some extent,

deal with them, and I will talk about that in a subsequent grievance debate later today.

This guerilla war must be fought using the tactics of the guerilla. It is now emerging—and I think it is a sensible response—that the alliance is using this so-called northern alliance to conduct a form of counter-guerilla warfare against the Taliban. That is a very sensible approach: use the locals to tackle the Taliban rather than your own conventional armies. This is a good role for special forces and I think that this is a war that will be fought using special forces whose role it is to conduct surveillance and recognisance to harass, to conduct recovery operations, to capture people who need to be brought to justice or to rescue people and, of course, to sponsor and organise those guerilla or resistance elements that are opposed to the Taliban. This is what we will see.

There will be selective strikes by air, missile and by other means to support their operations and, over a period (I estimate that it will be two to three years), they will eventually, with popular local support, get rid of the Taliban regime, which is clearly a pretty unsavoury regime, not only for Afghanistanis but also for international peace. The enemy will disappear into the hills and into the shadows of the community and the civilisation it seeks to undermine and destroy, not only in Afghanistan but into neighbouring countries. It is there they must be found and brought to justice or have justice brought to them. For that reason, as I have said, I hold the view that in relation to Afghanistan a smart approach would be to support those indigenous people who are opposed to the Taliban terror and persecution, of whom there must be hundreds of thousands, in an intelligence-driven campaign.

The SPEAKER: Order! Before calling the member for Price, I would like to refer to a matter of the content of the grievance debate by the member for Price that was raised with my deputy. It is the view of the chair that the matter under privilege is still being considered and researched, and the chair would not be receptive to the member canvassing any material that I am currently in the process of researching. I am very happy to call the member for a grievance debate contribution, but certainly under those conditions.

Mr De LAINE (Price): My personal assistant, Mrs Lorraine Harris, has been a loyal member of the ALP for the past 19 years and has worked for me for the past 12 years. Prior to that, she was the personal assistant to June Appleby, a former Labor Whip in this parliament, and before that was personal assistant to a former federal Labor minister, Senator Jim Cavanagh. In addition, her brother is a former—

The SPEAKER: Order! The chair cautions the member. The letter given to me by the member is really directed at the involvement of that particular lady with the ALP. It is a matter that I have to consider in the privilege issue, and I would ask the member perhaps to leave out of this grievance debate the matter of his electorate secretary if he wishes me to consider her as part of the submission he made earlier.

Mr De LAINE: Thank you for your guidance, Mr Speaker. I will therefore move on to the events that you, sir, will consider and contrast this to the behaviour of the ALP and what its state executive and state council did with respect to the complaints relating to Jeremy Moore, the endorsed ALP candidate for the fifth position on the Legislative Council ticket in the forthcoming state election. Mr Moore admitted to being a member of the No GST Party, which ran a so-called Independent candidate in the federal seat of Adelaide in the 1998 federal election. Invoices for posters used in the campaign were sent to his office, but the ALP has said that there was no breach of its rules.

The STA, the largest trade union affiliate of the South Australian and federal ALP, also donated funds to the same No GST candidate for Adelaide in the 1998 federal election campaign. Indeed, the State Secretary of the STA, Mr Don Farrell, has publicly stated that his union did financially support that No GST candidate. As with Mr Moore, the STA was judged by the ALP state executive as not having breached any of its rules.

Then there is the situation concerning the staff member of the former Independent Speaker of this House, the Hon. Norm Petersen. This staff member was and still is a member of the ALP and, in fact, she currently works for the member for Hart. She worked for Norm Petersen during the 1989 election campaign for the seat of Semaphore, when his ALP opponent was, in fact, Kevin Foley, the current member for Hart. However, this staff member was not harassed or expelled from the ALP at that time because she was employed as a personal assistant to the member for Semaphore, the Hon. Norm Petersen. I ask, sir, what is the difference in this situation. What should my secretary do? Should she resign from the ALP or should she—

The SPEAKER: Order! I did caution the member not to refer to his secretary. The chair does not mind where you canvass. It is a grievance debate and the honourable member is entitled to do as he likes. However, I must ask him not to canvass matters that are before the chair at the moment.

Mr De LAINE: Thank you, Mr Speaker. I will conclude by saying that the other instances that I have quoted, where no action has been taken, are similar to the current situation. I just wonder where is the consistency in support for staff members of all members of parliament who do their job and support their member, act on instructions, carry out duties and sometimes sign letters on our behalf in our absence. I believe that is the present situation, so I will leave it at that until your ruling is handed down next week.

TECHNICAL AND FURTHER EDUCATION (GOVERNANCE REFORM) AMENDMENT BILL

The Hon. M.R. BUCKBY (Minister for Education and Children's Services) obtained leave and introduced a bill for an act to amend the Technical and Further Education Act 1975. Read a first time.

The Hon. M.R. BUCKBY: I move:

That this bill be now read a second time.

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

Leave granted.

The purpose of this Bill is to amend the *Technical and Further Education Act 1975* (the 'TAFE Act') to establish a system of governance and management of TAFE institutes that would allow greater autonomy and a more commercial focus for the institutes, whilst ensuring that current staffing arrangements are not altered and that training and education continues to be provided by TAFE institutes on an equitable basis throughout the State.

The intent of the Bill is as follows:

- to allow each institute to be established as a separate legal entity in the form of a statutory corporation to which the *Public Corporations Act 1993* will apply;
- to provide for the management of each institute by a board of management appointed by the Minister;
- to ensure the accountability of each institute by using a charter and performance statement prepared by the Minister in consultation with the institute;

- to provide a sound business and management basis for TAFE institutes without impacting on the budget.

TAFE institutes are essentially operating as commercial business units under existing departmental administrative arrangements, rather than under a business governance structure.

Under the proposed amendments, each TAFE institute will be a body corporate that is an instrumentality of the Crown. The Minister will appoint, to each of the institute governing boards, members who have the abilities and experience required to respond to the changing environment of education.

The institute director (who will be called the 'managing director' under the proposed amendments) will continue to be the operational manager of the institute. The managing director will be accountable both to the board of the institute and to the Chief Executive for the management of the site, with responsibility for the supervision of all staff.

The members of the board appointed by the Minister will bring with them significant skills that will supplement those of the managing director and ensure that the institute adequately plans for the future and establishes an appropriate strategic direction. Institutes will have the ability to maximise the new market opportunities and manage the risks offered by international education, e-commerce and on-line learning without eroding equity, infrastructure or research and development.

The board, with its role as the decision making body for the institute, will be accountable to the Minister and is subject to control and direction by the Minister. The main mechanism for this control is through the charter and performance statement. The charter and performance statement for each institute will set down the nature and scope of the commercial operations as well as the accounting and auditing procedures and practices. They will also set down the strategic direction for each institute and set out the performance targets agreed between the Minister and the institute. The charters will allow institutes to identify and foster entrepreneurial creativity resulting in better service outcomes to industry, community and individual students.

Under the proposed governance reforms it is anticipated that institutes will, over time, rely less on public funds while still meeting policy objectives for government purchased VET courses. The State Government's community service obligations will continue to be satisfied under the proposed governance reform.

Although each institute will be a separate statutory corporation, the TAFE system will continue to be integrated under the proposed reforms. Co-operative arrangements will be maintained and institutes will respond collectively to larger national and international markets.

The proposed amendments also support National Competition Policy by ensuring accounting procedures are in place as part of the corporatisation process that eliminates any resource allocation distortions.

The proposed amendments will also enable some flexibility in changing the name of an institute, allowing for amalgamations or closure of an institute at a future time.

It may be emphasised that the Bill will not alter the employment conditions or industrial awards of any institute staff. The institute director, along with all staff currently employed, will continue to be employed by the Minister and the Bill specifically provides that institutes will not have the power to employ staff. The transitional arrangements guarantee that the present institute directors will be the first managing directors. Future managing directors will be appointed by the Minister following consultation with each institute board.

Part 4 of the current TAFE Act provides for 'college councils' which include elected college staff, elected students and members appointed by the Minister who could contribute to the exercise or performance by the Council of its duties and obligations. These duties and obligations include:

- to provide advice to the college director on the present and future needs of industry, commerce and the community in relation to the programs of the college;
- to liaise with industry and commerce and other public sector organisations in relation to technical and further education;
- to assist in the development of educational and financial priorities for the college;
- to assist in the provision of student amenities and student services generally;
- to support and encourage staff development.

The Bill repeals Part 4 of the Act, but ensures that the functions of the council are incorporated into the obligations of the institute board. The board has appropriately placed industry and commerce representatives and will be responsible for setting the overall strategic direction for the institute. The board is the mechanism through which these new opportunities will be identified and responded to and will make the business decisions which will be implemented by the managing director and institute staff. Under the proposed arrangements there will be a mandatory community consultative committee reporting directly to the board. This committee will provide a valuable forum for staff and student representatives and other community stakeholders to voice their views, about a range of issues relating to the institute, to the decision-making board.

The Bill, importing as it does the provisions of the *Public Corporations Act*, makes it clear that the Crown retains ownership of assets. However, to maximise the use of these assets in this commercial environment, it is desirable that institute boards have some flexibility in their use and it is therefore proposed that DETE and the institute boards will split the control functions for the assets along operational and infrastructure lines. It is intended that the land and the buildings be controlled by DETE, while plant and equipment and computing equipment will be controlled by the institute boards.

These Crown assets need to be made available to institutes in a clear and transparent way. This will be achieved through leases and service level agreements with institutes.

The Bill gives the Minister the power to determine the fees to be charged to students at TAFE institutes to ensure consistency for students in institutes across the State for courses considered core TAFE business and courses that the government wishes to ensure are accessible to all students equally. The power to fix other fees may, under the proposed amendments, be delegated to institutes.

Institutes are compensated by government funding, provided through the purchase agreement between the Minister and the institute, for those services that have a higher cost to deliver (for example in remote areas) to ensure student fees are consistent across the State and that equitable opportunities exist for all South Australians.

The Bill is a progressive step in the move to local management of TAFE institutes. There has been consultation on the proposed amendments with staff, students and the community resulting in overwhelming support for this initiative.

I commend the Bill to honourable members.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 4—Interpretation

This clause makes consequential changes to the definitions in the principal Act. In particular the definition of 'college' is repealed and a new definition of 'institute' is inserted.

Clause 4: Repeal of s. 5

This clause repeals section 5 of the principal Act.

Clause 5: Insertion of s. 5A

This clause provides for delegations by the Minister and the Chief Executive Officer (currently provided for in sections 8 and 13 of the principal Act).

Clause 6: Substitution of Part 2

This clause substitutes a new Part in the principal Act as follows:

PART 2
ESTABLISHMENT AND MANAGEMENT OF INSTITUTES
DIVISION 1—INSTITUTES

6. Establishment of institutes

This clause provides for the establishment of institutes by proclamation.

7. Application of Public Corporations Act 1993

This clause applies the *Public Corporations Act 1993* (other than sections 12, 13 and 30) to institutes established under the measure.

8. Functions and powers of institutes

This clause specifies the functions and powers of institutes.

9. Minister to determine certain matters

This clause provides that certain matters relating to institutes will be determined by the Minister rather than by the institutes themselves. These matters are specified in subclause (1) and include—

- the days and hours of operation;
- the courses to be provided and the awards to be conferred;
- the fees to be paid to institutes for or in relation to certain matters, including fees for instruction, training or assessment of students;

- any other matter relating to the payment of such fees that the Minister thinks fit (eg. the time and manner of payment, the grounds on which refunds are to be provided and the grounds on which exemptions will be granted).

Subclause (3) provides that the Minister may delegate to an institute the power to determine a matter specified in subclause (1) in relation to that institute.

In addition, the clause provides that the Minister may—

- direct an institute to make use of the services of employees of the Department or other Crown employees, or of any facilities or equipment of the Crown; and
- employ such persons (in addition to officers appointed under this Act and employees in the Department) as the Minister considers necessary for the proper administration of the Act.

10. Common seal and execution of documents

This clause provides for the execution of documents by institutes.

11. Dissolution of institutes

This clause provides for the dissolution of institutes by proclamation.

DIVISION 2—BOARDS

12. Institute to be managed by board

This clause provides that an institute will be governed by a board.

13. Composition of boards

This clause provides for the composition of boards. A board is to consist of at least five members but not more than nine members. The managing director is to be an *ex officio* member and the remaining members are to be appointed by the Minister for a term not exceeding three years (although members may be reappointed).

14. Vacancies or defects in appointment of directors

Acts of a board are not invalidated by reason of a vacancy or defect in appointment.

14A. Remuneration

Directors will not be remunerated in respect of board membership except as determined by the minister.

14B. Board proceedings

This clause makes various provisions in relation to proceedings of boards.

14C. Appointment of managing director of institute

The Minister will, after consultation with the board of an institute, appoint a person as the managing director of the institute. The regulations may, however, make provisions of a transitional nature in relation to the appointment of the first managing director of an institute and such provisions will apply notwithstanding anything to the contrary in this clause.

14D. Committees

This clause provides for the formation of Committees by an institute. The board of an institute must establish—

- a Consultative Committee (to provide a forum for officers, students and members of the community to make representations to the board on matters relating to the institute); and
- such other committees (including advisory committees or subcommittees) as the Minister may require.

The board of an institute may establish any other committees (including advisory committees or subcommittees) the board thinks fit.

DIVISION 3—CHARTER AND PERFORMANCE STATEMENTS

14E. Charter

This clause provides for the preparation of a charter for an institute.

14F. Performance statements

This clause provides for the preparation of a performance statement for an institute.

DIVISION 4—PROVISION OF FACILITIES, ETC.

14G. Minister to make facilities available

This clause is the same as the current section 9(5) of the principal Act.

14H. Acquisition of land

This clause is the same as the current section 9(7) of the principal Act.

Clause 7: Repeal of Part 4

This clause repeals Part 4 of the principal Act (dealing with College Councils).

Clause 8: Amendment of s. 40—Requirement to leave institute premises

This clause makes consequential amendments to section 40 of the principal Act and changes the penalty for an offence against subsection (1) from a Division 9 fine to a monetary amount of $750.

Clause 9: Amendment of s. 40A—Insulting officers, employees, etc.

This clause changes the penalty for an offence against section 40A from a Division 9 fine to a monetary amount of $750.

Clause 10: Amendment of s. 41—Commencement of proceedings

This clause makes an amendment of a statute law revision nature.

Clause 11: Amendment of s. 43—Regulations

This clause makes consequential amendments to the regulation making power, and ensures that where an institute issues an expiation notice in relation to a vehicle being driven or parked on the institute premises, the institute is entitled to the expiation fee recovered.

Clause 12: Transitional provisions

This clause includes various transitional provisions in relation to the measure.

Mrs GERAGHTY secured the adjournment of the debate.

VICTIMS OF CRIME BILL

Received from the Legislative Council with a message drawing the attention of the House of Assembly to clauses 30 and 32, printed in erased type, which clauses, being money clauses, cannot originate in the Legislative Council but which are deemed necessary to the bill. Read a first time.

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.

Leave granted.

This bill reflects the Government's commitment to victims of crime, and results from the victims' review, a 3 part analysis of the law and practice relating to victims of crime in this State.

Report One was released in June 1999, and dealt with issues, such as the Declaration of Rights for Victims of Crime, the use of victim impact statements in the courts, and the services available to victims. The recommendations of that Report have resulted in initiatives, such as a review of the information provided by police to victims and expansion of the services available to victims in country areas.

On the completion of the review in December 2000, the Attorney-General made a Ministerial statement and released Reports Two and Three for public comment. Report Two comprised the results of a survey of victims about their views and experiences. Report Three was an analysis of the present law relating to criminal injuries compensation, including a number of recommendations for amendment. Several organisations took the opportunity to comment on the recommendations of Report Three. The Government has carefully considered the reports and the comment received. This bill is the result.

The bill has two aspects. First, the bill enshrines in legislation the rights of victims of crime in their dealings with the criminal justice system. The provisions are based on the Declaration of Rights for Victims of Crime adopted by Cabinet some time ago. However, there have been some modifications to reflect changed practices within the criminal justice system, and some additions. In particular, 2 new rights are added. These are the right to be informed about health and welfare services which may be available to a victim, and the right to be informed of any available grievance procedures.

The bill sets out how victims are to be treated in the criminal justice system. First of all, it provides that they are to be treated with courtesy, respect and sympathy. Any special needs are to be taken into consideration.

Secondly, it gives extensive rights to information. For example, it provides that victims who wish to have this information are to be given details of such matters as the progress of police investigations, whether anyone has been charged, and the outcome of court proceedings. If the prosecution does not proceed with the case, the victim is entitled to know why. If the offender escapes from custody, or is recaptured, the victim is entitled to know about this.

Thirdly, victims are declared to have certain rights to have their concerns heard and taken into account in criminal justice dealings with the alleged offender. For example, where a victim is concerned that a suspect who has been arrested may be bailed, the victim is entitled to have any perceived need for physical protection brought to the attention of the bail authority. If the offender is bailed, the victim who wishes to have this information can find out what the bail conditions are and, in particular, what conditions have been set for

the victim's protection. Where an offender applies for parole, a victim who wishes to make submissions to the Parole Board on the application is entitled to do so. At present, only victims of personal violence and sexual offences can do so. The bill would amend the *Correctional Services Act 1982* in this respect.

Where an offender is charged and the victim will be a witness in court, the bill provides that the victim is entitled to be informed by the prosecution about the trial process and the victim's rights and responsibilities as a witness. This could include, for instance, being told about the opportunity to apply to use vulnerable witness equipment, and the right to an interpreter. The prosecutor should also tell the victim about the option of applying for restitution or compensation in the criminal proceedings, where this is available and should, if asked, make an application on the victim's behalf.

However, the bill also provides that a victim is not to be required to attend the court unnecessarily, as, for example, where there will be merely an adjournment or a procedural hearing at which the victim is not required.

The victim is also entitled to be protected from unnecessary contact with the offender and his or her witnesses in the course of a trial, and to have the victim's residential address kept private, unless it is a relevant fact in the case.

These rights are intended to be accorded to victims by all personnel in the criminal justice system—by police, prosecutors and other officials who deal with them. However, the principles are not to affect the way in which criminal cases are conducted, nor do they give rise to legal claims for damages if a right is not accorded to a victim. Failure to accord a right might well be dealt with, however, by a grievance procedure, such as a complaint to the Police Complaints Authority or the Ombudsman. Also, the rights do not cut down the rights of others in the criminal justice system—they must be balanced against any other applicable obligations.

While Report One did not recommend that these rights be enshrined in legislation, the Government has considered this desirable as a way of according proper recognition to victims in the criminal justice system and of formally identifying what they are entitled to expect of the persons and agencies dealing with them.

The bill also amends the law relating to criminal injuries compensation. It repeals the present *Criminal Injuries Compensation Act 1978*, and sets out afresh and with some significant changes, the law relating to claims for compensation where a person is injured as a result of a crime. The object of these amendments is to bring the operation of the legislation closer to what was originally intended; that is, monetary payments to those persons who suffer physical or mental injuries as a result of violent or sexual offences.

As outlined in Report Three, the present law has proved to be very wide in its operation, to the point that it may compensate persons who, the Government believes, Parliament would not have intended to compensate had it considered them at the time. Examples might include persons on whose property a body is buried (even though they do not discover or ever come into contact with the body), persons who suffer depression as a result of a fraud by a business associate, or persons accidentally knocked down by a cyclist riding on a footpath who fails to sound the bell.

A significant change proposed to the present law by the bill, therefore, is to limit entitlement to persons who are injured in certain circumstances. Report Three recommended limiting compensation to 'acts of violence'. The bill takes a slightly broader approach, and would compensate certain victims of offences of violence, offences which involve a threat of violence or imminent risk of harm, sexual offences, and offences which result in death or injury to any person. It also restricts who can claim compensation, following the Report's proposal that there should be identified categories of victims. Those who can claim under the bill are persons physically injured by the offence, or psychologically injured by being involved in the circumstances of the offence, rescuers dealing with the immediate aftermath of the offence, parents of child victims, and the immediate family of a homicide victim. This will mean that, for example, a person who is traumatised by seeing television footage of the crime or its aftermath, or by attending the scene at a later date, cannot claim compensation.

In relation to homicide, as under the present law, parents and spouses of the deceased are entitled to solatium for grief, and dependants may claim for the loss of financial support from the deceased. Members of the immediate family who suffer psychological injury as a result of the homicide are also able to claim. However, persons who are not within the category of immediate family members (as defined) are not able to claim for mental injury. Funeral expenses are reimbursed and the maximum amount payable will increase to $5 000 to reflect current costs, as per Recommendation 9 of Report Three.

While Report Three recommended that the law should identify categories of victims, with differential maximum entitlements (Recommendation 1), the bill does not do this. The same maximum award, and the same principles of assessment, apply to all victims. On consideration of the submissions received, the Government was not persuaded that there was any benefit in prescribing lower maxima for certain categories of victim.

Speaking generally, the bill does not alter the statutory provisions as to the assessment of claims on the Fund. The statutory maximum, the points scale, and the formula for economic loss claims, are unchanged. However, as it was originally introduced in another place, the bill would have set a threshold for the recovery of compensation for non-economic loss. The Victims Review had recommended that the threshold be set at five points, but that this be monitored as to the effect on victims of minor assaults (Recommendations 13 and 14). However, on consideration, this threshold was considered to be too high, and the bill instead initially sought to fix a threshold of three points. This was intended to stop claims being made for non-economic loss for trivial injuries, while retaining such payments for more serious injuries.

However, as a result of amendment to the bill in another place, the bill does not now propose any threshold for the recovery of an award of compensation and even the most minor injuries would be compensable. The Government considers this unsatisfactory. The criminal injuries compensation law in this State has always incorporated a minimum threshold for compensation as a way of excluding trivial claims. The Government will move an amendment on this point.

The bill goes further than the present Act in another respect. It adds a new power to make discretionary payments to victims who do not assert that they have suffered any injury at all, but who seek financial assistance to overcome the effects of a crime. For example, the person who is frightened by a serious criminal trespass (so-called 'home invasion'), but is not physically hurt and does not suffer a mental illness or disability, might apply for financial assistance towards expenses of home security measures, such as installation of sensor lights, security screens or window locks.

These applications can be made by letter and it will not be necessary to issue court proceedings. These will not be lump sum payments in recognition of harm, as other *ex gratia* payments may be, but payments towards particular identified expenses which, in the Attorney-General's opinion, have been reasonably necessitated by the offence and will help the victim recover. In many cases, little or no medical evidence may be necessary, depending on what is claimed. Each application will be considered on its merits by the Attorney-General or his or her delegate. The Attorney-General will normally require to be satisfied that the offence actually occurred and that the victim appropriately assisted police inquiries.

It is hoped that this measure will assist those victims who are not injured, or not seriously so, and do not seek to claim compensation for injury, but who need practical assistance to recover from the offence against them.

Where a claim for injury compensation is made, the matters to be considered by the court in awarding compensation will remain largely unchanged. For example, the court must consider any conduct of the victim which contributed to the offence or the injury. The present special provisions dealing with victims who were engaged in indictable offences at the time of injury will remain, as will the victim's obligation to report the offence and co-operate with police inquiries. However, the bill adds a new requirement that the court take into account any failure by the claimant to mitigate his or her loss and, in particular, any failure to avail himself or herself of proper medical treatment or rehabilitative therapy. This requirement applies to common law claims for damages; that is, a person who sues for damages is under a duty to keep his or her harm to a minimum by taking appropriate steps. There is no reason why this should not also apply in the arena of criminal injuries compensation. So, for example, where an injury could have been treated or a disability minimised by physiotherapy, or by taking up a referral to a psychologist, but the victim failed to take these steps, the court can consider this in fixing the amount of compensation.

The bill has an emphasis on the early settlement of claims, in that applications cannot be made in the first instance to the court, but must be made to the Crown. If they cannot be settled within 3 months, or such longer period as the parties may agree, the victim may then apply to the court. This is a slight change to the current procedure, whereby the Crown is merely notified of the claim. Note

also that the bill includes an express provision about costs where a victim is offered compensation but rejects it. The victim will not recover further costs after 14 days from the making of this offer, unless the award exceeds the offer. This provision reflects the current practice whereby the Crown makes a formal offer, either by filing an offer in court or by an open letter. The purpose of putting it in the statute is to draw it prominently to the attention of victims and have it apply automatically, without the need for a filed offer in each case. The provision is designed to encourage victims to accept fair and reasonable offers of compensation at an early stage. Of course, there is no costs penalty if it proves that the Crown's offer was inadequate and in that case the Fund will bear the victim's costs in the ordinary way.

The bill also specifically restricts the rights of sentenced prisoners to claim for psychological trauma resulting from witnessing offences whilst in custody. Report Three proposed that prisoners should not be able to claim compensation at all for injuries as a result of criminal offences in gaols (Recommendation Four). However, several submissions argued that offenders who are assaulted should retain their entitlement to claim. A composite approach has therefore been taken in the bill. While a prisoner who is assaulted or sustains a physical injury can still claim, a prisoner who sustains a psychological injury merely because he or she is present when an offence occurs cannot claim. This will mean that, for example, a prisoner who suffers mental trauma because he or she is present when one prisoner threatens or attacks another will no longer be able to make a claim.

Another change proposed by the bill is an expansion of the purposes of the Fund in accordance with Recommendation 8. Its name is to be changed from the Criminal Injuries Compensation Fund to the Victims of Crime Fund and the bill provides that the Attorney-General may make payments from the Fund to any agency, not only to advance the interests of victims, but also to assist in the prevention of crime. For example, grants could be made for education campaigns to inform the community about risk awareness and safety measures. It is considered that measures which prevent crime will help to reduce the number of persons injured by criminal offending.

Also, as recommended by the Report (Recommendation 15), the bill amends the law about the levy to be paid by offenders. The third report recommended, and the Government agrees, that the levy should be CPI-indexed and that those persons who commit offences liable to give rise to criminal injuries compensation claims should contribute more than other offenders to the Fund. This is provided for in the bill among the factors relevant to fixing the levy. Because there are to be differential rates of levy and because the levy is to be CPI-indexed, the bill provides for the levy to be set by regulation rather than in the Act, as at present.

One of the difficulties experienced in the operation of the present law concerns the inclusion of the second defendant. It can happen that the Crown and the victim are able to agree on an award of compensation and wish to settle the case. However, the second defendant, that is, the offender, may not agree and may insist on his or her 'day in court'. At present, the second defendant can, therefore, force the case to trial despite the accord between the victim and the Crown, whether or not the second defendant has a meritorious defence to the case and notwithstanding that he or she may have been convicted of the offence. The bill provides, therefore, that the Crown may reach agreement on a settlement with the victim, even without the second defendant's consent, bringing the action to an end. The Crown may then apply for judgment against the second defendant for the sum paid to the victim. However, the second defendant may contest the judgment on the basis that it was unreasonable. For example, he or she can seek to prove that the amount agreed was too high for the injuries sustained, or that there was relevant conduct on the part of the victim which contributed to the injuries. Of course, this is the second defendant's application and he or she runs the risk of a costs order if it does not succeed.

The bill also makes a minor change to the right of the second defendant to require the medical examination of the claimant. While it was considered important to preserve this right, the bill requires that the second defendant apply to the court for an order for such an examination. This is to enable the court to ensure that the proposed examination is appropriate and to allow the victim to be heard on the matter. It is designed to combat any vexatious or harassing use of this entitlement.

There are other changes. The bill contemplates that the Attorney-General may establish an advisory committee to give advice on practical initiatives that the Government might take to advance the interests of victims of crime, and to offer advice on specific issues at the Government's request. In May 1999, the Attorney-General established a Ministerial Advisory Committee on Victims of Crime, comprising senior executives or managers from the Department of Premier and Cabinet, the Justice Portfolio, the Department for Human Services, Department of Education Training and Employment, Division of State Aboriginal Affairs, the Law Society and the Victim Support Service. Doctor Bruce Eastick chairs the Committee. The Committee is working well. It has played, and will continue to play, a significant role in advising the Attorney-General on victim issues and assisting with the implementation of the Government's victim initiatives. This clause will raise the profile of the Ministerial Advisory Committee and reinforce its role. It will recognise the Committee as is similarly done with other like Committees and advisory panels that perform important functions.

The bill also specifically provides for the role of the Victims of Crime Co-ordinator, who is to be a member *ex officio* of the Committee. This person is charged with advising the Government on effective use of its resources to assist victims of crime.

Finally, as under the present law, criminal injuries compensation is intended to be a last resort. It will not be available where the injuries would be covered by workers compensation or compulsory third party insurance, nor will it cover treatment costs which could be claimed from a health fund or scheme. However, the bill does not adopt the recommendation of the review that those who are eligible for workers compensation should have no entitlement to criminal injuries compensation (Recommendation 5). Most commentators advocated the retention of the present law in this respect. Instead, the bill preserves the present position whereby, if the person has sustained a harm (such as a disability due to mental illness or injury) which is not compensated by workers compensation, this may be claimed on the Fund.

However, because the Fund is intended to be a last resort, the law seeks to discourage claims being made where, because other compensation has been paid or is available, the claim will result in no benefit to the victim because there will be no net payment of compensation from the Fund. Under the bill, as under the present law, the Attorney-General has a discretion to reduce any award to take account of compensation paid or payable from other sources. It can happen that, even though a person has been fully compensated from another source, such as an insurance policy or workers compensation, a claim is made on the Fund. The claimant is well aware of the likelihood that any award will be reduced to nil in the exercise of the Attorney-General's discretion. The claimant, therefore, gains no benefit. He or she does, however, recover the legal costs associated with the claim on the Fund. This is not what the Fund is for. Under the bill, it is proposed to discourage this practice by giving the Attorney-General a discretion also to refuse to pay costs in these cases. It should be noted that, because of the provisions of Schedule 1 clause 2, this discretion becomes available immediately on commencement of the new Act, even for pending cases.

The bill therefore achieves two distinct aims. It adds new benefits for victims, as follows:

- victims rights are clearly and prominently identified in the law of our State
- victims can now apply to recover out-of-pocket expenses without the need to prove injury and without establishing a minimum loss of $1 000
- victims can settle claims with the Crown even where the second defendant does not consent
- the second defendant must seek a court order for a medical examination of the victim
- the groundwork is laid for revenue to the Fund to be increased
- the Fund can be applied to crime prevention to prevent future victimisation.

The bill also removes from the ambit of the compensation scheme persons who were never really intended to be covered as victims, and refocuses the law on those persons most directly and seriously affected by criminal offending.

I commend the bill to the House.

Explanation of Clauses

This is a bill for an Act to lay down principles to govern the treatment of victims of crime in the criminal justice system; to provide limited rights to statutory compensation for injury suffered as a result of the commission of criminal offences; to repeal the *Criminal Injuries Compensation Act 1978*; to make related amendments to other Acts; and for other purposes.

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Objects

It is the intention of this proposed Act to give statutory recognition to victims of crime and the harm they have suffered, to establish principles governing how victims of crime are to be treated in the criminal justice system, to help victims of crime recover and to provide limited monetary compensation to victims most directly affected by criminal offending.

Clause 4: Interpretation

This clause contains definitions of words and phrases necessary for the interpretation of this measure.

In particular, a claimant is a person by whom, or on whose behalf, an application for statutory compensation (that is, compensation under this measure) is made.

A victim (in relation to an offence) is a person who suffers harm as a result of the commission of the offence (but does not include a person who was a party to the commission of the offence).

An immediate victim, in relation to an offence, means a victim of any of the following classes:

- a person who suffers physical injury as a result of the commission of the offence; or
- a person who suffers psychological injury as a result of being directly involved in the circumstances of the offence or in operations in the immediate aftermath of the offence to deal with its consequences;
- if the offence was committed against a child—a parent or guardian of the child;
- if the offence was committed against a person who dies as a result of the offence—a member of the immediate family of the deceased.

PART 2: VICTIMS OF CRIME IN THE CRIMINAL JUSTICE SYSTEM

DIVISION 1—EXPLANATORY PROVISIONS

Clause 5: Reasons for declaration and its effect

In this Part, Parliament seeks, out of concern (both national and international) for the position of victims of crime within the criminal justice system, to declare the principles that should govern the way victims are dealt with in the system. The principles declared, however, are not enforceable in law, do not give rise to a right to sue for damages if breached and have no effect on the conduct of criminal proceedings.

DIVISION 2—DECLARATION OF PRINCIPLES GOVERNING TREATMENT OF VICTIMS IN THE CRIMINAL JUSTICE SYSTEM

Clause 6: Fair and dignified treatment

A victim should be treated with courtesy, respect and sympathy and with due regard to any special need that arises because of the victim's circumstances.

Clause 7: Right to have perceived need for protection taken into account in bail proceedings

If a victim feels a need for protection from the alleged offender, a person representing the Crown in bail proceedings should ensure that the perceived need for protection is brought to the attention of the bail authority (*see also s. 10(4) of the Bail Act 1985*).

Clause 8: Right to information about criminal investigation and prosecution

A victim should be informed, on request, about—

- the progress of investigations into the offence;
- the charge laid and details of the place and date of proceedings on the charge;
- if a person has been charged with the offence—the name of the alleged offender;
- if an application for bail is made by the alleged offender—the outcome of the application and any condition imposed to protect the victim from the alleged offender;
- if the prosecutor decides not to proceed with the charge, etc—the reasons for the prosecutor's decision;
- the outcome of the criminal proceedings and of any appeal proceedings;
- details of any sentence imposed on the offender;
- if the offender is sentenced to imprisonment and later makes an application for release on parole—the outcome of the proceedings.

A victim should also be informed, on request, about any absconding, escape, return to custody, and details of the imminent release from custody of the offender.

A victim should be informed, on request, about procedures that may be available to deal with a grievance the victim may have for non-recognition or inadequate recognition of the victim's rights.

A victim is not entitled, however, to any information that might jeopardise the investigation of an offence.

Clause 9: Victim to be advised on role as witness

A victim who is to be a witness for the prosecution at the trial of the offence should be informed by the prosecution about the trial process and the victim's rights and responsibilities as a witness for the prosecution.

Clause 10: Victim entitled to have impact of offence considered by sentencing court and to make submissions on parole

A victim is entitled to have any injury, loss or damage suffered as a result of the offence considered by the sentencing court before it passes sentence (*see also ss. 7 and 7A of the Criminal Law (Sentencing) Act 1988*).

A victim of an offence is entitled to make written submissions to the Parole Board on questions affecting the parole of a person imprisoned for the offence (*see also s. 77(2)(ba) of the Correctional Services Act 1982*).

Clause 11: Victim to be informed about access to health and welfare services

A victim should be informed about health and welfare services that may be available to alleviate the consequences of injury suffered as a result of the offence.

Clause 12: Rights in relation to compensation and restitution

A victim should have access to information about how to obtain compensation or restitution for harm suffered as a result of the offence.

Clause 13: Return of property

If a victim's property is taken for investigation or for use as evidence, the property should, if practicable, be returned to the victim as soon as it appears that it is no longer required for the purposes for which it was taken.

Clause 14: Protection of privacy

There should be no unnecessary intrusion on a victim's privacy. In particular, a victim's residential address should not be disclosed unless it is material to the prosecution or defence, and a victim should be protected from unnecessary contact with the alleged offender and defence witnesses (*see also s. 13 of the Evidence Act 1929*).

PART 3: VICTIMS OF CRIME ADVISORY COMMITTEE AND CO-ORDINATOR

Clause 15: Power to establish advisory committee

The Minister may establish an advisory committee to advise the Minister on practical initiatives that the Government might take in relation to victims of crime.

Clause 16: Victims of Crime Co-ordinator

The Governor may appoint a suitable person to be the Victims of Crime Co-ordinator who will be an *ex officio* member of the advisory committee. The Victims of Crime Co-ordinator has the following responsibilities:

- to advise the Minister on marshalling available government resources so they can be applied for the benefit of victims of crime in the most efficient and effective way;
- to carry out other functions related to the objects of this measure assigned by the Minister.

PART 4: COMPENSATION

Clause 17: Eligibility to make claim

A person is eligible to claim statutory compensation for injury caused by an offence if the person is an immediate victim of the offence and at least one of the following conditions is satisfied:

- the offence involved the use of violence or a threat of violence against the person or a member of the person's immediate family;
- the offence created a reasonable apprehension of imminent harm to the person or a member of the person's immediate family;
- the offence is a sexual offence;
- the offence caused death or physical injury.

A person is eligible to claim statutory compensation for grief suffered in consequence of the commission of a homicide if the person is—

- a spouse of the deceased victim; or
- where the deceased victim was a child—a parent of the deceased victim.

A person is eligible to claim statutory compensation for financial loss suffered by the dependants of a deceased victim if—

- the victim died as a result of the injury caused by the offence; and
- no previous order for statutory compensation has been made in respect of the injury; and
- the person is, in the court's opinion, a suitable person to represent the interests of the dependants.

A person is eligible to claim statutory compensation for funeral expenses if—

- a victim dies in consequence of the offence; and
- the person has paid, or is responsible for payment of, the victim's funeral expenses.

A person is not entitled to statutory compensation—

- if the injury arises from a breach of statutory duty by the person's employer that occurs in the course of the person's employment; and
- if the person has received, or is entitled to receive, workers compensation for the same harm;
- if the injury is caused by, or arises out of the use of, a motor vehicle;
- for hospital or medical expenses that would (if no award for compensation were made) be recoverable from a health fund or scheme;
- if the person is a prisoner—for psychological injury resulting from an offence committed in prison unless the person/prisoner also suffered physical injury.

Clause 18: Application for compensation

A person who is eligible to claim statutory compensation may, within the initial application period, apply for statutory compensation.

The initial application period is—

- for an application by a victim—3 years after the commission of the offence;
- for an application arising from the death of a victim—12 months after the date of death.

An application is to be made in the first instance to the Crown Solicitor.

If a claim for statutory compensation has not been settled by agreement between the Crown Solicitor and the claimant within the period for negotiation (as defined), the claimant may apply to the court for an order for statutory compensation.

Clause 19: Joinder of offender as party to court proceedings

If an application for statutory compensation is made to the court, the offender is (subject to this clause) to be a party to the proceedings before the court and a claimant who makes an application to the court must (subject to this clause) serve a copy of the application on the offender.

Clause 20: Orders for compensation

Subject to this measure, on an application for statutory compensation, the court may make an order for compensation.

If the Crown consents to the making of an order for compensation, the court may make an order on terms agreed by the claimant and the Crown.

The court must observe certain rules and have regard to any conduct on the part of the victim that contributed to the commission of the offence, or to the victim's injury, and such other circumstances as the court considers relevant, when awarding statutory compensation to a claimant.

The court must not make an order for compensation in favour of a claimant if the court—

- is satisfied beyond reasonable doubt that the injury to the claimant occurred while the claimant was engaged in conduct constituting an indictable offence; and
- is satisfied on the balance of probabilities that the claimant's conduct contributed materially to the risk of injury to the claimant,

(unless the court is satisfied that, in the circumstances of the particular claim, failure to compensate would be unjust).

The court must not make an order for compensation in favour of a claimant if it appears to the court that the claimant, without good reason, failed to fully co-operate and, in consequence, investigation or prosecution of the offence was not commenced or was terminated or hindered to a significant extent.

In deciding the amount of compensation to be awarded, the court must also take into account any failure by the claimant to avail himself or herself of proper medical treatment or rehabilitative therapy or any other failure to take proper steps to mitigate his or her loss.

No interest may be awarded by the court in respect of the whole or any part of the amount of statutory compensation ordered but the court may make certain orders as to costs.

Clause 21: Medical examination of claimant

This clause provides for medical examinations of a claimant for the purposes of this measure.

Clause 22: Evidence and proof

Subject to this measure, any fact to be proved by a claimant in proceedings under this measure is sufficiently proved if it is proved on the balance of probabilities.

No order for statutory compensation may be made (except by consent of the Crown) on an application unless—

- the commission of the offence to which the application relates has been admitted, or proved beyond reasonable doubt, in court proceedings, or has been admitted in statutory proceedings related to the offence, or can be reasonably inferred from admissions made in any such proceedings; and
- the other facts on which the application is based have been proved on the balance of probabilities.

If an order for compensation is sought in respect of an offence, and no person has been brought to trial charged with the offence, the evidence of the claimant as to the commission of the offence, unless supported in a material particular by corroborative evidence, is not sufficient to establish the commission of the offence.

Clause 23: Joint offences

If an application for statutory compensation in respect of injury, loss or grief is made in consequence of an offence committed by more than one offender, the court may make only one order for statutory compensation in respect of the injury, loss or grief.

If an application for statutory compensation in respect of injury, loss or grief is made in consequence of a series of offences committed consecutively by one offender, or a series of offences committed simultaneously or consecutively by offenders acting in concert, or in circumstances in which those offences constitute a single incident, the court may make only one order for statutory compensation in respect of the injury, loss or grief.

Clause 24: Appeals

A party to statutory compensation proceedings may, subject to the rules of the Supreme Court, appeal to the Full Court of the Supreme Court against any final order made by the court in those proceedings. However, if an order for compensation is made by consent of the Crown, the offender cannot appeal against that order.

Clause 25: Legal costs

Despite any Act or law to the contrary—

- costs awarded in proceedings under this measure must not exceed the amount allowable under the prescribed scale (plus GST); and
- a legal practitioner must neither charge nor seek to recover in respect of proceedings under this measure an amount by way of costs in excess of the amount allowable under the prescribed scale (plus GST).

The Governor may, by regulation, prescribe a scale of costs for these purposes.

Clause 26: Representation of Crown in proceedings

The Crown may be represented by any person nominated by the Attorney-General in preliminary or interlocutory proceedings, or at a hearing for a consent order, under this measure.

PART 5: PAYMENT OF COMPENSATION

Clause 27: Payment of compensation, etc., by Attorney-General

Subject to subclause (2), the Attorney-General must satisfy any order for statutory compensation (or for statutory compensation and costs) within 28 days of—

- the day on which a copy of the order is lodged by the claimant with the Attorney-General; or
- if an appeal has been instituted against the order, the day on which the appeal is withdrawn or determined,

(whichever is the later).

Subclause (2) provides that if—

- the claimant has received or is entitled to payments apart from this measure in respect of the injury or loss (other payments); and
- the Attorney-General is satisfied that, in view of the other payments, it is just to exercise the powers conferred by this subclause,

the Attorney-General may decline to satisfy an order for statutory compensation (or for statutory compensation and costs), or may reduce the payment to be made to the extent it appears just to do so. The Attorney-General is given an absolute discretion to make certain *ex gratia* payments.

Clause 28: Right of Attorney-General to recover money paid out from offender, etc.

If the Attorney-General makes a payment to a claimant, the Attorney-General is subrogated, to the extent of the payment, to the rights of—

- the claimant, as against the offender or any other person liable at law to compensate the claimant for the injury, financial loss or grief in respect of which the payment was made; and
- the offender, as against any insurer or other person from whom the offender is entitled to indemnity or contribution in respect of liability arising from the injury or death in respect of which the payment was made.

Clause 29: Recovery from claimant

The Attorney-General may recover from a claimant any interim payment that was made if no order for statutory compensation is subsequently made or if the amount of statutory compensation paid is less than the amount of the interim payment. If the Attorney-General makes a payment under this measure to a claimant and compensation or damages received by the claimant subsequently from some other source was not taken into account by the Attorney-General in making the payment, or exceeds the amount taken into account by the Attorney-General, the Attorney-General may recover from the claimant, as a debt, the amount of the payment or the amount of the excess (as the case requires) but may not recover more than the amount received from the other source.

PART 6: VICTIMS OF CRIME FUND

Clause 30: Victims of Crime Fund

The Fund previously known as the *Criminal Injuries Compensation Fund* continues in existence as the *Victims of Crime Fund*. A payment made by the Attorney-General under this measure will be debited to the Fund and a deficiency in the Fund will be met from the General Revenue of the State.

Clause 31: Power to make discretionary payments from Fund

The Attorney-General has an absolute discretion to make payments from the Fund to a government or non-government organisation or agency for a purpose that will, in the Attorney-General's opinion, assist in the prevention of crime or advance the interests of victims of crime.

The Attorney-General also has an absolute discretion to make other payments from the Fund to or for the benefit of victims of crime that will, in the Attorney-General's opinion, help them to recover from the effects of crime or advance their interests in other ways.

Clause 32: Imposition of levy

A levy is imposed for the purpose of providing a source of revenue for the Fund. The amount of the levy may vary according to any one or more of the following factors:

- the nature of the offence;
- whether the offence is a summary or an indictable offence;
- whether or not the offence is expiated;
- whether the offender is an adult or a child;
- variations in the consumer price index.

PART 7: MISCELLANEOUS

Clause 33: Interaction between this Act and other laws

This measure does not exclude or derogate from rights to damages or compensation that exist apart from this measure.

Clause 34: Date as at which compensation is to be assessed

If a person is entitled to statutory compensation, the amount of the compensation must be assessed in accordance with the provisions of this measure as in force at the time of the commission of the offence from which the injury arose.

Clause 35: Delegation

The Attorney-General may delegate any of the Attorney-General's powers or functions under this measure.

Clause 36: Annual report

The administrative unit of the Public Service responsible, under the Attorney-General, for the administration of this measure must, on or before 30 September in each year, present a report to the Attorney-General on the operation and administration of this Act during the previous financial year and the Attorney-General must, within 12 sittings days after receipt of the report, cause copies of it to be laid before the Parliament.

Clause 37: Regulations

The Governor may make regulations for the purposes of this measure.

SCHEDULE 1: Repeal and Transitional Provisions

This Schedule proposes to repeal the *Criminal Injuries Compensation Act 1978* and to provide for necessary transitional matters.

SCHEDULE 2: Related Amendments to Other Acts

This Schedule contains amendments to the *Correctional Services Act 1982*, the *Criminal Assets Confiscation Act 1996*, the *Criminal Law (Sentencing) Act 1982*, the *District Court Act 1991*, the *Expiation of Offences Act 1996* and the *Stamp Duties Act 1923* related to this measure.

Mr ATKINSON secured the adjournment of debate.

LAND ACQUISITION (NATIVE TITLE) AMENDMENT BILL

Received from the Legislative Council and read a first time.

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.

Leave granted.

Prior to the commencement of the *Native Title Amendment Act 1998* (Cth) in September 1998, South Australia was the only State to have obtained determinations for alternative right to negotiate schemes under the *Native Title Act 1993*. One of these schemes was contained within the *Land Acquisition Act 1969*.

Whilst the *Native Title Amendment Act* substantially amended the *Native Title Act*, the transitional provisions to that Act provide that determinations already made under the old section 43 for existing schemes will remain in place as if it they had been made under section 43 as amended. Nevertheless, it is desirable that the State right to negotiate provisions be consistent with the right to negotiate provisions of the *Native Title Act* to the extent that it may be appropriate.

This bill proposes to amend the *Land Acquisition Act* so that it is consistent with the amendments to the Commonwealth right to negotiate process as well as any other relevant changes to the *Native Title Act* provisions relating to this area.

The history of this bill is long and somewhat complex.

On 10 December 1998, the *Statutes Amendment (Native Title No.2) bill 1998* was introduced into Parliament. That bill represented the first part of the Government's response to the amendments made to the *Native Title Act*. At the time of introduction of this bill approval had been given to the drafting of amendments to the *Land Acquisition Act* in response to the changes made by the *Native Title Amendment Act*. In the Second Reading Speech on the introduction of the bill, the introduction of legislation amending the *Land Acquisition Act* as amendments to the *Statutes Amendment (Native Title No.2) bill* was foreshadowed.

The preparation of draft amendments to the *Land Acquisition Act* was completed in December and released to stakeholders for consultation on 24 December 1998.

Significant consultation was undertaken with representatives of indigenous and non-indigenous interest groups in respect of this draft. In June 1999 a revised draft of the amendments based on consultation to that point, was sent to interest groups for further consideration and consultation. Extensive consultation with relevant Commonwealth officials was also undertaken to ensure that the legislation remained compliant with the relevant provisions of the *Native Title Act.*

The initially proposed draft amendments have been substantially altered as a result of this consultation, largely to address comments made by indigenous representatives and Commonwealth officials.

As you are aware, the *Statutes Amendment (Native Title No.2) bill* lapsed in 1999. As a result it is now proposed to deal with these amendments as stand alone legislation.

Further consultation has taken place since introduction of this bill.

As previously stated, this bill contains amendments to the *Land Acquisition Act* to bring that Act into conformity with the amendments made to the *Native Title Act* in respect of compulsory acquisitions of native title interests by the *Native Title Amendment Act*. This involves a number a changes.

Indigenous Land Use Agreements

The bill amends section 7 of the Act to expressly provide that the processes relating to the acquisition of native title are to be subject to the terms of any relevant registered indigenous land use agreement under the *Native Title Act.* This reflects the provisions of the *Native Title Act* and the desirability of using such agreements to deal with native title issues.

"Third party" acquisitions

All acquisitions of native title land by State Government authorities for the purposes of transferring interests in the acquired land to other parties ("third party" acquisitions) are, as the *Land Acquisition Act* now stands, subject to the alternative "right to negotiate" provisions in Division 1 of Part 4 of the *Land Acquisition Act*. Since the *Native Title Amendment Act* came into operation, the *Native Title Act* excludes a "third party" acquisition by a State Government from the "right to negotiate" where the acquisition relates to land within a town or city (as defined in the *Native Title Act*), "onshore" land or waters on the seaward side of the high water mark, or where the acquisition is for the purpose of providing an "infrastructure facility" (which is also defined by the *Native Title Act*). The amendment to be moved will introduce a definition of "prescribed private acquisition" into the *Land Acquisition Act*. That definition reflects the classes of "third party" acquisitions no longer subject to the right to negotiate under the *Native Title Act*. Under the amendment, a "prescribed private acquisition" will not be subject to the right to negotiate provisions of the *Land Acquisition Act*. Such an acquisition will, however, be subject to a right to object by any registered holders of, or claimants to, native title over the affected land under clause 12B of the amendment. The process in clause 12B will also cover acquisitions by non-government entities for the transfer of interests to non-government parties. This clause reflects the rights conferred on those holders or claimants under section 24MD(6B) of the *Native Title Act*.

Acquisitions for Government purposes

In order that an acquisition by a State Government be excluded from the right to negotiate, the *Native Title Act* now requires that the Government acquiring authority to make a statement in writing before the acquisition takes place that the purpose of the acquisition is to confer rights and interests in the land concerned on the Government itself. The bill now requires such a statement to be included in a notice of intention to acquire issued by a Government acquiring authority in such a case.

Right to Negotiate

This bill makes changes to the alternative State right to negotiate provisions in Division 1 of Part 4 of the *Land Acquisition Act* so that those provisions will be consistent with the amendments made to section 43 of the *Native Title Act* by the *Native Title Amendment Act*. These changes include altering notice and time limit provisions to bring them in line with the changes made to the *Native Title Act* as well as providing for moneys payable as a condition of a right to negotiate determination to be held on trust.

Section 15 and 16

Sections 15 and 16 of the *Land Acquisition Act* are amended by this bill to ensure consistency with the *Native Title Act*, to take into account the potential impact of the new procedures on acquisition time frames, and to ensure that native title claimants are treated fairly under the processes.

The previous clauses dealing with extinguishment of native title have been removed as they reflected the position under the *Native Title Act* prior to amendment. Under this bill the extinguishment of native title by acquisitions of land is left to be governed by the relevant provisions of the *Native Title Act 1993* as amended.

Compensation Ceiling

As a result of suggestions that the compensation payable for the extinguishment of native title may well exceed that which would have been payable if a fee simple interest in the same land had been acquired, the *Native Title Amendment Act* introduced section 51A into the *Native Title Act*. That section provides that the total amount of compensation payable under Division 5 of Part 2 of the *Native Title Act* for an act that extinguishes native title must not exceed the amount payable if the act were the compulsory acquisition of a freehold estate. Section 51A is, however, expressed to be subject to section 53, which requires compensation for any future act that is an acquisition of property to be such that the acquisition is on "just terms" for the purposes of section 51(xxxi) of the Commonwealth Constitution.

To reflect this change, the amendment proposes to include a new subsection (3) in section 25 of the *Land Acquisition Act*, providing that if all native title in land is extinguished by an acquisition under the Act, the total compensation payable to the native title holders must not exceed the amount that would have been payable if the acquisition were instead an acquisition of a freehold estate in the land. Consistently with the *Native Title Act*, however, that limit is expressed to be subject to subsections (1) and (2) of section 25, which set out the general principles of determining compensation under the Act and require native title holders to be compensated for the loss, diminution, impairment or other effect on the native title of the acquisition or the subsequent use of the land for the purpose for which it was acquired. These subsections provide, in effect, "just terms" for the acquisition of native title. The inclusion of subsection (1) in this qualification was made at the request of indigenous representatives during the consultation process.

The inclusion of new section 22B expressly clarifies an interest holders entitlement to compensation if their interest is divested, diminished or adversely affected by an acquisition. This includes native title holders.

Determination by Court as to Existence of Native Title

Section 23C of the *Land Acquisition Act* is amended so that, where a claimants claim to hold a native title interest in land is in dispute, the Land and Valuation Court will adjourn any hearing of a claim for compensation until the matter is resolved by virtue of a native title determination or declaration under the *Native Title Act* or the *Native Title (South Australia) Act 1994*. If no claim for native title is made the Court may reject the claim for compensation, however, this would not preclude a further claim for compensation being made once the claimants native title interest in the land concerned is established.

This amendment ensures that determinations about the existence of native title are made via the appropriate processes required by the *Native Title Act* and the *Native Title (South Australia) Act*.

Section 23D of the *Land Acquisition Act* is repealed for similar reasons.

Temporary Entry and Occupation of Native Title Land

Section 28 of the *Land Acquisition Act* enables an Authority to occupy and use land temporarily, eg, for the purposes of carrying out construction works on adjacent land, subject to complying with certain procedural requirements. This bill amends section 28 to ensure that the activities authorised under this section do not include mining as defined in the *Native Title Act.* In light of this, section 28A of the Act is repealed and the provision requiring a minimum 7 day notification before the power in section 28 can be exercised becomes part of this section.

I commend this bill to the House.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 6—Interpretation

The following new definitions are inserted:

- acquisition project
  The term encompasses the acquisition and the development or use of the land following acquisition and is used in proposed section 12B(3), 19(2), 21 and 25(2).
- Commonwealth Registrar
  The definition is inserted for the purposes of the notification requirements set out in new section 10(2)*(b)*(ii).
- infrastructure facility
  The definition is inserted for the purposes of the definition of prescribed private acquisition.
- owner
  Various notices must be given to the owner of land (ss. 27(2) and 28(2)). This definition extends the notice requirements to a person who holds native title in land.
- prescribed private acquisition
  Under the Commonwealth Act (see s. 24MD(6B)) certain kinds of private acquisitions do not attract the right to negotiate but native title parties must be given a right to object. This definition is included to define those acquisitions (see s. 12B).
- town or city
  This definition is included for the purposes of the definition of prescribed private acquisition and reflects section 251C of the Commonwealth Native Title Act.

The definition of claimant is altered to encompass a person who asserts a claim to compensation under the Act. The definition of native title is converted to a general reference to definitions relating to native title in the *Native Title (South Australia) Act 1994*.

Subsection (3) is introduced to ensure that a reference to Crown or an instrumentality of the Crown in the South Australian Act has exactly the same meaning as in the Commonwealth Native Title Act.

Clause 4: Amendment of s. 7—Application

This amendment removes the express reference to another Act excluding the application of a provision of the principal Act.

The amendment also provides that a registered indigenous land use agreement may override the Act in its application to the acquisition of native title.

Clause 5: Substitution of s 10—Notice of intention to acquire land

The new section alters the scheme for giving notice of intention to acquire native title in land in circumstances where there is no native title declaration.

The requirement to give notice to all who hold or may hold native title in the land remains.

The requirement to give a copy of the notice to the Registrar of the ERD Court is altered. Firstly, it is limited to circumstances where there is a requirement to negotiate with native title parties under Part 4 Division 1. Secondly it is expanded to require notice to also be given to the Commonwealth Registrar and to require the Authority to provide a statutory declaration to relevant persons setting out when the requirements for service were completed (ie when time will start to run for various purposes) and providing supporting materials.

New requirements are set out in subsection (3) specifying the contents of the notice of intention to acquire.

Subsection (5) introduces appropriate limitations on the requirement to notify about changes in the boundaries of the land proposed to be acquired. If an interest is no longer held by a person or a claim has been abandoned or determined in the negative, notice of the change need not be given.

Clause 6: Amendment of s. 11—Explanation of acquisition scheme may be required

Clause 7: Amendment of s. 12—Right to object

These amendments continue the right of the relevant representative Aboriginal body to require explanations for acquisitions and to object to acquisitions but only where there is no native title declaration for the land and either there are no registered representatives of claimants to native title in the land or an Aboriginal group that claims to hold native title in the land and for which there is no registered representative has, in accordance with the regulations, authorised the representative Aboriginal body to act on its behalf.

Clause 8: Insertion of s. 12B—Additional right to object to prescribed private acquisition

New section 12B provides native title parties with a right to object to the relevant Minister to a prescribed private acquisition. Prescribed private acquisitions are—

- acquisitions for the purpose of conferring interests on a private body to enable an infrastructure facility to be provided;
- acquisitions within a town or city for the purpose of conferring interests on a private body;
- acquisitions beyond the mean high-water mark for the purpose of conferring interests on a private body;
- acquisitions that are not made by the Crown and are not for the purpose of conferring interests on the Crown.

The Minister is required to consult the objecting native title parties about ways of minimising the impact of the acquisition project on registered native title rights and, if relevant, access to the land. The objection is to be heard by an independent person or body appointed by the Attorney-General if the native title parties so request. The decision of the independent person or body must be complied with unless the Minister responsible for indigenous affairs is consulted, the consultation is taken into account and it is in the interests of the State not to comply with the recommendation. This section derives from sections 24MD(6B), 26(2) and (3) of the Commonwealth Native Title Act.

Clause 9: Amendment of s. 13—Notice that land is subject to acquisition

This amendment excludes native title land from the application of section 13 which deals with acquisitions of land that has not been brought under the provisions of the *Real Property Act*.

Clause 10: Amendment of s. 15—Acquisition by agreement, etc.

The amendments—

- insert a footnote to subsection (1) to explain that where native title parties have a right to negotiate about acquisition of native title, they may enter an agreement with the Authority to surrender and extinguish the native title (see section 24MD(2A) of the Commonwealth Native Title Act);
- introduce appropriate limitations on the requirement to notify about a decision not to proceed with the acquisition—if an interest is no longer held by a person or a claim has been abandoned or determined in the negative, notice of the decision need not be given;
- extend the period for acquisition of the land from 12 months or a longer period agreed or decided by the Court to 18 months or a longer period agreed or decided by the Court or, in the case of a proposed acquisition of native title, fixed by the Minister;
- extend the period within which compensation may be claimed for a decision not to proceed with an acquisition from 3 months to 6 months;
- provide that a registered claimant to native title has sufficient interest to make a claim for compensation for a decision not to proceed with an acquisition.

Clause 11: Amendment of s. 16—Notice of acquisition

The clause—

- makes consequential amendments to the extension of the period for acquisition;
- removes subsections (3a) and (3b) relating to the extinguishment of native title and replaces them with a reference to extinguishment of native title to the extent permitted by the Commonwealth Native Title Act;
- introduces appropriate limitations on the requirement to give notice of the acquisition—if an interest is no longer held by a person or a claim has been abandoned or determined in the negative, notice need not be given.

Clause 12: Amendment of s. 17—Modification of instruments of title

Section 17(2) requires Registrars to be notified about acquisitions of native title land. The amendment limits this to circumstances in which the native title is acquired.

Clause 13: Amendment of heading to Division 1 of Part 4

This amendment makes a minor adjustment to the heading to emphasise that the Division relates to acquisition of the native title in land rather than the acquisition of the native title land.

Clause 14: Substitution of s 18—Application of Division

Part 4 Division 1 currently applies to a proposed acquisition by an Authority for the purpose of conferring proprietary rights or interests on a person other than the Crown or an instrumentality of the Crown.

The amendment excludes prescribed private acquisitions from the application of the Division. It also limits the Division to acquisitions by the Crown or an instrumentality of the Crown (see s.26 of the Commonwealth Native Title Act). The reference to 'proprietary' is removed to match the Commonwealth Native Title Act.

Clause 15: Substitution of s. 19—Negotiation about acquisition of native title land

The requirement to negotiate with native title parties in an attempt to reach agreement about the acquisition of native title in land is limited to matters related to the effect of the acquisition project on the registered native title rights of the native title parties (see section 31(2) of the Commonwealth Native Title Act). It is also made clear that the right to negotiate only continues while the native title party continues to be registered as a claimant or holder of native title. In line with the Commonwealth Native Title Act (see section 30), to be a native title party with a right to negotiate the application for a native title declaration must be made not later than 3 months after notice of intention to acquire the land.

The new section contemplates a series of agreements with one or more of the appropriate native title parties where there are distinct claims or entitlements to native title in relation to the land concerned.

The new section also requires an agreement reached to be filed in the Court and contains provisions relating to the confidentiality of the agreement or part of the agreement.

Clause 16: Amendment of s. 20—Application for determination if no agreement

In line with the Commonwealth Native Title Act (see section 38), the amendments contemplate the Court reserving a question that is not reasonably capable of being determined immediately for further negotiation between the parties and providing for determination of such a question by arbitration or in some other specified manner.

The strict 6 month time limit for determination of an application by the Court is removed. Instead, in line with the Commonwealth Act (see section 36), the Court is required to make its determination as quickly as practicable.

Various other minor adjustments are made to more closely reflect the Commonwealth Native Title Act.

Clause 17: Insertion of s. 20A—Constitution of trust

This provision is included to reflect provisions in the Commonwealth Native Title Act (in particular sections 36C(5), 41(3), 42(5) and 52.)

The new section provides for amounts to be paid into court as a result of an agreement or determination that an amount is to be held in trust for those who ultimately establish a claim to native title in the subject land.

Subsection (3) sets out how the Court is to deal with amounts held in trust.

Clause 18: Substitution of s. 21—Criteria for making determination

Section 21 is altered to reflect the criteria and other provisions set out in section 39 of the Commonwealth Native Title Act.

Clause 19: Amendment of s. 22—Overruling of determinations

The amendment extends the Minister's power to overrule determinations to circumstances where the Minister considers it to be in the national interest (see section 43(2)(i) of the Commonwealth Native Title Act). Currently, the power is limited to where the Minister considers it to be in the interests of the State.

Clause 20: Insertion of s. 22A—Notice on behalf of State for prescribed private acquisition

This is a technical amendment to ensure compliance with the Commonwealth Native Title Act. It requires an Authority (other than the Crown or an instrumentality of the Crown), on behalf of the State, to give any additional notice required under the Commonwealth Act in the case of a prescribed private acquisition.

Clause 21: Insertion of s. 22B—Entitlement to compensation

The new section sets out when a person is entitled to compensation for the acquisition of land—if the person's interest in land is divested or diminished by the acquisition or the enjoyment of the person's interest in land is adversely affected by the acquisition. Currently, section 23(2) is to similar effect.

Clause 22: Amendment of s. 23—Negotiation of compensation

Technical adjustments are made to section 23 to more closely match the Commonwealth Native Title Act and consequential to the other amendments to Part 4..

Clause 23: Amendment of s. 23A—Offer of compensation and payment into court

This is a technical amendment to accommodate the process under which an Authority may already have paid an amount into the ERD Court under Division 1.

Clause 24: Substitution of s. 23B—Agreement

The new section requires the filing of an agreement about compensation and enables the court to make orders to give effect to the agreement.

Clause 25: Amendment of s. 23C—Reference of matters into court

The provision as amended will provide a more flexible system for reference of matters into court.

It also sets out a clear separation between determination of compensation and determination of a disputed claim to native title. The latter is a matter for the relevant Commonwealth law or the processes set out in the *Native Title (South Australia) Act*.

Clause 26: Repeal of s. 23D

This section is repealed. The matter is dealt with by the above amendments.

Clause 27: Amendment of s. 25—Principles of compensation

Subsection (2) is altered to more closely reflect section 51 of the Commonwealth Native Title Act.

Subsection (3) is introduced to reflect section 51A of the Commonwealth Native Title Act.

Clause 28: Amendment of s. 27—Powers of entry

The separate process for native title holders set out in section 28A and referred to in section 27(2) is no longer necessary because the activities covered by Part 5 are amended to exclude mining. New subsection (2) requires owners (including native title holders) and occupiers to be given at least 7 days notice of a proposed entry to land.

Clause 29: Amendment of s. 28—Temporary occupation

New subsection (1a) excludes mining from the purposes for which land may be temporarily occupied under section 28. The new subsection (2) requires owners (including native title holders) and occupiers to be given at least 7 days notice of a proposed temporary occupation.

Clause 30: Repeal of s. 28A

Section 28A dealing with the exercise of powers under Part 5 in relation to native title land is removed. This is consequential on the amendments to section 28 excluding mining from the permitted purposes.

Clause 31: Insertion of s. 36A—Recovery of compensation from Authority

The new section expressly provides that compensation payable under the Act may be recovered from the Authority as a debt.

Mr ATKINSON secured the adjournment of the debate.

STATUTES AMENDMENT (CONSUMER AFFAIRS) BILL

Received from the Legislative Council and read a first time.

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.

Leave granted.

A comprehensive review of all legislation administered by the Office of Consumer and Business Affairs (OCBA) a number of years ago resulted in significant changes to occupational licensing and the passage of new legislation for the licensing of builders, plumbers, electricians, gas fitters, conveyancers, security and investigation agents, travel agents and second-hand vehicle dealers. Following the review, a number of negative licensing systems were introduced and licensing was replaced by registration for some occupations. The Commissioner for Consumer Affairs became the licensing authority in place of the Commercial Tribunal.

A further review of the occupational licensing system occurred in 1998 with a view to—

- improving the timeliness of licensing processes
- improving the quality of issued licences in terms of quality and appearance
- reducing paperwork associated with the licensing process for applicants and OCBA.

The majority of the review's recommendations have been, or are currently being, implemented administratively. High security licence cards incorporating digital photographic images have already been introduced on a voluntary basis, with great success. Some of the review's recommendations require legislative amendment to ensure the achievement of the streamlining proposals.

Photographs of licensees/holders of registration

At present, there is no legislative requirement for a person to have their photographic image captured for inclusion in an occupational licence card. If a person does not have their image captured after several requests, their licence is renewed but no card is issued. Arrangements are already in place for the capture of digital images at 18 locations throughout the State as well as a process to meet the needs of licensees in remote areas. There has been positive feedback from licensees about these facilities.

The Bill requires existing licensees and persons holding registration, and new applicants for licences or registration, to have their images captured and to produce suitable identification evidence, similar to that currently in force in relation to driving and firearms licences. This will ensure that OCBA can issue secure licence cards to all relevant licensees so that consumers can confidently check whether a person holds an appropriate licence. The photograph will be required to be renewed at least once in each 10 year period.

The Bill introduces this requirement into the following Acts:

- the *Building Work Contractors Act 1995*
- the *Plumbers, Gas Fitters and Electricians Act 1995*
- the *Security and Investigation Agents Act 1995*.

Applications may be refused where certain requirements not complied with

It is not uncommon for an applicant for a licence or registration to fail to provide all necessary information required to assess their application after it has been lodged. It is not practical for these applications to be kept open for unlimited periods of time. Information provided at the beginning of the process, such as financial data or a police record check, may be stale by the time the applicant elects to complete the process by providing the final item of information. The occupational licensing Acts are silent on how such applications are to be treated. The Bill allows the Commissioner to suspend the determination of an application where required information is not provided within 28 days of receiving a notice from the Commissioner to that effect. If the notice is not complied with, the Bill empowers the Commissioner to refuse the application. In this instance, the application fee is not required to be refunded.

In addition, if an applicant has previously failed to pay any fee or penalty payable under the Act, the Commissioner may require the applicant to pay such outstanding amounts prior to granting a licence or registration.

These provisions will be introduced into the following Acts:

- the *Building Work Contractors Act 1995*
- the *Conveyancers Act 1994*

- the *Land Agents Act 1994*
- the *Plumbers, Gas Fitters and Electricians Act 1995*
- the *Second-hand Vehicle Dealers Act 1995*
- the *Security and Investigation Agents Act 1995*
- the *Travel Agents Act 1986*.

Information may be required for determining applications for registration

The various occupational licensing Acts currently require an applicant for a *licence* to provide the Commissioner with any information required by the Commissioner for the purposes of determining the application. However, current procedures for applying for *registrations* do not contain this requirement. Registration is required for building work supervisors, plumbing, gas fitting and electrical workers, land agents and conveyancers. The Bill aligns the provisions for applications for registration with those already in place with respect to licence applications to ensure that properly informed determinations can be made.

This provision will be incorporated into the following Acts:

- the *Building Work Contractors Act 1995*
- the *Plumbers, Gas Fitters and Electricians Act 1995*
- the *Land Agents Act 1994*
- the *Conveyancers Act 1994*.

Explanation of clauses

It is proposed to amend the occupational licensing Acts, in a substantially consistent manner.

The proposed amendments provide that licences for building work contractors, plumbers, gas fitters, electricians and security and investigation agents will include a photograph of the licensee. Likewise, certificates of registration for building work supervisors and plumbing, gas fitting and electrical workers will include a photograph of the holder of the registration. (It is not proposed that conveyancers, land agents, second-hand vehicle dealers or travel agents will be required to be photographed for licensing/registration purposes.)

Other proposed amendments relate to new requirements for applicants for licences or registration under the various Acts to provide the Commissioner with identification evidence and other specified information and to pay to the Commissioner any outstanding amounts owed under the relevant Act.

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

A reference in the Bill to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2: AMENDMENT OF BUILDING WORK CONTRACTORS ACT 1995

Clause 4: Amendment of s. 8—Application for licence

It is proposed that an applicant for a licence must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information required by the Commissioner for the purposes of determining the application.

New subsection (3) provides that a licence granted to a natural person will include a photograph of the holder of the licence. Consequently, an applicant for a licence who is a natural person may be required by the Commissioner to attend at a specified place for the purpose of having the applicant's photograph taken or to supply the Commissioner with one or more photographs of the applicant.

New subsection (4) provides that if an applicant for a licence has previously failed to pay a fee or penalty that became payable under the principal Act (for example, previous licence fees or fees for registration or a default penalty), the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

New subsection (5) provides that the Commissioner may, by notice in writing, require an applicant for a licence, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under section 8 to the Commissioner's satisfaction.

New subsection (6) provides that if the applicant fails to comply with the notice under new subsection (5), the Commissioner may, without further notice, refuse the application but keep the application fee.

Clause 5: Insertion of s. 10A

10A. Power of Commissioner to require photograph and information

New section 10A gives the Commissioner the power, by notice in writing, to require a current licensee to have a photograph taken or to supply a photograph for the purpose of including the photograph in the licence and to provide the Commissioner with appropriate identification evidence.

Clause 6: Amendment of s. 11—Duration of licence and periodic fee and return, etc.

Section 11 of the principal Act provides that a licensee must pay a periodic fee to, and lodge a periodic return with, the Commissioner, in accordance with the regulations. The section also provides that the Commissioner may require a licensee who defaults on a payment or lodgment to make good the default and to pay a default penalty. The proposed amendment will also make it a ground for default if a licensee fails to comply with a notice under new section 10A.

Clause 7: Amendment of s. 15—Application for registration

Clause 8: Insertion of s. 17A—Power of Commissioner to require photograph and information

Clause 9: Amendment of s. 18—Duration of registration and periodic fee and return, etc.

The amendments proposed in clauses 7, 8 and 9 mirror, respectively, the amendments proposed in clauses 4, 5 and 6, except that they relate to building work supervisors instead of to building work contractors.

PART 3: AMENDMENT OF CONVEYANCERS ACT 1994

Clause 10: Amendment of s. 6—Application for registration

New subsection (2) provides that an applicant for registration must provide the Commissioner with such evidence as the Commissioner thinks appropriate as to the identity, age and address of the applicant and any other information required by the Commissioner for the purposes of determining the application.

New subsection (3) provides that if an applicant for registration has previously failed to pay a fee or penalty that became payable under the principal Act, the Commissioner may require the applicant to pay the whole or a specified part of the fee or penalty.

New subsection (4) provides that the Commissioner may, by notice in writing, require an applicant for registration, within a time fixed by the notice (which may not be less than 28 days after service of the notice), to comply with any requirement under section 6 to the Commissioner's satisfaction.

New subsection (5) provides that if the applicant fails to comply with the notice under new subsection (4), the Commissioner may, without further notice, refuse the application but keep the application fee.

PART 4: AMENDMENT OF LAND AGENTS ACT 1994

Clause 11: Amendment of s. 7—Application for registration

The amendments proposed by clause 11 to the principal Act mirror the amendments proposed by clause 10 to the *Conveyancers Act 1994*.

PART 5: AMENDMENT OF PLUMBERS, GAS FITTERS AND ELECTRICIANS ACT 1995

Clause 12: Amendment of s. 8—Application for licence

Clause 13: Insertion of s. 10A—Power of Commissioner to require photograph and information

Clause 14: Amendment of s. 11—Duration of licence and periodic fee and return, etc.

Clause 15: Amendment of s. 15—Application for registration

Clause 16: Insertion of s. 17A—Power of Commissioner to require photograph and information

Clause 17: Amendment of s. 18—Duration of registration and periodic fee and return, etc.

The amendments proposed by clauses 12 to 17 to the principal Act mirror the amendments proposed, respectively, by clauses 4 to 9 to the *Building Work Contractors Act 1995*.

PART 6: AMENDMENT OF SECOND-HAND VEHICLE DEALERS ACT 1995

Clause 18: Amendment of s. 3—Interpretation

It is proposed to amend the definitions of credit contract and credit provider to remove references to the *Consumer Credit Act 1972*, which has been repealed, and to replace them with references to the *Consumer Credit (South Australia) Code.*

Clause 19: Amendment of s. 7—Dealers to be licensed

This amendment is consequential on the amendments proposed by clause 18.

Clause 20: Amendment of s. 8—Application for licence

It is not proposed to make it a requirement that a second-hand vehicle dealer's licence bear a photograph of the dealer. The amendments proposed by this clause to the principal Act mirror the amendments proposed by clause 10 to the *Conveyancers Act 1994*, with the addition that an applicant may have to make good any arrears in relation to contributions to the Second-hand Vehicles Compensation Fund (in addition to any arrears for fees or penalties

that became payable under the principal Act) before an application for a licence is determined.

Clause 21: Amendment of s. 9—Entitlement to be licensed

This is an amendment proposed to section 9 of the principal Act that is not being proposed in relation to the other occupational licensing Acts in this measure. Section 9 of the principal Act deals with the entitlement to be licensed as a second-hand vehicle dealer under the Act. Currently a person is not entitled to be licensed as a dealer if he or she has been convicted of an offence of dishonesty. A body corporate is not entitled to be licensed as a dealer if any director of the body corporate has been convicted of an offence of dishonesty. This amendment, in each case, changes the restriction from not having been convicted of an offence of dishonesty to one of not having been convicted of an indictable offence of dishonesty or, during the 10 years preceding the application for a licence, of a summary offence of dishonesty.

PART 7: AMENDMENT OF SECURITY AND INVESTIGATION AGENTS ACT 1995

Clause 22: Amendment of s. 8—Application for licence

Clause 23: Insertion of s. 11A—Power of Commissioner to require photograph and information

Clause 24: Amendment of s. 12—Duration of licence and annual fee and return, etc.

The amendments proposed to the principal Act by clauses 22, 23 and 24 mirror, respectively, the amendments proposed by clauses 4, 5 and 6 to the *Building Work Contractors Act 1995*.

PART 8: AMENDMENT OF TRAVEL AGENTS ACT 1986

Clause 25: Amendment of s. 8—Application for licence

The amendments proposed by clause 25 to the principal Act mirror the amendments proposed by clause 20 to the *Second-hand Vehicle Dealers Act 1995*.

Mr ATKINSON secured the adjournment of the debate.

TRADE MEASUREMENT (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

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.

Leave granted.

This Bill provides for minor amendments to be made to the *Trade Measurement Act 1993*.

The *Trade Measurement Act 1993* mirrors the national uniform trade measurement legislation agreed to by State and Territory Ministers, with the exception of Western Australia, in 1990.

In 1995, the Standing Committee of Officials of Consumer Affairs agreed on a project to review the uniform trade measurement legislation and its sub-committee, the Trade Measurement Advisory Committee undertook that task with a view to identifying and examining the effectiveness, scope and appropriateness of the legislation.

The Committee identified a total of 47 areas of the legislation requiring amendment, of which 23 were regarded as minor in nature. It is these 23 amendments that this Bill addresses.

In March 2000, Queensland, the nominated lead agency, proclaimed the amendments in its equivalent Act. Victoria has since passed the amendments and NSW is in the course of doing the same.

As the amendments are minor in nature, the Ministerial Council on Consumer Affairs agreed that the process of implementing these minor amendments did not require consultation with industry.

I commend this bill to honourable members.

Explanation of clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal. The measure will commence on a day to be fixed by proclamation.

Clause 3: Amendment of s. 3—Definitions

Paragraph *(a)* inserts a definition of 'class 4 measuring instrument' which is referred to in proposed new section 7A.

Paragraph *(b)* strikes out and substitutes the definition of 'measurement' to remove any ambiguity associated with the phrase 'physical quantity' and ensure that it means physical attributes such as mass and length, and not just physical number.

Paragraph *(c)* strikes out subsections (2) and (3). These provisions are picked up again in proposed new sections 3A and 3B.

Clause 4: Insertion of ss. 3A and 3B

3A. Determining certain quantities

Proposed new section 3A picks up section 3(2) and also states that any packaging or other thing that is not part of an article is to be disregarded when determining the physical quantity of the article.

3B References to functions

Proposed new section 3B picks up current section 3(3).

Clause 5: Amendment of s. 7—Measuring instruments for trade must be marked

This clause strikes out subsections (3) and (4) and substitutes proposed new sections 7(3) to 7(6).

Proposed new section 7(3) gives an inspector a discretionary power to issue a notice granting an owner or user of a measuring instrument that contravenes section 7 a maximum of 28 days to remedy the contravention.

Proposed new section 7(4) states that a person who complies with the notice has not committed an offence against the section.

Proposed new sections 7(5) and 7(6) pick up current 7(3) and 7(4) respectively.

Clause 6: Insertion of ss. 7A and 7B

7A. Use of class 4 measuring instruments

Proposed new section 7A creates a new class of measuring instrument and makes it an offence to use a measuring instrument of this class for trade, except for a specified purpose.

7B. Use of measuring instruments for pre-packed articles

Proposed new section 7B creates the offence of using a measuring instrument for measuring pre-packed articles where there are no measuring instruments on the premises that have been approved for trade use, comply with the Act, and are suitable for measuring the articles.

Clause 7: Amendment of s. 8—Incorrect measuring instruments and unjust use of measuring instruments

Paragraph *(a)* strikes out 'or unjust' from section 8(1).

Paragraph *(b)* strikes out sections 8(3) and 8(4) and substitutes sections 8(3) to 8(6).

Proposed new section 8(3) gives an inspector a discretionary power to issue a notice granting an owner or user of a measuring instrument that contravenes section 7 a maximum of 28 days to remedy the contravention.

Proposed new section 8(4) states that a person who complies with the notice has not committed an offence against the section.

Proposed new sections 8(5) and 8(6) pick up current sections 8(3) and 8(4) respectively.

Clause 8: Amendment of s. 9—Supplying incorrect measuring instrument

This clause strikes out the words 'or unjust' from section 9(1).

Clause 9: Amendment of s. 10—Provision and maintenance of standards

Paragraph *(a)* strikes out and substitutes section 10(1). Proposed new section 10(1) makes it clear that the administering authority determines the necessity to arrange for the provision, custody and maintenance of various standards of measurement.

Paragraph *(b)* amends section 10(2) so that it reflects the change made by proposed new section 10(1).

Clause 10: Amendment of s. 23—Incorrect measurement or price calculation

Paragraph *(a)* amends section 23 so that the offence may also apply to a person who decides the measurement of an article.

Paragraph *(b)* amends section 23*(a)* so that it applies to any other person who is a party to a sale of the article, not just to the person who purchases the article initially.

Clause 11: Amendment of s. 31—Incorrect pricing of pre-packed article

This clause clarifies the operation of subsection (1) by ensuring that the measurement of the article does not include packaging or anything else that is not part of the article.

Clause 12: Substitution of s. 42

42. Requirement for servicing licence

Proposed new section 42(1) requires a person who tests a batch of measuring instruments to hold a servicing licence or be employed by someone who holds such a licence.

Proposed new section 42(2) picks up part of former section 42(1)*(b)*, stating that a servicing licence holder must comply with the licence.

Proposed new section 42(3) picks up the current section 42(2).

Clause 13: Amendment of s. 44—Application for licence
This clause strikes out sections 44(2) and (3) and substitutes proposed new sections 44(2) to 44(4).

Proposed new section 44(2) permits two or more persons who are business partners to hold a single servicing or public weighbridge licence.

Proposed new sections 44(3) and (4) pick up current sections 44(2) and (3).

Clause 14: Amendment of s. 60—Powers of entry, etc.
This clause strikes out and substitutes section 60(1)*(b)*. Proposed new section 60(1)*(b)* allows inspectors to weigh or measure a vehicle and its load.

Clause 15: Amendment of s. 61—Powers in relation to measuring instruments
This clause inserts proposed new section 61(2), which allows inspectors to record in any way the details of any examined or measured article.

Clause 16: Amendment of s. 62—Powers in relation to articles
aragraph *(a)* amends section 62(1)*(a)* to clarify that inspectors have power to both examine and measure articles.

Paragraph *(b)* inserts proposed new section 62(4) which allows inspectors to record in any way the details of any examined or measured article.

Clause 17: Amendment of s. 76—Evidence—pre-packed articles
Paragraph *(a)* strikes out '*prima facie*' wherever it occurs.

Paragraph *(b)* strikes out section 76(4) and substitutes proposed new sections 76(4) to 76(6).

Proposed new section 76(4) provides that batch numbers on prepacked articles are evidence of the matters indicated by the number (such as the date of packing, and where it was packed).

Proposed new section 76(5) picks up the current section 76(4).

Proposed new section 76(6) defines 'batch number'.

Clause 18: Amendment of s. 80—Regulations
This clause amends section 80(2)*(g)* to include a reference to the sealing of a certified measuring instrument.

Clause 19: Amendment of penalty provisions
This clause updates references to penalties throughout the Act.

Mrs GERAGHTY secured the adjournment of the debate.

STATUTES AMENDMENT (GOVERNOR'S REMUNERATION) BILL

Adjourned debate on second reading.

(Continued from 26 September. Page 2259.)

The Hon. M.D. RANN (Leader of the Opposition): I rise to support the government's bill. We have always dealt with legislation affecting Government House and the role of the Governor in a bipartisan and nonpartisan way which is, of course, appropriate given the nonpartisan nature of the Governor's office. It is an important role for our state. I want to place on record too, at this juncture, on behalf of the Opposition, that we believe that the state has been well served by Governors over generations, particularly the present incumbent, Sir Eric Neal, who, with Lady Neal, I believe has performed the task of Governor in an outstanding way.

They have been meticulous in carrying out their duties. They have been courteous to both sides of politics. They have been energetic in terms of not only serving the people of the state but also the regions. They have played a valuable role in terms of acting as ambassadors of the state overseas, particularly with Sir Eric Neal's reputation in the area of business. They are respected by migrant, multicultural and Aboriginal communities and have both the respect and affection of the South Australian Labor opposition, and I look forward to being able to speak at the farewell for Sir Eric and Lady Neal and also to speak at the function celebrating the arrival of the new governor, the governor designate, Marjorie Jackson-Nelson, who I have known for about 23 years. We are looking forward to her also taking up the position in a way that I know all South Australians will be proud of.

This particular piece of legislation of course flows on from federal legislation changing taxation arrangements which impact upon the Governor's pension arrangement, superannuation entitlements, remuneration and expenses. Essentially we are simply bringing into force legislation that will regularise things in such a way that there will be no impact upon a future governor's salary, superannuation or the money used in terms of entertaining. That is appropriate because of changes made in Canberra, which were really about cost shifting from the commonwealth to the states. Whilst the Prime Minister said that taxing governors was simply bringing it into line with the way Her Majesty the Queen now pays income tax in Britain, the truth is that this was simply a device by the commonwealth to shift the costs on to the states.

I support this legislation, which seeks to make amends by linking the governor's remuneration to that of a Supreme Court judge. It is set at the rate of 75 per cent of the salary of a Supreme Court judge. Arrangements have been put in place through the legislation to ensure that there is no adverse impact on the governor's pension or superannuation entitlements and that there will be a different way of ensuring that the governor can proceed with putting on dinners and those vital and important parts of the role of the governor without an impact on them in a pecuniary sense. The opposition was impressed by the eloquent speech given by the Premier and is delighted to support the legislation in the non-partisan and bi-partisan way in which it has been presented.

Mr LEWIS (Hammond): At the outset I support the remarks which have just made by the Leader of the Opposition about Sir Eric and Lady Neal on the manner in which they have conducted themselves during their time in office, and the Premier on his appointment of Marjorie Jackson-Nelson—or is it the other way around? I have always believed the family name at birth preceded in a hyphenated name that was taken later in life, but that is a convention and not a law. What a splendid person she is. I look forward to making her acquaintance. From the time I was a boy I admired what she achieved and the way in which she has always conducted herself.

I, too, support the notion that the Governor's salary should be linked to some other suitably rewarded person in high office, not so much the person themselves but the office they occupy and, accordingly, to link it to the salary payable to a puisne judge of the Supreme Court is a good one. I am not sure that the salary of 75 per cent of a puisne judge of the Supreme Court is adequate, but it seems that I will not win that, even if I suggested a change. I know there are people in this place who think that governors are redundant.

Mr Atkinson: Certainly not.

Mr LEWIS: I know the member for Spence does not hold that view, but I know that other people here do and I will not go into that debate. My purpose in standing here today was to draw attention to my concern about the manner in which superannuation will be provided to governors who leave the office and live for some time. One hopes that they all leave the office alive. One never wishes to have the awful consequences of a governor who may pass on whilst in office, although it could happen. It most certainly has happened, but I do not think it has happened in South Australia.

The Hon. G.M. Gunn: Governor Harrison.

Mr LEWIS: Governor Harrison did. In any case, the superannuation payments to my mind are not well addressed by this measure or by the law. To my mind, if somebody of

great merit, as all people appointed to the post have been and in future should be, has an income source from the public purse in the form of superannuation available to them that already is equal to or greater than the superannuation to which they would be entitled in this law, it is my judgment that they ought not to get the extra. It is my judgment that they ought to accept the office of governor knowing that it is a great honour, and being paid whilst they hold the office and have all their proper expenses duly met from the public purse, but that once they have served that term their superannuation will be sufficient to look after them until their death and provide benefits to their surviving dependents, if any, and/or their spouse, if they have one, but not so as to add to what they already get if it comes from the public purse the extra incremental amount. Yet, I do not want to deny any other prospective bearer of the office the opportunity of enjoying their retirement at an income level relevant to and equivalent of what a public servant on the same salary would receive at their retirement for the rest of their life.

In my judgment we at present have not sorted that out but need to do so. It is not in my opinion appropriate for double dipping, but it is essential to provide a sufficient level of income to enable that person to live in dignity and at a standard equivalent, as I have said, to that which they would otherwise be able to live if they received about the same salary and retired from the Public Service with full superannuation benefits at that salary level. Anything less would be inadequate.

If, however, they bring to the office superannuation from a source other than the public purse it is entirely appropriate that they be paid at the rate, which looks as though they are double dipping on the system but indeed which is not the case, because they have had to work to earn the right to occupy that post in the private sector from outside the Public Service, and that then is in some measure different from what people on the public payroll would have received, both in terms of risk as well as responsibility. It is different. I did not say more or less: I just said 'different'. So, they can have their private superannuation independently, but anything coming from the public purse in my judgment should be taken into account in determining the amount they get in the final analysis. Having said that, I support the measure knowing that it properly fixes some other problems which have been there and which have been addressed by the measure that the Premier introduced on Tuesday.

Mr ATKINSON (Spence): I also support the bill. I record my thanks to Sir Eric and Lady Neal for the way in which they have fulfilled the office these past years. This bill is necessitated by the federal government's withdrawing the tax exemptions for vice regal representatives. The federal government now wishes to levy income tax and fringe benefits tax on the Governor's expenses, as well as an increase in the superannuation surcharge on the Governor's retirement income.

The exemption was granted early in the 20th century on the assumption that vice regal representatives would come from the United Kingdom or another empire country; that they would stay in Australia only during their time as a vice regal representative; and that they would then most likely leave the country.

As the Premier quite rightly said in his second reading speech, this is an example of cost shifting by the commonwealth to the states. It seems to me undesirable. Nevertheless, it is within the authority of the commonwealth to do this. The commonwealth has done it and now as a state we must respond. It seems to me that the state government is responding in a sensible way and, accordingly, we support the bill.

Mr CLARKE (Ross Smith): I, too, would like to support the bill for the reasons that have already been advanced. In particular, I extend my gratitude and personal thanks to our Governor Sir Eric Neal and his wife Lady Neal for their unfailing courtesy and hard work on behalf of the people of this state. On a personal note, at a time of great personal difficulty some two years ago, I remember their acts of kindness towards me, and, for the unfailing courtesy and kindness they showed my family, in particular my daughter, I will be forever grateful.

Mr WRIGHT (Lee): I, too, support this bill. Obviously, there must be changes as a result of what has happened at a federal level, so this is a practical piece of legislation that the Premier brings before us. The merits are there for all to see. I think this is as good an opportunity as any to speak briefly in commendation of Sir Eric Neal and Lady Neal. Members of parliament, perhaps ministers and shadow ministers more so, go to a variety of functions. What has astounded me, whether at Government House or in a range of areas, is the way in which Sir Eric Neal and Lady Neal have gone about their business.

I believe—and I am sure members on both sides of the House would agree—that it has been quite outstanding. The way in which they have fulfilled their responsibilities has been something of which we all can be very proud. What has struck me is the genuineness with which they have gone about their business, whether in greeting members of parliament, members of the community or community organisations. The way in which they have gone about their business has been truly outstanding.

I have come into most contact with Sir Eric and Lady Neal in that broad area of sporting activities. They are varied but, in particular, I have noted and been very proud of their involvement, on an ongoing and regular basis, with the racing industry, whether that be on Adelaide Cup Day or at other feature racing events both in the metropolitan and country areas. They have been consistent supporters of the racing industry, and I thank them for that. They have been very supportive of a broad range of sporting and community events right across the broad spectrum.

On a personal note, I thank Sir Eric for his invitation to Government House, where I had the pleasure of meeting Sir Donald Bradman. That is something that I, along with the minister and a number of other people present, will never forget. It was a charming lunch and afternoon with Sir Eric, Lady Neal, Sir Donald Bradman and a number of other cricketing people.

I also acknowledge and congratulate Marjorie Jackson-Nelson and wish her well. We have been served very well by Governors such as Dame Roma Mitchell, Sir Donald Dunstan and many others, and I am sure that Marjorie Jackson-Nelson will continue the tradition of serving this state so well. I wish her all the best when she takes up her new role.

The Hon. J.W. OLSEN (Premier): I thank members of the House for the speedy passage of the legislation. I thank the Leader of the Opposition for agreeing that the matter can proceed in a timely way to ensure that these matters are resolved through the parliament prior to the taking up of the Governor's position by Mrs Marjorie Jackson-Nelson.

I appreciate the comments that a number of members have made in relation to the service of Sir Eric and Lady Neal, and in a more formal sense there will be an opportunity to express our appreciation for the services that they have rendered to the state.

The member for Hammond raised the question of superannuation entitlements. It is indeed a question that is being reviewed. The practice in the past has been that this matter has been at the Treasurer's discretion, and in the past my understanding is that neither Dame Roma Mitchell nor Sir Donald Dunstan sought a pension upon leaving office. My understanding is that in both instances they had respective government superannuation entitlements from their previous occupations and therefore sought not to supplement those entitlements in any way.

The Treasurer, in looking at this matter, is giving consideration to a Governor's Pension Act to formalise the arrangements that ought to be put in place in the future. Obviously, the matter has arisen because there is now a change of Governor and therefore one focuses on the legislative provisions prevailing at the time. I understand that the Treasurer is considering legislation related to the Governor's Pension Act. I think this lines up with the view of the member for Hammond; it will formally establish the procedures upon the retirement of a Governor in the future. I do not wish to add anything further to my second reading explanation. Again, I indicate that I appreciate members' support of the measure before the House and look forward to its early transmission to another place.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mr LEWIS: I am looking at clause 4 of the Governor's Pensions Act; what is the salary of a puisne judge of the Supreme Court at the present time?

The Hon. J.W. OLSEN: I am told that it is approximately $207 000. As the second reading speech indicated, 75 per cent is $155 625.

Clause passed.

Clauses 5 and 6 passed.

Clause 7.

Mr LEWIS: Section 4 of the principal legislation provides that the amount of pension for the former Governor shall not exceed 50 per cent of the salary of that former Governor. What we will do is cut the amount of the pension to 30 per cent. I think I recall the Premier saying $155 000 is the current ask, and the intention is to cut that to no more than $46 500 once you retire. Yet, if we were to appoint to the office of Governor somebody of merit who had not enjoyed a distinguished, highly paid office in the public sector, relatively speaking we would be leaving them on fairly miserable means—much less than we would pay a member of parliament after any reasonable term of office in here. After achieving sufficient service to obtain their full entitlement, an ordinary backbencher would be getting about $75 000 a year anyway, so $45 000 a year for the ex-Governor is a bit miserable, in my judgment. That is the reason I made my remarks in the second reading debate.

Likewise, in the case of the spouse (if there is one) of the deceased Governor after the former Governor dies, instead of being 75 per cent of $45 000 it will be only 45 per cent of $45 000, which means that it will be about $20 000. For God's sake, for their sake and for my sake, they might as well go on the old age pension; it is not really much better. By the time you weigh up the responsibilities they would have to keep themselves reasonably accessible and reasonably presentable, I do not think $22 000 is very much money for the spouse of a former Governor to be left with.

In the case of the spouse of a deceased Governor, I have not wrapped my mind around the consequences of reducing 37.5 per cent to 22.5 per cent. I think what is meant there is that, if a Governor dies in office, the wife left living (or the husband, if the wife was the Governor) will get 22.5 per cent of $155 000, which would presumably be a bit over $31 000. That is not too bad; it is better than that for the spouse of a former Governor after the former Governor has died. So, if a Governor dies in office we are saying that the spouse will get about $33 000 or $34 000 for the rest of their life, whereas, if the Governor has retired and then dies—not in office—the spouse will get only $22 000 or thereabouts, which seems to me a bit miserable. Why is the spouse of a deceased Governor worth more than half as much again as the spouse of a deceased former Governor? Why do we make that distinction in such great quantum?

The Hon. J.W. OLSEN: I have done some quick calculations. I do not have a calculator, but I have done some long hand mathematical calculations in an attempt to answer the member for Hammond's question.

Mr Clarke: Is that the way you worked out the budget—no calculator?

The Hon. J.W. OLSEN: That is why we got such a good budget. The fact is that the relativities in pension dollars for a retired Governor are approximately the same. That is, 30 per cent of $155 625 and 50 per cent of $92 777 come out to approximately $46 388 in one instance and $46 680 in the other. So, the percentage has changed, but the base upon which the percentage is calculated has varied. The net financial dollar return to the pensioner does not change. As it relates to the relativities between the spouse of a deceased Governor in office versus the spouse of a former Governor, those relativities are maintained in the formula. We sought to keep the dollar return to a Governor or a Governor's spouse upon his death to be the same as it was before. That is why the percentages have changed. The remuneration for the Governor in retirement, or the spouse, upon the death of the governor, in dollar terms, is approximately the same.

Mr LEWIS: I thank the Premier for the explanation. It is the reason why I made the remarks I did in the second reading. I really believe that we need to revisit those relativities. I do not think that they are fair. I took my time over doing the mental arithmetic so that other people in the chamber (without meaning to be patronising to them) might be able to follow what I had deduced was happening. I suggest to the Premier and to the House that whomever it is that forms government following the next election should address that, because I do not think that it is fair. I do not think that it is legitimate to expect that the surviving spouse of a retired Governor should receive less than half what the surviving spouse of a Governor who dies in office receives. Those matters need to be brought into line with current thinking as it applies to the public service superannuation scheme and members of parliamentary superannuation scheme in the new scheme, where the amount is not so different for a member who dies in office as compared with the surviving spouse of a member who dies in office, as compared with the surviving spouse of a former member having retired and died. And, likewise, in the public service. I thank the Premier for his help and members of the House for their indulgence. Whether other members believe what I

have said to be relevant I leave to them. Had I not raised the matter, I guess most of us would never have thought about it.

The Hon. J.W. OLSEN: Might I just attempt to explain a little further. As it relates to the Governor's pension act entitlement, as I have indicated, the Treasurer is looking at the introduction of legislation to give us the opportunity to work through these issues, and that has been highlighted in the current circumstance. I make the point that, in the case of the spouse of a deceased former Governor, it is 75 per cent of the pension of the deceased former Governor, and that now changes to 45 per cent. In the case of the spouse of a deceased governor, previously it was 37½ per cent: it will now become 22½ per cent. So, the relativities are maintained.

Mr Lewis: The relativities are maintained—

The Hon. J.W. OLSEN: Yes. But the member is saying that the relativities are wrong—

Mr Lewis: Yes

The Hon. J.W. OLSEN: —and need to be addressed. I understand where the member for Hammond is coming from. As I have said, I think that, out of the circumstances that the Treasurer is reviewing at the moment, it will mean that some legislation will come in and the House, I hope, will have the opportunity to debate the issue.

Clause passed.

Clause 8 passed.

Title passed.

The Hon. J.W. OLSEN (Premier): I move:

That this bill be now read a third time.

I again thank members of the House for the timely way in which we have been able to consider the legislation, which will enable the arrangements to be in place prior to the swearing in of Ms Marjorie Jackson-Nelson.

Bill read a third time and passed.

FREE PRESBYTERIAN CHURCH (VESTING OF PROPERTY) BILL

In committee.

(Continued from 26 September. Page 2276.)

Clauses 1 to 3 passed.

Clause 4.

Mr LEWIS: Clause 4 is the part where the remarks that I was making last night become relevant. I am particularly concerned about clause 4(1)(c), that land contained in limited certificate of title register book volume 5696 folio 439. That is land at Aldinga. I have come across no other controversy from this legislation, and most members probably would not have thought that there was much controversy even with this legislation. But, as I said in the second reading speech, I came across it in a whole range of different parts of my comings and goings in life.

It seems to me that the land in question is not, quite properly, a part of what ought to be here. I want to point out at the outset that the piece of land was intended to be for the purpose of a Presbyterian Church, but it was not part of the Presbyterian Church as we know it, or a part of that Presbyterian Church that joined with the Uniting Church. It was very different and distinct from that. The most important element of my concern about this is that, if one looks at the transcript of the trust that established this piece of land for the purpose of making it a church, one will find that there is a hereditament, which means just that. There is a statement in the trust as follows:

> To hold the said land hereditaments and premises thereby assured unto the said Tuthill Bagot and his heirs, to the use of the said—

and this is the purpose of it—

> Duncan Stewart, Donald McKenzie, Malcolm McKenzie, Finlay McRae, Archibald McCullum, Finlay McIvor, John McRae, Farquhar McRae and Thomas Hodges.

Then the important words come in here:

> their heirs and assigns for ever.

If the trust succeeded and all the trustees died, or the people were going to be using it as a church without their being replaced, I guess that Shelley's case would apply. But, it does not apply in this instance, and the crown's argument is that it does apply. In my judgment, because Shelley's case does not apply, the transcript of the trust is very clear in that it says that it goes to the heirs and assigns of those people forever.

Mr Atkinson: What does the case say?

Mr LEWIS: Shelley's case?

Mr Atkinson: Yes.

Mr LEWIS: Well, they have died out. Too bad; you have to find some other way of resolving it. But they had not died out at the time the trust failed. So, there is a result, which means that it reverts to the original owners who contributed the land to the trust and their heirs and assigns forever; and those heirs and assigns are alive today, and some of them are here in this building as we speak. It is not good enough, even though it may have been convenient for us to do what we did to Peter Waite's trust, when we thought it was a good idea at the time to nip a little out of that and turn it into a kindergarten.

We had to come back here five years later and fix up the ruddy mess we had made because we had got it wrong, and I do not want us to do that again. There is controversy about this matter, and it can be easily resolved. We ought to allow that to be done through the processes that are available outside the parliament, and the parliament ought not to get involved in assigning a benefit to the current church to which it proposes to assign it, and take it off those people who properly claim it at the present time.

The church, of course, as everybody would say (and I am no exception), is there for a good cause, despite the fact that not everyone believes the faith that the church preaches, whatever and whichever church that may be, and this church is no exception. I am not questioning whether or not it is a good cause: I am simply saying that it is quite inappropriate. Leave the arguments and sentimentalities about church right out of it. Let us consider the precise situation in law.

Mr Atkinson: Why don't they set up the Free Presbyterian Church again?

Mr LEWIS: That is exactly what they have in mind: to set up another trust, which would enable all the heirs and assigns to join in, tidy up the place and then turn it into a piece of public land vested with the city of Onkaparinga.

Mr Atkinson: That's not what I interjected. I interjected: why don't they re-establish the faith and practice of the Free Presbyterian Church?

Mr LEWIS: That is a red herring.

Mr Atkinson: No, it's not.

Mr LEWIS: Well, the church failed before all the trustees died, so there is a resultant consequence for that. You cannot just chuck out their rights. There is an overriding determination which does away with the basic tenet of the Torrens title law. This predates 1926 and, accordingly, that hereditament continues, and the member for Spence would know that.

The second point relevant to that is that the church was kept by the minister and the sessions, and this is part of the trust deed as it was, which states:

> And it is declared that the said church shall be held to be the several persons whose names for the time being shall be inscribed upon the Communion Roll of the said church kept by the minister and Session thereof and the said Duncan Stewart, Donald McKenzie, Malcolm McKenzie, Finlay McRae, Farquhar McRae and Thomas Hodges do hereby severally bind and oblige themselves and the survivors and survivor of them to assume—

and this is the important point—

> the rights of the hereditaments and premises now vested in them as such trustees. . .

The church died out; it ceased to function. However, the trustees did not: they lived on beyond 1880 so that there was a resultant hereditament which, as I stated earlier, ensures that the land goes back to the heirs and assigns of the people who established it, and they are still alive. They are still around the place; they still act responsibly; and they are still willing to do the job of cleaning up, in law as well as physically on the surface, that particular piece of land and to make sure that the title has proper integrity according to how it has been surveyed, and so on, resolving the encroachments on the land that have occurred in the process and stabilising the relics and ruin that is there, leaving all that intact and putting it into a condition which then enables it to be vested with the city of Onkaparinga as open space and, I guess, a memorial to the people who went into the district not only as church members (but particularly them) but the others as well.

If one looks further on in the trust document, one finds the following statement:

> . . . the survivors and survivor of them and all and every future trustees and trustee to be appointed as aforesaid do and shall from time to time and at all times hereafter make do and execute all such deeds and assurances as shall be thought necessary for formally denuding themselves of the hereditaments and premises now vested in them or which may be vested in any future trustees or trustee and vesting the said hereditaments and premises in the persons who may be chosen trustees in the manner aforesaid.

That pretty well covers it. They can re-establish trustees. You cannot have the proposition in law that we have before us in this bill, because it is indefeasibility of title if it goes ahead, and that simply is not fair; it is not right and it is not proper. It confiscates an existing property right, and we will have the mess that we had on the Waite land at Netherby, which the member for Waite knows about. He was here at the time and, indeed, had something to say about that. He was here to set aright the mistake which the parliament had made about the inappropriate alienation and removal of that land from what Peter Waite had intended it to be used for and, if we do not show that we respect the law—and that means the complete body of law—who the hell else will?

Another strong point I need to make is that just because time has passed is no reason to say that it has weakened the position of the law. Where the original trustees still remain on the title, as they do in the case of the Aldinga church, it would infringe the law of abolishing perpetuities. The trust document mentions section 6(2) of the law of property in 1936 and states:

> If a vesting with the free church negotiators were allowed.

In other words, if we do that this is what would happen. A right or power in respect of property is not invalid because of the remoteness of the time it is to be—or may be—exercised. The member for Spence knows that, as does everyone else in this place if they have studied property law. I am a layperson, and if I can wrap my mind around that concept I am sure that other members can. Vesting is usually undertaken or done by the Supreme Court. However, in this case we have taken unto ourselves that responsibility—and I understand that. The rest of the bill deals with a whole lot of land around the place that has been a nuisance and embarrassment to the church, because it has been sort of left over and there has been no way to deal with it. So, we set out to deal with it. But, in this case, there are the living who have the right and responsibility to do something about it, because—

Mr Atkinson: It is a case of how many living people there are and where they are.

Mr LEWIS: Well, for God's sake, if we can do that for Aborigines and their descendants we ought to be able to do it for a few of those people descendent from the nine folk who set up this trust. I would not think that would be too difficult at all. Let us not be racist about it. We can do it for one group so we can do it for any group. That is not a legitimate argument. It is not only a red herring: it is a non sequitur.

Mr Atkinson: If they agree on the use of the property.

Mr LEWIS: I think you would leave them to sort out that issue in the short run. If you excise it from the bill now—as I propose to do with my amendment—I am confident it will be sorted out within a matter of months and it would never need to come back before the parliament again. If we try to do it now, we will get it wrong and cause ourselves an injury—an injury to the standing of the institution—because we are seeking to do what is not lawful. We will only have to come back and fix it at a later time.

I am simply saying that, basically, of the people who are still alive, their interest in the original conveyance to their heirs and assigns—the folk who set it all up—was there for ever; it was vested as a hereditament in the trustees of the church so that their heirs are at least beneficiaries and as such are capable of accepting a vestment by parliament. But I am saying that parliament ought not attempt to vest it to them or anyone else but to leave it there and allow them to get on with the job of establishing their title, cleaning up that title, getting rid of the encroachments and the unwanted vegetation, making fair and proper arrangements with the people who have paid the rates (the church) and then transferring it for all time into public ownership. I do not think that the Presbyterian argument of 'as near as can be determined' that they own it is a reasonable one. They may be well motivated, but that is not the law. That is not what we ought to be about.

Those are my reasons, and there are others. I could go on and give a definition of an heir et al, which allows a person selected by law to succeed the estate as an ancestor dying intestate. For the benefit of the member for Spence, who is now leaving the chamber, I will quickly spell out what that means. After 1925, if an et al interest is not devised or barred, it still descends to an heir in the same manner as it did before 1926. That can be found in the Law of Property Act 1925, section 130(4) and the Administration of Estates Act 1925, section 45.

The McRae heirs are heirs et al because of the words 'to their heirs and assigns for ever', as included in the original conveyance, and that hereditament was vested, along with legal title, once the interests of Tuthill Bagot fell away as a consequence of his death. Accordingly, I urge all members of the Assembly—all my colleagues in this place—to support my amendment.

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

That the time for moving the adjournment of the House be extended beyond 5 p.m.

Motion carried.

Mr LEWIS: I ask whether the Deputy Premier would be willing to allow that course of action to be followed, knowing that it would not take five minutes in either House to deal with this matter when parliament returns after the election if it cannot be resolved immediately, without the accusations from several quarters around the state levelled at us as members of parliament that we acted in haste, in the same way as we did, and made the error in the same way as we did, over the abuse of a trust in the case of Peter Waite. I ask whether the minister would be willing to accept my proposition that we simply leave out section (c) for the meanwhile.

The Hon. R.G. KERIN: What the member seeks is not a new request. This is a request that has been considered by the select committee and the Upper House. I know that it has been put to the Attorney and, from the correspondence I have seen, I knew that this request would perhaps be made at some stage. After discussions with the Attorney, we are not willing to accede to that request. There was an opportunity during the select committee. There were very extensive submissions to the select committee by the Tomatin McRae Association, and the select committee did seek legal advice on them. This bill is a result of the select committee taking into account the legal advice it had. What the honourable member has said about this matter being sorted out quickly I do not think is possible, bearing in mind what has happened over the last couple of years—indeed, the last 60 years. It also assumes that the property should not go to the church that has been paying the upkeep or the rates on the property over the last X number of years. I have listened carefully to what the member has had to say. These are not new arguments; they have been put before. I regret that I cannot accede to the request.

Mr ATKINSON: A few moments ago, my friend the member for Hammond drew attention to my leaving the chamber, which I have always regarded as parliamentary bad manners. There is an assumption that we are all here at all times. Alas, that courtesy has fallen into disuse in the last 10 years. In fact, I was leaving the House just momentarily to hand to Hansard a very crucial amendment to my contribution on this debate yesterday. They had rendered my statement that 'the Tomatin McRae Association claimed this property by descent' to 'the Tomatin McRae Association claimed this property by dissent'. I thought it was important to make that change. I support the legislation and the Deputy Premier, because I take the view that, if anyone were to lay claim to the property at Aldinga, they would do so on the basis that they were faithful and worshipping members of a Presbyterian Church and that they wanted that property for the purpose at one time in the future of restoring it to the faith and practice of the Free Presbyterian Church or of a branch of Presbyterianism.

No-one was interested in this property for decades and the churches that make up the Free Church Negotiators paid all the rates and outgoings on that property. I think that it is a bit cheeky for the Tomatin McRae Association to come along so many years later and say, 'We are a secular association. We claim the right to this through ancestry and we want possession of the property.' I just think it is pushing the envelope a bit far. I think the merits of the argument are on the side of the Deputy Premier and, accordingly, the Opposition will be supporting him.

Mr LEWIS: I am disappointed in the member for Spence. I should first say, though, that I meant him no offence by drawing attention to the fact that he was leaving. I just wanted to try to hold his attention a little longer on the point that I was making in the debate at that moment. So, I will tell him now what I was saying. A resulting trust arises when the purpose of the trust is disbanded as it was in 1880 when the church congregation moved away from Aldinga and this occurred prior to the last trustee, that is—

Mr Atkinson: In 110 years no-one was interested.

Mr LEWIS: Now, that is not true. People have been visiting that site throughout the time since then. The member for Spence knows that and if he does not, he jolly well should not assert something to the contrary. They told me that and I take it in good faith. They are not people motivated by malice or greed. These people have come to me from those very diverse backgrounds—I do not know why they always come to me. I knew of them and knew them, whether it was in the Royal Caledonian Society, of which I am a life member or whether I had been to school with them or whether they now still live in Strathalbyn. The fact remains that they were from diverse backgrounds and they were not orchestrated in their approaches to me. They simply said that this is not fair. It is if you like, a sacred site, and I do not agree with the member for Spence that this is cheeky of them. That is like saying that Australian Aborigines are cheeky to come along after 200 years and claim native title or special association with particular sites.

Mr Atkinson: A feature of native title is continuous use.

Mr LEWIS: Well, continuing use means 'thinking about'—at least, that is the way it is being interpreted in the courts right now. You do not even have to go there. All you have to do is think about it. For the member for Spence to say that really raises my ire a bit, especially when you see some of the things that have gone on that are not exactly sincere in the native title debate; where we have uncovered not just a handful but dozens, if not several score of people, who are Ceylonese in descent and they claim native title for tracts of land in New South Wales, and they came from Sri Lanka with not one drop of blood in their veins descended from anybody who had occupied or lived in Australia prior to the arrival of Europeans. But the Labor Party was busily supporting these interlopers in their claim. I do not think that it is cheeky at all. I think that may be the member for Spence was not aware of what has been happening.

In any case, I was saying that the resultant trust arose because the congregation moved away prior to the last trustee dying. So, the trust resulted—and the member knows what that word means—to all of the trustees at that time, instead of going to the survivor. That is under the joint tenancy principle. What we have then is a resultant trust and the heriditament forever to the heirs and successors—or whatever term you like to use to describe those people.

I am not satisfied that the select committee in the other place was really as objective as it could have been. There would have been sentiments in the minds of at least two of the members who are trained lawyers. One of them, the Attorney-General, tended to favour the solution that we now find in the legislation before us.

Mr Atkinson: Why would the Attorney-General do that?

Mr LEWIS: Well, because he was a procurator of the Presbyterian Church, and he sought in 1974 to resolve title to this land, before he ever became a member of parliament; he was acting in that role. I do not say that he was acting as their solicitor or advocate but he was their procurator and, I

guess, he was elected to that post because of his knowledge of the law. Equally, the Hon. Robert Lawson was involved with the Uniting Church during their negotiations for the resolution of property disputes. They would have had, with the best will in the world notwithstanding, sentimental views about how to solve the problem. And in the general case, I think they have got it right. I think the other members of the select committee have equally got it right, in the general case but, in this particular case, unlike the member for Spence, I do not see any of the members of those families who survived those trustees as being cheeky or greedy in the least.

Mr Atkinson: I didn't say they were greedy.

Mr LEWIS: Well, you are saying that they are cheeky and may be that implies then that they are acquisitive and greedy, that they want more than they are entitled to. Really, all they want to do is to ensure that what they have had there in the past remains. And I am not fussed about that. We are told in our briefing notes that if this legislation succeeds then that piece of land will be sold and proceeds from the sale will be put to the general purposes of the church. Once it is sold it can be used for any other thing at all. I said yesterday that I resented what was done to the graves of my ancestors who were pioneers of settlement in the province of South Australia. The headstones and other stones were simply trashed and turned into gravel to be spread around on paths. I know how they feel. In prospect I am simply seeking to avoid them suffering that kind of pain and for us, as the perpetrators of it, being accused of being insensitive and acting illegally.

I think if we pass it we will rue the day we did and we will be back here again trying to fix it up, as we did over the Peter Waite Trust and the kindergarten at Netherby. We got that wrong and, as I have said before and say again, we had to come back here and fix it up later. This opinion that I am putting to the House in support of the argument that I have put to the House is not just my opinion. It is shared by senior academics in property law, both within and outside South Australia, as well as other practising lawyers who are expert in property law. Without wanting to be inflammatory in the least to Crown Law, I believe that Crown Law has pretty much become a gun for hire. The government tells the Crown Law office what they want to hear as an opinion and they can pretty well get it. You only have to look at some of the contradictory opinions produced within a matter of months of each other on precisely the same issue. I mean, I got an answer from the Premier today where the government said that the Treasury Building on the corner of King William Street and Victoria Square, and the refurbishment going on there did not have to—

The ACTING CHAIRMAN (The Hon. G.M. Gunn): I do not think that that is relevant to this particular matter. The chair has listened intently to the honourable member and given him a wide area—

Mr LEWIS: Crown Law's opinion on the way they are formulated is that it is, Mr Acting Chairman, but I rest my case at that.

The CHAIRMAN: I think the honourable member had better come back to the amendment.

The Hon. R.G. KERIN: I point out one thing that perhaps has been missed to some extent as far as this matter not being able to be resolved. The select committee stated in its report that it strongly encourages negotiators, once vested with the property and able to deal with it, to endeavour to negotiate an agreement with the association that may lead to the preservation of the remains of the free church located on the Aldinga property.

I know that the negotiators indicated in evidence to the select committee that they were open to negotiation with the association regarding sale of the property to the association, and that has been reiterated recently. So, the solution that the member talks about may well be able to be negotiated anyway if there is goodwill between the parties.

Question—'That the amendment be agreed to'—declared negatived.

Mr LEWIS: Divide!

While the division was being held:

The CHAIRMAN: There being only one member on the side of the ayes, I declare that the noes have it.

Amendment thus negatived.

Mr LEWIS: Having failed in my attempt to get the House to understand that this is an exceptional case, I accept the proposition as it stands in its entirety and, even though I was the only person who voted for the proposition that I had put, I accept that. I do not know how long it will be before we begin to record that in *Hansard*. I have no further questions or need to participate in the debate. All clauses, as far as I am concerned, can be passed forthwith.

Clause passed.

Clauses 5 to 8 passed.

Clause 9.

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

To insert clause 9.

This clause appears in the bill in erased type.

Clause inserted.

Title passed.

Bill read a third time and passed.

WATERWORKS (COMMERCIAL LAND RATING) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 July. Page 2039.)

Mr CONLON (Elder): As is the case when the government puts forward a reasonable proposition, when it consults and when it explains its case, it gains the support of the opposition. It has on this occasion for the government's Waterworks (Commercial Land Rating) Amendment Bill. The bill, put briefly, seeks to change the system of charges for water use for commercial properties. I know this is a fascinating subject, and that is why I have the undivided attention of the House. It changes the system for charging for water services on commercial land.

The present system is based predominantly on a charge attached to the capital value of the land and then a charge for water use in excess of the capital charge. According to an arcane formula in the bill it is to be replaced with a new but equally arcane formula. The member for Ross Smith would like me to explain. I guarantee to him that, were I to do that, I would put the House to sleep. However, if he is so keen to have it explained he can bother the minister in committee with that.

The shift primarily is one in which a greater reliance will be made on a volumetric charge for water. There are a number of reasons for this: primarily the government has needed to satisfy national competition policy on the shift to volumetric charges for water. This does not shift to an entirely volumetric charge for water as there is a remaining fixed charge, but it does move to a greater reliance on charging for water used, and I understand that this has

satisfied the national authorities in terms of competition principles and payments.

We do have some concerns about the new system. As I understand it, some 50 per cent of commercial properties will actually save money on the charge but at the extreme end there are a small number, I am told, which will suffer substantial increases. I think the worst case scenario is an increase of some $12 000 a year. In order to modify the impact, there is a five year transitional period whereby a discount will apply to those suffering increases in charges as a result of it. The opposition has supported it while having concerns. We are not prepared to attempt to second guess the government, especially not with our resources as compared with theirs, as to the implications of the changes in every individual case.

I believe, and I think the shadow minister for the environment and water resources, John Hill, believes, that it is an important principle on which we need to rely more in the future, that is, that people pay for the value of water. Unfortunately, while this bill makes the changes within the commercial sector, the government's policy remains confused, ill-advised and with no real plan in terms of more general water use. I have no doubt that some of the members from the South-East, in particular the member for Gordon and perhaps the member for Chaffey, will have something further to say on that.

We will support the bill. There is no doubt that if we were doing it we would probably do it better, but our time, I am certain, will come soon when we can form a better government than that which we have at present. With those few comments I indicate that we will support the bill. I note that the members in question who had concerns are not here so it may be a much quicker process than we thought. I have no need for the committee stage, although the member for Ross Smith, who has a fascination with the intricacies of the formula, may wish the committee stage in order to find out whether the minister understands it.

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): I thank the member for Elder for his constructive comments about a matter that is of concern. The government believes that this is the appropriate way of handling such an issue. We thank the opposition for its support.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mr CLARKE: I have read the clause of the bill with respect to the formula. I must say that I am having some difficulty in understanding exactly how that formula works in terms of differences it will mean to commercial premises that use a lot of water. For example, G.H. Michell uses a lot of water as part of its wool scouring business. I can understand the government's desire to apply a user pay type of principle for good conservation reasons. The member for Elder pointed out that a number of service industries will save money as a result of this new formula while others that are heavy water users will lose out.

How many companies and what industries will have additional costs imposed on them; what is the level of those additional costs in monetary terms; has the government had any discussions with those companies that are most likely to be adversely affected by this change of rating or formula; and what impact, if any, will it have on their continued operations in South Australia and their employment of South Australian workers?

The Hon. M.H. ARMITAGE: I draw the attention of the member for Ross Smith to the fact that the company that he mentioned is an industrial company, not commercial; hence this does not apply. From that particular company's perspective this is not a relevant matter. However, it is important in answering what is more to the point of the member's question that about 50 per cent of companies will have a decrease in their water bills because of this measure, which means that about 50 per cent will have an increase. Of those approximately 10 000 that will have an increase, 5 000 will be very small.

Mr CLARKE: What is small?

The Hon. M.H. ARMITAGE: About $68 over five years, that sort of quantum. The maximum in any one year is $21. Approximately 4 000 have increases up to $200 per annum, and there are 400 between $200 and $12 000 per annum. That is the maximum increase. The maximum increase is 14.5 per cent per annum. There is no escaping the fact that this is a large increase for a small number of commercial properties. Equally, 50 per cent will go down. This is an effect of the application in some instances of competition policy.

Mr McEWEN: Sadly, although I do support this move it goes absolutely nowhere near far enough. Sadly, there is still a fundamental flaw in what we are doing here. Extraordinarily, in the briefings we were confronted with the term 'capacity to pay': an extraordinary socialist term which argues that if you own something of value you must have a greater capacity to pay. I am wondering what the minister's view is about this concept of capacity to pay, for a couple of important reasons. It is also used by the Grants Commission. It is used to actually single out and unfairly treat some communities at the expense of others. For example, a teacher, nurse or policeman earns the same amount of money whether they work in Whyalla or Mount Gambier. If they go to Mount Gambier to live, they find that houses cost more; because houses cost more they pay more in their rates; because they pay more in their rates the Grants Commission argues that the council should get less in grants; therefore, they pay more in rates again. We have an extraordinary socialist concept which underpins the rationale behind this adjustment today.

Can I at least get the minister to suggest that, although we are moving in the right direction, we are sadly moving at a snail's pace and, quite frankly, the whole concept is still flawed because it is not about competition policy and truly paying for a commodity, because beneath this is still a very unfair underlying impost based on property value and nothing to do with water?

The Hon. M.H. ARMITAGE: I do not dispute some of what the member for Gordon said, because we have discussed it. However, as I go around South Australia and particularly as I am out and about in functions in my electorate of Adelaide, one of the most interesting things I find is that the average punter regards competition policy as an awful thing. The average elector in South Australia feels that competition policy means 'I pay more.' So, I am surprised to hear that the member for Gordon is such a strong advocate of competition policy, per se. It is intellectually sound; I do not dispute that for a moment. It is pure to have, in particular, government run organisations with allegedly huge subsidies transparently passing on all their costs when they are in competition with non-monopolies and so on. I understand all that, but the punter does not see that. What the punter sees is increased costs, thank you very much National Competition

Commission. The average consumer does not like competition policy.

The capacity to pay will always be a dilemma because, whomsoever we ask to pay, they will say, 'I don't have the capacity to pay more,' so I think it will be an issue from wherever one finds these charges end up being levied. At the end of the day in this instance we are looking at the commercial sector, and the commercial sector does have an opportunity to pay, even if it is by altering its cost and pricing structure. That is all that was meant in my mind by the ability to pay, whereas, for example, a resident is a price taker; they have no way of passing on any increase they may get. I believe that that argument is a little flawed as well but, at the end of the day, where you are going down the path of having a rigid adherence to competition policy, there will be winners and losers. In this instance we are contending that, as we move down the path, the losers in this instance are people who have an opportunity to adjust their price structures.

I make no bones about what the member for Gordon is saying; some people will be disadvantaged by this, and I am confident I as minister and individual members of the parliament will get representations from those people in the most rigorous terms. I equally guarantee that not one of the 50 per cent of businesses who get a reduction will write to us and thank us.

Mr CLARKE: I am glad you are so sanguine; you are leaving, and will not have to worry about the representations. In the case of the company that is facing a $12 000 a year increase over five years, do I read that to mean a $60 000 a year increase when that transitional phase is completed? Have discussions taken place with any of these companies facing such significant cost increases as to what impact that may have on their operations here in South Australia? I gather that similar changes to rating of commercial properties for water rates are taking place in other states, and I wonder whether the minister will confirm that. Given that this is all done under the guise of national competition principles, is the minister looking at introducing the user pays concept for the use of water in industrial areas, and also with respect to residential rating?

The Hon. M.H. ARMITAGE: I think perhaps the member for Ross Smith and I should have a discussion about this at some stage, because we have already done this for the industrial and residential customers, so there will be no further advance down that path. The only issue is commercial customers, and that is what we are looking at in this area. I am certainly not intending to stand here and defend national competition policy, per se. What I am defending, however, is the fact that by moving down this path we have the agreement of the National Competition Commission that the second tranche payments for South Australia will not be affected.

Mr CLARKE: The point that I raised was whether the government or your department has spoken to the company that will be most affected by a $60 000 a year increase in today's terms and what impact that may have on their operations in this state. Of course, I am particularly concerned about employment. It may be a small component of the overall costs of that company. I do not know the name of it and I do not chose to know it at this stage, but I would like to be reassured that the company concerned does not turn around and say, 'Look; the costs are too great; we're upping stakes and moving,' with the loss of a couple of hundred jobs in this state which we can ill afford.

The Hon. M.H. ARMITAGE: The answer is that no, we have not—just as we have not spoken to the commercial organisation that will benefit by $80 000. These are the swings and roundabouts of applying a formula across all the commercial areas in South Australia. I have highlighted to the House the highest example. I would indicate to the member for Ross Smith that the next highest example at the end of the five years is about $26 000 and it quickly goes down further from that, so it is a big jump down. On the other end of the scale, as I have just indicated again to the House, the winner is to the tune of about $80 000 and the next is $44 000 and so on. So, in my view there are bigger winners than losers. I make no bones about it; I am not here to defend competition policy. The question would be, 'What should we do; should we ignore the application of this and have the whole of our second tranche payments pruned from the federal government?' Obviously, no-one in the House would suggest that was a good move. If and when the legislation gets through I would certainly intend to discuss the sorts of matters the member for Ross Smith has raised.

Mr Clarke: If you add up the local council rate increases and water rate increases for this company—

The Hon. M.H. ARMITAGE: Given what the member for Ross Smith has just said, I am sure that a lot of businesses will benefit. I am absolutely sure that the member for Ross Smith will not make one example of the commercial area that will benefit by the tune of $80 000. That is what happens in this sort of application of a formula that, from the government's perspective, I must emphasise, as it says in the second reading speech, is revenue neutral. We are not doing anything cute or smart, or making extra money or anything here. We are applying a policy which has national competition commission agreement and which will not see our competition policy second charge payments affected.

Clause passed.

Title passed.

Bill read a third time and passed.

ADJOURNMENT

At 5.49 p.m. the House adjourned until Tuesday 2 October at 2 p.m.

HOUSE OF ASSEMBLY

Tuesday 25 September 2001

QUESTIONS ON NOTICE

TRAINEESHIP PLACEMENTS

68. **Ms KEY:**

1. What is the actual or projected number of traineeship placements funded by the government during each year 1999-2000 to 2002-03?

2. What are the actual or projected costs of the public sector Traineeship Scheme during each year 2000-01 to 2002-03?

3. What is the average unit cost, including on-costs, for a trainee?

The Hon. M.K. BRINDAL:

1. The number of traineeship placements funded in the years specified is as follows:

1999-2000	2000-01	2001-02	2002-03
1200	612	613	Not yet allocated

The reduction in available public sector trainee placements from 1200 in 1999-2000 to 612 this year, was necessary to support increased expenditure on apprenticeship and traineeship training under User Choice arrangements in South Australia.

Specifically, the 2000-01 budget made available an additional $15 million to meet the continued growth in structured User Choice based training for both trainees and apprentices. This increased funding brings the total money available for apprenticeships and traineeships to $37.2m. The additional funding for User Choice will enable up to 5500 new traineeship places to be funded through User Choice arrangements. Emphasis is being placed on increasing the skill level of the workforce to take advantage of opportunities in employment growth areas. This has been in response to a surge in demand for apprenticeships and traineeships from employers.

2. Funding of $14 million has been agreed for the 2000-01 and 2001-02 programs, which will be split as follows:

2000-01	2001-02	2002-03
$4 million	$5 million	$5 million

Funding for 2002-03 is provided to cover the costs of trainees placed during the 2001-02 program. This is necessary because many trainees who are placed in a given financial year carry over into the following year. The $5 million figure is necessary as many trainees are placed in the final 6 months of the financial year, so a significant number will carry over into 2002-03.

There is funding of $5 million budgeted for in 2001-2002 compared to the $4 million allocated for 2000-01 for the same reason.

3. The unit cost of a trainee comprises the following three components:

- cost to the government agency employing the trainee
- on-costs, which are also met by the government agency employing the trainee
- salary costs, which are met through reimbursement to agencies from the Office of Employment and Youth within the Department of Education, Training and Employment.

The only fixed cost of these three is the cost to the agency.

Cost to Agency

The fixed cost to a government agency that employs a trainee for the 2000-01 program is $7 500.

On Costs

On costs include worker's compensation, superannuation, payroll tax and locality allowances (if applicable). On costs can vary between different government agencies due to the different types of traineeships being offered. An average figure of 21.5 per cent was therefore used to determine budget figures. The average on-costs for a trainee total approximately $3 701; these costs are met by the government agency employing the trainee.

Salary Costs

Under National Training Wage Traineeships, a number of factors determine a trainee's salary. These include the length of time since completing secondary school, the highest level of secondary schooling undertaken, the skill level of the traineeship and the Award under which trainees are engaged. An average salary cost for a trainee is $9 715. The Office of Employment and Youth contributes this component.

The average unit cost per trainee can therefore be summarised as follows:

Cost to agency	$7 500
On Costs	$3 701
Salary	$9 715
Total	$20 916

TORRENS RIVER

78. **Mr HILL:**

1. How many users extract water from the River Torrens and in each case, who are they, how much is taken, what charges apply and on what legal basis is it extracted?

2. What is the total impact of this extraction on the river?

The Hon. M.K. BRINDAL: The Torrens catchment is not a prescribed resource therefore no licence is required to extract water from the river and there are no government charges for the extraction of water from the river.

In 1999, the Torrens Catchment Water Management Board undertook an investigation into water withdrawals in the Torrens River from the Gorge weir to the River Mouth at Breakout Creek. The investigation identified 37 pumping stations along the river of which 31 were still in use mainly throughout the Adelaide urban area. There is no information on extractions upstream of the Gorge Weir.

Approximately 600 megalitres of water is pumped from the river mostly during the summer and spring months of October to April.

The majority of water use falls into 5 main categories.

Sports fields	67.5%
Park lands	23.5%
Market Gardens	6.5%
Private Gardens	2.5%

The largest proportion of water is used to provide irrigation for sporting fields close to the centre of the city.

HOUSEBOAT REFUELLING FACILITY

79. **Mr HILL:** Does the Government support the establishment of a 20 000 litre houseboat refuelling facility at Mannum and what powers does the Minister have to stop such developments?

The Hon. M.K. BRINDAL: The application was assessed by the Mid-Murray Council with a final decision reached by the Environment Resources and Development Court in March 2001.

The mobile tanker operation was first approved in 1994 with a holding capacity of 9 000 litres. As a result of a spill the Environment Protection Authority suggested that the owner upgrade the facility. In the process of upgrading the facility the proponent applied for an increase in capacity.

The initial decision of the council to approve the 20 000 litre tanker was subject to an appeal to the Environment Resources and Development Court the outcome of which was that the tanker was approved subject to it not being used for retail sales; that it be appropriately bounded, and; that an emergency management plan be prepared.

As the Minister for Water Resources I had no power to stop such a development, as there was no requirement, pursuant to the Development Regulations 1993, to refer the development application to me.

ENVIRONMENT AND HERITAGE DEPARTMENT

86. **Mr HILL:**

1. Is the government proposing to close, sell off or lease the retail arm of Mapland and if so, on what basis will that decision be made and is there a private consultant's report that recommends these changes?

2. Does the government intend contracting out Mapland's aerial photography service and if so, what action will be taken to ensure users will not be forced to pay higher prices for map and aerial products?

3. Is the departmental financial software known as Masterpiece licensed through a whole-of-government contract via the Department of Treasury and Finance and is this software able to deliver the complete range of required financial data and if not, why not, and who is responsible for ensuring the software meets its full expectations?

The Hon. I.F. EVANS: I have been advised as follows:

1. No. A private consultant engaged by the Department for Environment and Heritage to review the delivery of Mapland products and services recommended changes which are currently being assessed.

2. No.

3. The Masterpiece Financial Software contains a suite of specific modules. The Department for Environment and Heritage currently has a number of Masterpiece modules installed and as new business needs arise, other modules are assessed or the functionality of existing modules may be altered.

In general, the department considers its current suite of financial systems have the capacity to provide appropriate management and statutory reporting. However, the functionality of existing systems is currently under review in the context of the department's changing business needs.

URANIUM DEPOSITS

94. **Mr HILL:** Where do the aquifers holding the uranium deposits from the Beverley and Honeymoon mines discharge and if not known, what procedures are in place to ensure the water from these aquifers will not reach the surface and is it proposed that Lake Frome will be a site for the Beverley aquifer discharge?

The Hon. M.K. BRINDAL:

Insitu leach mining (ISL)

At both Beverly and Honeymoon groundwater is naturally highly saline and has a high radionuclide concentration.

ISL mining involves dissolution of uranium contained within an aquifer by the cycling of chemically modified groundwater, from which the dissolved uranium is stripped in a chemical plant at the surface. Concern regarding ISL relates to the disposal of the liquid waste stream. The preferred method for disposing of the liquid waste stream, which has an elevated acidity compared to the native groundwater, and contains high levels of metals, including radium, is by re-injection into the aquifer of origin. Re-injection of liquid waste is considered acceptable due to the fact that these aquifers are the original source of the salts, metals, unrecoverable uranium and radionuclides.

Beverley

The Beverley uranium deposit consists of three mineralised zones (north, central and south) contained within a palaeochannel, buried at a depth of 100 m, which is located between Lake Frome and the Flinders Ranges. The extent of this palaeochannel is unknown, although it is likely to flow in the direction of Lake Frome.

Investigations have indicated that the aquifers containing the mineralised zones are hydraulically separated from one another, and not hydraulically connected to other vertically or laterally adjacent aquifers.

The northern mineralised zone has been conclusively demonstrated to be contained within a bounded and sealed aquifer. This isolation makes it uniquely suited to ISL mining and liquid waste disposal. Additional studies have been conducted for the aquifer containing the central mineralised zone, to provide the similar level of assurance before re-injection of liquid waste can occur to in this area. Approval has not yet been given for re-injection of liquid waste in this area. Similar studies will be required before the re-injection of liquid waste will be approved in the aquifer containing the southern mineralised zone.

Controlled ISL mining of the uranium contained within the palaeochannel, and the re-injection of liquid waste, will not alter the condition or beneficial use of the aquifers. Re-injection of liquid waste will only occur where aquifers are demonstrated to be hydraulically isolated. No procedures are required to prevent the natural aquifer flow and discharge.

Honeymoon

The palaeochannel containing the mineralised aquifers at Honeymoon has been mapped between the Olary Ranges to the east of Lake Frome. At Honeymoon the aquifer is confined within the channel and separated from the surface by 80 m of clay, while in the north it spreads out to form a laterally extensive sand to the east of Lake Frome. Groundwater flow occurs from the Olary Ranges towards the sediments east of Lake Frome, where there is likely to be evaporative discharge.

Upon completion of mining, the immediate impact of waste disposal will be the chemical changes in the aquifer. Studies reported in the EIS indicate that the waste injection plume will decay with time and movement. After a period of 100 years, the point where the concentration would exceed that of the natural groundwater by 1% would have migrated a distance of 1 750 m from Honeymoon, which is approximately 70 km from Lake Frome. Additional studies to further demonstrate these decay processes are currently in progress.

Controlled ISL mining of the uranium contained within the palaeochannel, and the re-injection of liquid waste, will not alter the condition or beneficial use of the aquifer, and will not affect the quality of groundwater that may be discharging from the system in the vicinity of Lake Frome. No procedures are required to prevent the natural aquifer flow and discharge.

Approval process:

Commonwealth

Beverley

The Commonwealth Minister for the Environment considered the environmental aspects of the mine and provided advice to the Action Minister, the Commonwealth Assistant Treasurer who is responsible for foreign investment approval. A uranium export licence was also required from the Commonwealth Minister for Industry, Science and Resources, who took into account the advice from the Commonwealth Minister for the Environment, in granting export permits.

Honeymoon

The Commonwealth Minister for the Environment will consider the environmental aspects of the mine and provide advice to the Action Minister, the Commonwealth Minister for Industry, Science and Resources, who is responsible for granting of export permits for uranium.

State

Within South Australia the Action Minister is the Minister for Minerals and Energy who grants mining approval for the project.

PIRSA is the approving agency for the mine, its operations and disposal of the liquid waste. DWR is providing assessment advice as the agency with the State's groundwater expertise.

DWR is responsible for the approval of permits to construct wells (bores) to the appropriate standard that are required for the mine operation and monitoring.

REDEVELOPMENT APPROVAL

103. **Mr HILL:** What action will the Minister take to prevent the proposed redevelopment recently approved by Unley Council in respect of that area adjacent to Glen Osmond Creek and is the redevelopment contrary to the State Water Plan?

The Hon. M.K. BRINDAL: I assume your question refers to the culverting or covering over sections of the Glen Osmond Creek watercourse which was undertaken by the City of Unley in the area along Windsor Street, Parkside. Residential properties located to the west of this area of the creek have incurred severe financial losses due to flooding in the last two years. The council considered that in this particular case, the re-development of this section of the creek was the most appropriate response, given the circumstances.

Any decision by council concerning re-development of the section of the Glen Osmond Creek needs to be consistent with the Council's own development plan. The council was under no obligation to seek my approval as Minister for Water Resources in relation to any matter associated with this particular re-development.

The State Water Plan provides the policy framework for water resources management and use throughout this state. The principles of ecologically sustainable development underpin the State Water Plan and are about achieving a balance between environmental, economic and social needs. The decision by the Unley Council is not contrary to the State Water Plan, which is about managing for sustainable use.

However, the understanding of water resources is continually evolving. The member raises an important issue of principle which I have asked my department to assess and monitor on an ongoing basis with a view to re assessment as/when considered necessary.

MURRAY RIVER

111. **Mr HILL:** How much has been spent on River Murray water quality and environmental improvements in each year since 1995-96 and in each case, what was the project, how much was expended on it and what was the source of funding?

The Hon. M.K. BRINDAL: This is a broad ranging question and given the changes to departmental structures over the period covered by the question, the information is not readily available within the Department for Water Resources. Information will need to be collected and collated from other agencies. Accordingly, this will take extra time and effort by personnel in the Department for Water Resources to appropriately respond to your request.

The work on gathering the information has commenced and a response will be provided to the House as soon as possible.

BUSINESS LEGAL REQUIREMENTS

114. **Mr ATKINSON:** Why is it necessary for the vendor of a business worth less than $20 000 to provide a Form 2 and an accountant's certificate to the purchaser?

The Hon. R.G. KERIN: The Minister for Consumer Affairs has provided the following information:

The requirement to provide the information contained in the Form 2 and the accountant's certificate arises under Part 2 of the Land and Business (Sale and Conveyancing) Act 1994. Section 8 in Part 2 concerns the information which must be provided by a vendor to a purchaser of a small business.

The act currently defines a small business as one which is to be sold for $200 000 or less, excluding the value of any land sold in fee simple under the contract for the sale of the business. Larger businesses are therefore excluded from the statutory requirement to provide particulars.

In December 1999, the final report of the National Competition Policy Review of the Land and Business (Sale and Conveyancing) Act 1994 was completed and Part 2 of the Act was the subject of close scrutiny by relevant industry bodies and practitioners.

While the report focussed on whether the Act was unduly restrictive on competition, submissions received from various sectors of the industry confirmed that the present requirements of part 2 of the act should remain, with some intimations that the requirements could be strengthened.

The submissions to the review, particularly those from the Real Estate Institute of South Australia, the Australian Institute of Conveyancers and the Law Society of South Australia, stressed the unequal bargaining positions between vendors and proprietors in relation to small business sales. It was noted that the information held by a vendor concerning the business was far greater than the information that a prospective purchaser would be able to obtain by reason of his or her own independent efforts.

The Real Estate Institute of South Australia in particular noted the potential for a purchaser to misunderstand the nature and viability of the business being purchased. It also noted that purchasers of small businesses are more likely to be buying a first business and may not be aware of the fundamental questions which have to be asked. The current standardised format requirements allow a purchaser to compare businesses and make an informed decision on the basis of that comparison.

The provision of information by a vendor was therefore considered by industry overall to be entirely appropriate, with several submissions suggesting that the upper monetary limit on the definition should be raised as high as $500 000.

The National Competition Policy Review Panel recommended that the requirement to provide particulars should be retained in the legislation, notwithstanding that it is a prima facie restriction on competition. It considered the information asymmetry inherent in small business sales to be best addressed through requiring vendors to provide information about the property.

In reaching this conclusion, it noted that while there are costs involved in providing the required information, the alternative of leaving purchasers to engage their own accountants, conveyancers or lawyers to obtain the same information for them would only increase the costs of the transaction. The Australian Institute of Conveyancers similarly submitted that such a system would only prolong negotiations and increase costs.

In light of these considerations, it is clear that those who wish to purchase a business valued at less than $20 000 are in an even greater position of disadvantage. If the contention of the Real Estate Institute of South Australia that most purchasers of small businesses are more likely to be buying a first business is true, then it follows that most of those purchasing in the under $20 000 category are first time business owners.

These small business men and women are often not experienced in business, nor do they have the level of legal and accounting resources available to larger businesses. Nonetheless, small business represents a vital sector of the South Australian economy, and the government is vitally concerned to protect the interests of small business owners in this State.

To remove the protections provided to purchasers of small businesses and leave them to fend for themselves in an area where they are at a significant information disadvantage is not an appropriate way of encouraging small business in this State.

COURT APPEALS

115. **Mr ATKINSON:** What were the respective success rates of civil appeals and criminal appeals from the District Court to the Supreme Court in each of the years 1997 to 2000?

The Hon. R.G. KERIN: The Attorney-General has provided the following information:

Criminal

Year	Number of Appeals	Number Allowed	Success Rate
1997	98	44	45%
1998	97	37	38%
1999	78	35	45%
2000	69	24	35%
Total	342	140	39%

Civil

Year	Number of Appeals	Number Allowed	Success Rate
1997	33	15	45%
1998	32	13	41%
1999	37	16	43%
2000	31	17	55%
Total	133	61	46%

The tables above clearly indicate the year-by-year data for the success rates of appeal. In summary, for the period between 1997 and 2000 there were 342 criminal matters in which leave to appeal was granted. Of these 140 appeals were successful, a success rate of 39%. In addition there were 133 applications for appeal in the civil jurisdiction of which 61, or 46%, were successful.

CHILD-CARE FUNDING

118. **Ms WHITE:** Which child-care services or sites have received funds under the Premier's Restructure Grant Program since its inception and in each instance, how much was received and what was the money used for, and which services or sites that applied for funds did not receive a grant?

The Hon. M.R. BUCKBY: The Premier announced on 2 June 1998 that $1 million was being made available to community based child-care centres and outside school hours care (OSHC) services to support these services in strengthening their long term viability. This funding was extended to private operators of child-care services in February 1999.

Additional funding to support the Premier's initiative was made available by diverting savings from the Outside School Hours Care program.

The purpose of this funding was to provide a once-off grant to child-care centres and OSHC services to establish new structures and business practices, and for planning to establish a solid foundation for sustainability and future growth.

Funding was distributed to child-care centres and OSHC services through an application process with departmental and industry representation on assessment panels.

Details of centres and services which received funding and the purpose of the funding are attached. Details of unsuccessful applications are also provided.

Premier's Restructuring Grants
OSHC

No.	OSHC Successful Applications	Purpose of Funding	Funding approved by Minister
1	Aberfoyle Campus Schools	Computer training	$1 000

Premier's Restructuring Grants
OSHC

No.	OSHC Successful Applications	Purpose of Funding	Funding approved by Minister
2	Airdale	Advertising	$2 500
3	Alberton	NESB Programming	$1 450
4	Alberton	Operation subsidy, deficit, marketing, staff training, pilot transport option	$9 940
5	Allenby Gardens	Kitchen upgrade and whitegoods	$10 000
6	Ascot Park	Office and children's equipment, promotion, staff training	$4 175
7	Barossa	Computers and software, staff training, furniture, electrical goods, sports equipment, transport system, marketing	$10 000
8	Berri	Staff training, furniture, resources, promotion, transport options	$8 102
9	Bowden Brompton	Purchase/lease bus	$10 000
10	Braeview	Marketing	$2 513
11	Brighton Primary	Upgrade kitchen and bathroom	$10 000
12	Burton	Bilingual worker, equipment	$5 906
13	Chaffey House	Games and equipment, marketing, refurbishments, bus licence	$6 050
14	Clare	Staff training, facility upgrade, computer & software, kitchen & children's equipment	$9 936
15	Colonel Light Gardens	Building alterations, furniture	$10 000
16	Cowandilla	Brochures & advertising, equipment	$8 200
17	Darlington	Trialing transport, marketing, equipment, staff training	$5 982
18	Eden Hills	Building works	$10 000
19	Elizabeth Grove	Painting, security doors, carpet	$10 000
20	Elizabeth North	Computer and training, transport system, feasibility study, homework program, resources	$10 000
21	Evanston	Upgrade shed, marketing, trial transport, staff training	$10 000
22	Fisk Street & Whyalla Town	TV advertising	$3 000
23	Flinders Park, Kidman Park, Lockleys, Lockleys North, St Francis, Torrensville	Collaborative Vac Care program	$20 000
24	Gawler East	Transport, computer, desk, contribution to training, games	$7 177
25	Gilles Street	Promotion targeting new arrivals	$8 764
26	Goolwa	Staff training, marketing, equipment, computer	$6 000
27	Greenwith Campus	Marketing, paving, training, equipment	$9 901
28	Hackham East	Transport, marketing, equipment	$7 696
29	Hackham West	Transport system, marketing	$3 370
30	Hackham West	Coordination of Southern Area Initiative	$20 500
31	Hallett Cove	Equipment, marketing, training, transport, administration costs	$4 309
32	Hendon	Director training, promotion	$4 500
33	Ingle Farm	Marketing	$8 000
34	Kadina	Establish new service	$14 890
35	Kangarilla & Clarendon	Marketing	$1 000
36	Kilkenny	Transport system, promotion	$10 000
37	Largs Bay	Computer and software	$3 000

Premier's Restructuring Grants
OSHC

No.	OSHC Successful Applications	Purpose of Funding	Funding approved by Minister
38	Lockleys	Cooking equipment	$3 166
39	Loxton	Computer, sports equipment, marketing, administration infrastructure	$5 738
40	Millicent South	Advertising, office equipment, computer	$5 000
41	Mitcham Hills	New site, marketing, equipment, software & training	$9 880
42	Mount Lofty Area	Promotion, improve administrative functions	$9 980
43	Mt Barker South	Outfit building and site to meet Standards	$10 000
44	Mt Carmel	Needs analysis, implement new program, marketing, training	$4 700
45	Mt Gambier	Marketing	$1 255
46	Murray Bridge North	Computer	$1 810
47	Naracoorte	Equipment & furnishings	$4 000
48	Nicolson Avenue	Marketing, games, shelving & office equipment	$6 500
49	Noarlunga Downs	Promotion, conduct specialist day	$3 000
50	North Haven	Refurbishment, resources, promotion	$10 000
51	Northern Area Youth & Comm	Upgrade environment & resources, develop policies and promotional material	$5 500
52	OSCARS Inc	Upgrading pavilion, furniture and secure storage	$4 500
53	Para Hills East	Improve facilities	$10 000
54	Para Vista	Fence, signage, contribution to play frame	$10 000
55	Pooraka	Marketing and promotion, employ bilingual worker	$6 000
56	Prospect	Painting	$4 050
57	Pt Augusta West	Rainwater tank, promotion and brochures	$3 750
58	Pt Elliott	Marketing, administration costs	$2 362
59	Reynella South	Marketing	$2 000
60	Reynella South	Games, computer	$2 221
61	Richmond	Improve rooms, games & equipment, translation of handbook	$8 500
62	Salisbury Junior	Equipment, marketing, computer software, management & staff training, planning, transport system	$10 000
63	Seaford Rise & District Ctr	Upgrade toilets, resources, phone line, outdoor shade	$10 000
64	Seaton Park	Upgrading outdoor area, new staff, address safety concerns, programming	$10 000
65	Semaphore Park	Promotional material, signage, staff training, computer, furniture	$10 000
66	Tea Tree Gully	Build new Art area	$10 000
67	Vale Park	Shelter – verandah	$3 590
68	Victor Harbour	Computer, software & training, parent packs, t-shirts	$5 000
69	Virginia	Staff development, administration improvements, bilingual worker	$3 400
70	West Beach	Redundancy, training, marketing, equipment & furniture	$10 000
71	West Lakes Shore	Furniture, air conditioning	$2 885
72	Whitefriars	New building	$6 670
73	Willunga & McLaren Districts	Program workshops, tools & equipment	$10 000
74	Woodville	Redundancies, advertising, training, equipment and books	$10 000

Premier's Restructuring Grants
Child-Care Centres

No.	Child-Care Centres Successful applications	Purpose of Funding	Funding Approved by Minister
1	ABC Child-Care Centre & Kindergarten	Signage, upgrade to flooring (seal & polish of floors, new carpets and mats), training and a contribution towards building maintenance.	$5 129
2	Albert Park Child-Care Centre	Staff training and development, air-conditioning and a contribution towards computing needs.	$5 000
3	Aldgate Child-Care Centre	Upgrading of business management advice and business training, computing needs and a contribution towards painting.	$5 000
4	Anglicare—Wanslea	Marketing plan	$3 500
5	Ashford Child-Care & Kindergarten	Signage	$1 400
6	Athol Park CCC	Staff redundancies, painting	$38 636
7	Balaklava CCC	Building extension	$7 000
8	Belair Child-Care Centre	Internal upgrading of the building.	$5 000
9	Berri CCC	Board walk	$11 827
10	Blackwood CCC	Replace flooring	$15 446
11	Brambly Cottage	Internal upgrading of the building	$8 000
12	Brompton Parent Child Centre	Fencing	$19 900
13	Brompton PCC	Computer software, computer training, marketing	$1 709
14	Camden Park	Computer & printer, 'A' frame, marketing consultancy	$4 960
15	Campbelltown CC	Bilingual workers, signs, resources	$16 995
16	Carma Playhouse	Office support resources and indoor upgrading.	$5 000
17	Carman Court Kindergarten & Long Day Care Centre	Computing needs and associated training and a contribution towards marketing.	$5 000
18	Ceduna CCC	Staff training, marketing, MYOB package, training & support, 'Come & Try' week	$6 625
19	Christies Beach Children's Centre and Kindergarten	Computing needs and a contribution towards internal upgrading/renovation of building.	$7 300
20	Coober Pedy CCC	Staff training, auditing fees, marketing	$25 520
21	Cross Road Kindergarten & Long Day Care Centre	Computing needs and associated training and a contribution towards marketing.	$5 000
22	Diagonal Road	Staff training, whitegoods, marketing, equipment, building upgrade	$22 169
23	Emu CCC	Building alterations	$25 000
24	Export Park Child-Care Centre & Kindergarten	Contribution towards flooring.	$12 600
25	Flinders Uni	Marketing plan & implementation-advert, posters, postcards	$8 000
26	Gawler East	Computer software, computer training, account/audit fees	$4 213
27	Gilles Plains CCCC	Marketing, staff training, equipment	$14 955
28	Gladys Smith Parent & Child	Marketing	$1 900
29	Glandore Kindergarten and Long Day Care Centre	Computing needs and signage.	$5 980
30	Glen Osmond Child-Care Centre and Kindergarten	Carpets and a contribution towards signage and painting.	$5 097
31	Glenelg Community CCC	Advert, leaflets, signs, kitchen vinyl, fax/photocopier, printer	$9 531
32	Golden Grove CCC	Advertising, computer software, signs	$8 550

Premier's Restructuring Grants
Child-Care Centres

No.	Child-Care Centres Successful applications	Purpose of Funding	Funding Approved by Minister
33	Goldilocks Child-Care Centre	Computing needs and a contribution towards signage and/or marketing.	$5 000
34	Goodwood	Computer software	$3 579
35	Goolwa CC	Marketing, computer software	$6 884
36	Grey Ward CC	Contribution Marketing Plan and implementation	$10 000
37	Hallett Cove CCC	Mural, marketing	$6 184
38	Happy Day Child-Care Centre	Computing needs and to contribute towards telecommunication upgrading.	$5 000
39	Happy Valley CCCC	Signs, staff redundancies	$10 032
40	Highway Child-Care Centre and Kindergarten	Contribution towards flooring.	$18 000
41	Hillbank CCCC	Staff provisions and deficit	$20 000
42	Hills CCCC (now Stirling CCCC)	Consultant, furniture & equipment, painting, general repairs, shadeport, signs	$23 155
43	Il Nido CCC	Signs	$800
44	Jack and Jill Child-Care Centre	Contribute towards flooring.	$6 416
45	Kadina CCC	Establish OSHC service	$15 000
46	Kings Road Child-Care Centre	Contribution to funding building extensions.	$10 000
47	Kurralta Park Child-Care Centre and Kindergarten	Contribution to business improvements, including business training and support.	$5 000
48	Kylie Anne Centre for Children	The panel recommends funding for computing needs.	$5 000
49	Lady Gowrie CCC	Computer hardware & software, cots, operating shortfall, records management, staff training	$28 744
50	Learning Lots Children's Centre	Contribution towards salary for a cook for six months to support the multicultural food program, staff training and the development of language/disability resources.	$15 500
51	Lower Eyre Peninsula CCCC	Marketing, staff training, computer and software	$11 470
52	MacKinnon Parade	Fencing, shade cloth, impact absorbent material	$15 664
53	Marino Child-Care Centre	Contribution towards car parking.	$8 500
54	McKay CC	Marketing	$4 000
55	Modbury CCC	Computer software, training in MYOB, filing system, computer/printer, phone system	$9 425
56	Montague Farm Child-Care Centre	Nappy change table.	$1 000
57	Mt Gambier CCC	Staff Training	$4 638
58	Murray Bridge	Computer, training in MYOB, marketing	$4 360
59	Neighbourhood Centre	Computer & printer, Kidsbiz software, training & records management, Director training and advertising	$17 164
60	Noarlunga	Computer, cots	$15 000
61	Nuriootpa CCC	Computer software & telephone line	$3 490
62	Oasis CCC	Computer & software and computer training	$4 000
63	Para West Adult Campus CCC	Marketing	$11 000
64	Pebbles Child-Care Centre – Gawler	Security screens, computer upgrade and lawns.	$2 260
65	Pebbles Child-Care Centre – Glenelg North	Floor sealing, computer upgrading, a bike track and verandah.	$4 760

Premier's Restructuring Grants
Child-Care Centres

No.	Child-Care Centres Successful applications	Purpose of Funding	Funding Approved by Minister
66	Pebbles Child-Care Centre – Magill	Contribution towards new business initiative (provision of weekend children's speciality parties).	$10 000
67	Pebbles Child-Care Centre – Parafield Gardens	Floor sealing, computer upgrade and curtains.	$4 940
68	Pebbles Child-Care Centre – Payneham	Employment of a special needs worker for 6 months.	$14 000
69	Pebbles Child-Care Centre – Prospect	Security mirror, floor sealing and a door closer, computer upgrading and training.	$5 210
70	Pebbles Child-Care Centre – Woodcroft	Floor sealing, fencing, computer upgrading and a verandah.	$4 050
71	Pebbles Child-Care Centre and Kindergarten – Parkside	Floor sealing, nappy change table, air conditioning, fencing and a contribution towards computer upgrading.	$5 000
72	Pied Piper Child-Care Centre	Contribute towards internal and/or external upgrading of the building to support OSHC.	$5 000
73	Pooraka	Employ multicultural worker	$13 055
74	Prospect CCCC	Redevelop outdoor area, cupboards, painting	$5 950
75	Pt Adelaide Mission	Indoor equipment, folding door	$5 930
76	Pt Augusta CCC	Marketing	$2 500
77	Pt Pirie	Staff training, computer software	$15 000
78	Regency Road Child-Care Centre	Painting and computing needs.	$5 000
79	Salisbury Heights Child Care & Kindergarten	Computing needs, training and a contribution towards car park & traffic flow improvements.	$5 000
80	Sanctuary Farm Child-Care Centre	Contribution towards establishment of a transportable building for use as a computer room and kindergarten.	$13 000
81	Seaton/Hindmarsh	Advertising, staff training	$9 826
82	Sheidow Park Child-Care Centre	Contribution towards computing needs.	$5 000
83	Snow White Kindergarten & Long Day Care Centre	Computing needs and marketing.	$5 000
84	Springvale Gardens Child-Care Centre and Kindergarten	Payout of leases and for administrative support systems.	$11 750
85	St Francis	Staff training, painting, advertising, marketing plan	$10 235
86	St Morris CCC	Marketing Plan/consultancy	$1 500
87	Sturt Child-Care Centre	Computing needs.	$5 000
88	Suttontown Child Care and Kindergarten	Advertising/signage, staff training and development and office requirements.	$5 000
89	The Cherry Tree Child-Care Centre	Signage and a contribution towards building maintenance/upgrading.	$5 000
90	The Lady Emma Child-Care Centre	Business advice and training and a contribution to reduce bank overdraft.	$5 000
91	The Pines CCC	Fencing, marketing, computer & training	$12 000
92	Tiny Tots Academy – Morphett Vale	Business improvements and computing needs.	$9 000
93	Tiny Tots Academy – Wayville	Business improvements.	$5 000
94	Tiny Tots Academy SA – Plympton	Business improvements.	$5 000
95	Tiptoes Child-Care Centre	Signage, advertising and debt reduction.	$5 000
96	Torrensville CCC	Staff redundancies, painting	$38 637
97	TQEH	Outdoor shading	$2 500

Premier's Restructuring Grants
Child-Care Centres

No.	Child-Care Centres Successful applications	Purpose of Funding	Funding Approved by Minister
98	Unikids	Staff redundancies	$13 000
99	Unley/Parkside CCC	Various marketing strategies	$3 600
100	Victoria Park Child-Care Centre	Building improvements and renovations.	$15 000
101	Warradale	Computer software, staff training, filing system, office furniture	$10 245
102	Woodville Day Nursery & Kindergarten	Contribution towards toilet upgrade.	$8 000
103	Yankalilla CCC	Marketing	$6 981

Premier's Restructuring Grants
Child-Care Centre—Unsuccessful Applications

No.	Child-Care Centres	Purpose for Funding
1	Aldinga	Bus
2	Anglicare—Prospect	Bus
3	Burnside Child-Care Centre	Computers, building extensions, security system, children's resources
4	Children's Education Care Centre	Signage, computer software, training, photocopier, fax, resources
5	Colonel Light Gardens	Computers, blinds, photocopier, video, upgrade outdoor area.
6	Fleurieu Occasional Care	Computer, photocopier, fax, computer software
7	Kate Cocks	Provide OSHC program
8	Kidman Park	Staff development for Director
9	LeFevre, Seaton & TQEH CCC	Computers, internet camera, website set up
10	Linden Park Child-Care Centre	Building extension
11	Littlehampton Child-Care Centre	Vergolas
12	Mooringe Child-Care Centre & Kindergarten	Shade cloth, computers
13	Pebbles Child-Care Centre-Hope Valley	Computer, equipment, training, new car park, shade, security system
14	Pebbles Child-Care Centre-Semaphore Park	Verandah, shade cloth, swings, van, computer
15	Pebbles Child-Care Centre-Woodend	Fence, landscaping, computers, play centre
16	Peppercorn Child-Care Centre-Melrose Park	Bus, signage
17	Reynella	Bus
18	Salisbury East Child-Care Centre	*(Closed during assessment process)*
19	Seaford	Building alterations
20	Unley Mothercraft Child-Care Centre	Building improvements
21	Valley View Child Care	*(Closed during assessment process)*
22	Victoria Park Child-Care Centre	Building improvements
23	Walkerville Child-Care Centre	Computers, roof, staff training, children's resources.
24	Windebanks Child-Care Centre & Kindy	Fencing, play equipment, outdoor improvements

GOVERNMENT AGENCY PAYMENTS

123. **Mr HILL:** What is the policy in relation to time limitations on paying accounts issued by suppliers of goods and services to government agencies, how is this monitored, what is the average time taken, particularly where a small business is concerned, and how many complaints have been received by each agency in the current financial relating to late payment?

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

1. The policy dealing with account payment by Government agencies is detailed in Treasurer's Instruction No. 11 'Payment of Accounts'. It states that undisputed creditors' accounts must be processed promptly and that payment of these accounts must be made as follows:

- 'where a commercial discount is offered by a creditor for payment within a specified period, payment should be made within the period specified;
- where a creditor's invoice or claim is submitted in connection with a written contract between a public authority (including a Minister) and the creditor, payment should be made in accordance with the terms specified in the contract;
- for all other invoices or claims, payment should be made within thirty days of the date of the invoice or claim.'

'Accounts from public authorities shall be paid within 30 days of the date of the invoice or claim.'

2. Treasurer's Instruction No. 11 requires that:

'Each Chief Executive shall forward to the Under Treasurer at the end of each month of each financial year a report showing the number and value of creditors' accounts paid, an analysis of this information and the extent to which the accounts have been paid in accordance with this instruction.'

'This report shall be forwarded by the tenth working day of the month immediately following the end of each month.'

Consolidated account payment statistics are provided to the Premier and Treasurer for information on a monthly basis.

3. The account payment statistics for the 2000/2001 financial year are as follows:

87% of invoices were paid by the due date, 9% were paid within 30 days of the due date and the remaining 4% took longer.

In terms of the dollar value of accounts paid, 92% of accounts were paid by the due date, 6% were paid within 30 days and 2% were paid more than 30 days after the due date.

There are no specific figures available regarding payment of accounts with small businesses.

4. There are currently no statistics available on the number of complaints received relating to late payment of accounts.

HINDMARSH ISLAND MARINA

125. **Mr HILL:**

1. How is the dredging of the Chapman Marina at Hindmarsh Island monitored, who is the monitor, are the results publicly available and if so, where can they be obtained?

2. What impact will dredging have on flooding to existing island properties and will any future closure of the Murray River mouth have a greater impact on flood and salinity levels due to dredging?

The Hon. DEAN BROWN: The Minister for Transport and Urban Planning has provided the following information:

1. At the present time, the progressive construction of the Marina Hindmarsh Island comprises the excavation of a third residential lagoon and the formation of adjoining allotments. This work does not require dredging, as excavations involve low-lying depressions that are located inland. The lagoon sites are constructed in the dry, therefore, dewatering is undertaken to remove groundwater that seeps into the excavation. Brackish groundwater is pumped from the site into an adjoining retention dam to allow suspended soil particles to settle out of the water column. The 'clean' water is then pumped into a chain of low-lying depressions, which eventually flow into a wetland area where the water is subject to 'natural treatment' as a final clean-up, prior to discharging into the Goolwa Channel. This activity occurs within land owned by the Chapmans and does not affect other properties on the Island.

Planning SA monitors the progress and impact of construction on a periodic basis, especially at key stages, to ensure that the conditions of the Governor's development approval are being complied with. Planning SA is also provided with relevant documentation (including the Environmental Management Implementation Plan) and monitoring results when they become available. It should be noted that environmental standards for the construction and operation of the development have been set by the approval or are prescribed under legislation, therefore, the onus is on the developer to ensure compliance. Monitoring is required to verify the compliance.

2. The volumes of water discharged are relatively low (ie the dewatering pumps remove approximately 600 litres of water per minute) and are significantly lower than the volumes generated for the previously constructed second residential lagoon. The developer advises that there were no flooding or salinity problems encountered during that time. Only a small volume of water reaches the Goolwa Channel, as most is either lost through evaporation or seepage.

During winter, run-off collects in the depressions that, once filled, drain to the Goolwa Channel. Some minor surface ponding can occur during periods of prolonged rainfall. The discharge of brackish groundwater below the Goolwa Barrage does not affect salinity of the River Murray, and would not cause a significant flooding problem for properties south of the barrage if the Murray Mouth is closed. Planning SA considers that the large area of waterbody provided by the Goolwa Channel and Coorong would absorb any additional inputs of water, without raising water levels. The salinity of the discharged water is lower than that of seawater.

The dewatering activity is being conducted by the construction company Bardavcol, which is monitoring water quality on a regular basis in accordance with an Environmental Management Implementation Plan. Monitoring has indicated that suspended solid (ie turbidity) results are below the level at which EPA licensing is required. Bardavcol regularly consults the EPA on this matter.

HOSPITALS, ELECTIVE SURGERY

140. **Ms STEVENS:**

1. How many people were waiting for elective surgery at each of the major metropolitan hospitals, by specialty, at the end of June 2001?

2. What were the numbers on the surgical booking at each of the major metropolitan hospitals by length of wait at the end of June 2001?

3. How many elective surgery procedures were cancelled at each of the major metropolitan hospitals during 2000-2001 and how many were cancelled at the initiative of each hospital?

The Hon. DEAN BROWN:

1. At the end of May 2001 a total of 10 019 people were on the elective surgery waiting list, including:

Specialty	WCH	FMC	RAH	TQEH	LMHS	Mod	RGH	TOTAL
General surgery	247	396	343	227	282	143	163	1801
Ophthalmology	70	79	742	80	0	0	50	1021
Neurosurgery	10	59	59	38	0	0	0	166
Orthopaedic	68	319	425	492	206	313	254	2077
ENT	504	371	223	175	139	108	9	1529
Urology	47	15	123	374	199	103	147	1008
Gynaecology	137	259	80	127	292	80	0	975
Vascular	0	0	19	39	2	0	10	70
Plastic	60	371	333	363	58	45	47	1277

Specialty	WCH	FMC	RAH	TQEH	LMHS	Mod	RGH	TOTAL
Thoracic	0	38	9	2	0	0	0	49
Craniofacial	37	0	1	0	0	0	0	38
Unknown.	0	0	2	0	0	0	6	8
TOTAL	1180	1907	2359	1917	1178	792	686	10019

Source: Booking List Information System

2. As at 31 May 2001, the most recent available data, the numbers of patients on the waiting lists by length of wait at individual metropolitan booking list hospitals, was as follows:

(Length of wait has been interpreted as meaning urgency category.)

Hospital	Urgent	Semi-urgent	Non-urgent	TOTAL*
FMC	103	281	1509	1907
LMHS	28	102	1039	1178
Modbury	10	126	648	792
RGH	37	113	534	686
RAH	169	367	1764	2359
TQEH	108	255	1543	1917
WCH	19	83	1071	1180
TOTAL	474	1327	8108	10019

Source: Booking List Information System

*In addition to urgent, semi-urgent and non-urgent patients, the total figures include category 4 and 5 patients who have staged admissions or have chosen to defer their admission.

3. In the 11 months to May 2001, a total of 2252 elective surgery procedures were cancelled at the metropolitan booking list hospitals, as follows:

Cancellations initiated by hospitals

Hospital	Number	Number per 100 admissions**
FMC	769	17.2
LMHS	141	3.7
Modbury	45	2.0
RGH	142	4.1
RAH*		2323.0
TQEH	765	10.9
WCH	158	4.2
Total	2252	6.9

Source: Booking List Information System; *Royal Adelaide Hospital

**Cancellations per 100 admissions are generally reported to enable comparisons, because as admissions increase, cancellations also increase. A total of 32634 patients were admitted in the 11 months to May 2001.

NURSES, ADDITIONAL

141. **Ms STEVENS:**

1. What is the prediction of the Department of Human Services Labor Force Committee of the demand for extra nurses by 2004?

2. How many students are now undertaking nursing courses at South Australian Universities and how many are expected to graduate in each of the years 2001 to 2004?

3. What are the terms of the agreement with the Australian Nursing Federation to review patient / nurse ratios in 2002?

The Hon. DEAN BROWN:

1. Workforce planning for registered nurses is currently underway and work has just commenced on Enrolled Nurse requirements.

2. The department was provided with the following information following a survey of the universities conducting pre-registration nursing programs in March of this year. Unfortunately the universities were unable to provide data for years 2002-04.

- A total of 389 students completed their pre-registration nursing programs at the end of 2000.
- It is expected that approximately 430 students will complete their pre-registration programs at the end of 2001.
- A total of 679 students commenced studying the pre-registration nursing degree in 2001.

3. The terms of agreement are outlined in the Nurses' (South Australian Public Sector) Enterprise Agreement 2001 (Nursing EB).

A joint Department/ANF Clinical Nursing Information Reference Group has been established for the purpose of finding a replacement to the existing nurse clinical information system *Excelcare.*

Following implementation of the new system in August 2002, health units are to staff according to the staffing plans generated under the new system.

A joint Department/ANF working group has also been established to examine as agreed in the Nursing EB the Country Health Staffing methodology for country (non minimum staffed) hospitals.

NURSES, TRAINING

142. **Ms STEVENS:**

1. What are the terms of the agreement with the Australian Nursing Federation announced by the minister on 6 March 2001 for additional funding for nurse retraining and refresher courses?

2. What provision has been made in the 2001-2002 budget for these courses?

3. When are courses planned during 2001-2002 and how many vacancies will be available?

The Hon. DEAN BROWN:

1. The terms of agreement are outlined in the Nurses' (South Australian Public Sector) Enterprise Agreement 2001 which indicated that re-entry and refresher programs are operative from April 2001.

2. $1 million has been allocated for nursing recruitment and retention strategies. Currently the Department is developing a broad range of strategies for the allocation of this money and future refresher and re-entry programs will be included in these strategies.

3. The department is currently considering future refresher and re-entry programs for Enrolled and Registered Nurses within metropolitan and rural areas. Indicative planning is for four additional courses with a minimum of 16 students in each course.

The Department is conscious that these additional programs, on top of already existing programs requiring clinical placements within ward areas, need to be balanced to ensure nurse preceptors are not over burdened with the need to support and supervise students. Currently clinical placements are provided for pre-registration nursing students, post-graduate nursing students, students undertaking enrolled nurse training and refresher and re-entry students.

NURSES, ADDITIONAL

143. **Ms STEVENS:**

1. What is the timetable for employing the extra 200 nurses to be paid for by cancelling the Le Mans Car Race?

2. Which hospitals have been allocated additional staff from the 200 extra positions?

The Hon. DEAN BROWN:

1. Health services have now been notified of their additional nurse allocation quotas from the 200 additional nurses and are recruiting nurses now.

2. Of the 200 nurses the Department of Human Services has identified that 160 will be allocated within acute metropolitan health units and 40 to acute rural units.

Within the metropolitan area 160 extra nursing positions have been allocated to the following hospitals:

- Royal Adelaide Hospital
- Flinders Medial Centre
- The Queen Elizabeth Hospital
- Lyell McEwin Health Service
- Repatriation General Hospital
- Noarlunga Health Service
- Women's and Children's Hospital
- Modbury Hospital

Priority areas for the allocation of the additional nurses were within acute care units including Accident & Emergency, Mental Health, Renal and Obstetrics.

Country and Disability Services Division in conjunction with the Regional Health Boards is currently developing processes for the deployment of the additional 40 nurses allocated to rural units so that maximized health outcome can be achieved.

HUMAN SERVICES REDEPLOYEES

144. **Mr De LAINE:** How many mid to upper management staff have been redeployed outside of the Department of Human Services, what are the long term plans for these redeployees and is the department still paying their salaries and if so, what is the total cost?

The Hon. DEAN BROWN: There are currently two Department of Human Services (DHS) redeployees in the mid to upper management levels who are employed outside of DHS. Neither of the redeployees are funded by DHS, and both have demonstrated their ability to win funded placements or positions.

In September 1999 an EXA was appointed to a jointly funded Justice—Human Services position—Project Director, approved by the Cabinet Committee on Illicit Drugs. Commonwealth funding is now available for the Police Drug Diversion Initiative, which includes funding for this position.

Since March 2001, this employee has been acting in the position of program director within the Justice Strategy Unit. This position is funded by the Justice Department. There is no definite end date at this time. There is no cost to DHS.

An ASO7 has been employed in the Passenger Transport Board (PTB) since 13 June 2000 as a Senior Consultant in the Strategic Planning area.

The PTB fully funds this position. Currently the placement extends to November 2001. There is no cost to DHS.