LEGISLATIVE COUNCIL

Tuesday 6 September 1994

The PRESIDENT (Hon. Peter Dunn) took the Chair at 2.15 p.m. and read prayers.

QUESTION ON NOTICE

The PRESIDENT: I direct that the written answer to the following question, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: No. 1.

TARGETED SEPARATION PACKAGES

1. **The Hon. ANNE LEVY:** Of the staff employed at the Film and Video Centre on 1 June 1994—

1. How many have taken separation packages, and what were their classifications?
2. How many have moved to the Public Library system, and what were their classifications?
3. How many have moved to the State Library, and what were their classifications?
4. How many have moved elsewhere in the Public Service, to which agency, and what were their classifications?
5. How many have stayed with the Film Corporation, and what were their classifications?
6. How many are on the redeployment list, and what were their classifications?

The Hon. DIANA LAIDLAW: The replies are as follows:

1. Six employees took Targeted Separation Packages at the following classifications: EO-1; ASO-6; ASO-3; ASO-2; OPS-2.
2. Five employees applied for positions within PLAIN Central Services, a division of the State Library, and four employees were appointed to positions at ASO-2 and PSO-1 classifications. One employee withdrew from the process.
3. As above.
4. One employee returned to her substantive position within the Public Service (ASO-1) and another employee (PSO-1) has a temporary position within the History Trust of South Australia.
5. There are no SA Film and Video Centre employees employed by the SA Film Corporation.
6. There are two redeployees at the SA Film and Video Centre and their classifications are PSO-1 and ASO-5. A third employee (OPS-2) has indicated preference for a Targeted Separation Package.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Education and Children's Services (Hon. R.I. Lucas)—

South Australian Government Financing Authority—
Report, 1993-94.

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

Regulations under the following Acts—
Cremation Act 1891—General.
Fisheries Act 1986—
General—
Giant Crab.
Various.
Marine Scalefish Fisheries—Transfer of Licence.
Lakes and Coorong Fishery—Bluethroated Wrasse.
Rock Lobster Fisheries—Bluethroated Wrasse.
Aquatic Reserves—Fishing Activities.
Legal Practitioners Act 1981—General.
Subordinate Legislation Act 1978—Postponement of Expiry.
Summary Offences Act 1953—Traffic Infringement Notice.
Rules of Court—
District Court—District Court Act 1991—ER&D Court.
Supreme Court—Supreme Court Act 1935—Admission.
Summary Offences Act 1953—
Dangerous Area Declarations, 1/4/94-30/6/94.
Road Block Establishment Authorisations, 1/4/94-30/6/94.

By the Minister for Consumer Affairs—

Regulations under the following Acts—
Administration and Probate Act 1919—Public Trustee's Commission and Fees.
Landlord and Tenant Act 1936—Commercial Tenancies.
Liquor Licensing Act 1985—Dry Areas—Esplanade Christies Beach.

By the Minister for Transport (Hon Diana Laidlaw)—

Development Assessment Commission—Crown Development Report on a land division by the Minister for Infrastructure at Bain Street, Pasadena.
Public Parks Act 1943—Report on disposal of public park known as Maximum Young Memorial Park, Mount Gambier.
Corporation By-laws—
Marion—
No. 1—Permits and Penalties.
No. 2—Moveable Signs.
Salisbury—No. 10—Fire Prevention.

By the Minister for the Arts—

Regulations under the following Acts—
State Opera of South Australia Act 1976—Election of Candidates.
State Theatre Company of South Australia Act 1972—General.

STEAMRANGER

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW:

I wish to inform the council of the decisions taken by the Government in regard to the future operation of SteamRanger's tourist train services between Mount Barker Junction and Victor Harbor. To put these decisions in context I will relate some background considerations.

The Crown is the owner of the Victor Harbor Tourist Railway. On 31 August 1990 the then Minister for Tourism, Hon. Barbara Wiese, signed a Memorandum of Agreement with the Australian Railway Historical Society (SA Division) Inc., appointing the Society (better known as SteamRanger) as the operator of this tourist railway. The Agreement provides that the railway operate as a self supporting enterprise.

SteamRanger has enjoyed considerable success since this time with ticket sales growing from 5 000 in 1991 to 7 500 in 1993 and revenue collection growing from $200 000 in 1991 to $290 000 in 1993. These results are excellent considering the depressed state of South Australia's economy over the same period.

Today SteamRanger is regarded as an important tourism asset that makes a valuable contribution to the State's tourism product.

Regrettably, Mr President, due to circumstances that are entirely beyond their control, SteamRanger's service to Victor Harbor is now under threat. The threat is a direct consequence of the Commonwealth Government's 1992 'One Nation' funding decision to convert the broad gauge Adelaide to Melbourne rail line to standard gauge.

When the standardisation is completed in May 1995, SteamRanger will be unable to operate its broad gauge service because the single section of track between Belair and

the Mount Barker junction will be standard gauge. The National Rail Corporation, which is responsible for the management of the standardisation project, has been adamant that retention of the broad gauge track, via the provision of a third rail concept, is not acceptable for reasons of cost, technical difficulties and safety.

Considering the uncertain situation in which SteamRanger finds itself today, I believe that it is unfortunate that former Premier Bannon and his Cabinet colleagues did not consider SteamRanger's fate when agreeing to the terms of the One Nation funding back in 1992. The omission has placed the State Government in a vulnerable position in all subsequent negotiations to save the SteamRanger service to Victor Harbor. Yet, it is apparent, from the numerous files I have looked at over recent weeks, that the then Labor Government considered the Commonwealth Government to be solely responsible for the costs associated with relocating SteamRanger's operations to Mount Barker junction from May 1995. For instance, on 21 August 1992 the Acting Minister for Tourism, Mike Rann MP, wrote to the then Premier as follows.

> I consider that the move now required by SteamRanger is as a direct result of the standardisation proposition proposed by the Federal Government. It would therefore be logical to debit the required expenditure of approximately $1.2 million to the overall standardisation project. It is not reasonable to expect the State Government or the society to pay this cost.

On 23 December 1992, the former Minister of Transport Development (Hon. Barbara Wiese) approved a recommendation from the then General Manager, State Transport Authority, that:

> . . . any financial assistance sought by SteamRanger from the State Government be incorporated in subsequent negotiations with the National Rail Corporation.

And on 2 June 1993, the former Minister of Transport Development wrote to the Minister for Transport and Communications, Senator Collins, confirming as follows her meeting with him on 27 May 1993:

> We discussed and agreed to further talks on two issues which have arisen as a consequence of the standardisation of the Adelaide to Melbourne line, namely, assistance in meeting costs associated with the necessary relocation of SteamRanger.

The Liberal Government shares the view of the former Government that it is appropriate for SteamRanger to seek compensation for injurious effect arising from the Federal Government's standardisation initiative, as this initiative frustrates SteamRanger's rights to operate a service between Adelaide and Mount Barker. However, the Federal Government denies any such liability. On 26 August last, the Federal Minister for Transport, Hon. Laurie Brereton, advised that:

> . . . he considered the relocation costs to Mount Barker are properly a matter for the South Australian Government, State regional and tourism agencies and the organisation itself.

On 31 August, Mr Brereton reinforced his view that 'the future of SteamRanger is properly a State matter', in response to my urgent representations that he reconsider his refusal to accept any funding responsibility for the relocation of SteamRanger to Mount Barker.

In the meantime, Mr Brereton told an *Advertiser* journalist on 31 August that he was prepared to reconsider the matter if he received the advice that the State Government was prepared to contribute to the relocation costs. I have never received such advice from Mr Brereton; nor have any of my colleagues who have an interest in this matter. Nevertheless, the State Government is now prepared to make a contribution towards the cost of saving SteamRanger's services from Mount Barker to Victor Harbor. In doing so, the Government is not prepared to accept the latest estimate of $2.1 million to relocate SteamRanger on a 'like to like' basis at Mount Barker.

The State Government's funding contribution is conditional on SteamRanger reducing the estimated like to like relocation costs from $2.1 million to $1.126 million. This reduction in cost of $840 000 can be achieved by deleting some proposed works and seeking $401 000 in non-cash contributions, or work in kind.

In the light of the Federal Government's refusal to date to contribute to this program, the works which the State Government believes are reasonable to delete from the $2.1 million proposal are additional works ($165 000), additional track materials ($150 000), and the wash out pad ($7 500). Essentially all these items relate to the inventory of rolling stock held by SteamRanger.

SteamRanger leases the majority of its rolling stock from TransAdelaide, formerly the State Transport Authority, at a sum of $1 per annum under a 20-year agreement, which commenced on 1 September 1986.

The Hon. C.J. Sumner: Very generous.

The Hon. DIANA LAIDLAW: Enormously generous, yes. The State Government's contribution to the Mount Barker relocation costs will be met by the Commissioner of Highways purchasing part of the 4.176 hectares of land at Dry Creek which is owned by TransAdelaide and currently leased to SteamRanger for use as a depot. The most up-to-date valuation report, dated 5 April 1993, puts the two parcels of land at this site at $625 000 and the improvements at $514 000.

This land is surplus to TransAdelaide's requirements. In a letter dated 5 January 1994, the Acting General Manager of TransAdelaide advised that if required for future highway purposes he was in agreement that the funds obtained from any sale be vested with the Chief Executive Officer, Department of Transport. It is apparent from all discussions I have had with the Department of Transport that this land will be required by the Road Transport agency for extension of Montague Road.

It is not proposed that all of the depot land at Dry Creek will be purchased by the Commissioner of Highways. Some land, which houses storage sheds, will be retained as the Government is keen to provide an opportunity for SteamRanger or some other party to operate a regular historic broad gauge rail service through the Barossa Valley to Angaston. The Tourism Commission has confirmed that such an initiative would be a popular and long overdue asset to our tourism product in South Australia.

The State Government is not able or prepared to meet the full cost of relocating SteamRanger to Mount Barker, notwithstanding our belief that such costs can be reduced from $2.1 million to $1.26 million. Accordingly, I have been authorised to seek a funding contribution from the Federal Government. I propose to meet with representatives of SteamRanger later this week to outline the terms of the State Government's contribution to the relocation of the depot to Mount Barker. These terms may require the Australian Railway Historical Society to cull its rolling stock to only that necessary to operate the Cockle Train between Victor Harbor and Goolwa and the tourist railway between Mount Barker junction and Victor Harbor.

Also, I should record that the State Government's participation recognises that the Currency Creek bridge may

require major rectification work to be carried out by the year 2000, plus work on level crossing protection and track embankments.

Overall, the State Government remains of the view that it is not fair or reasonable for the State to pay for SteamRanger's move to Mount Barker—a view consistently held by Labor when it was in Government. However, the Federal Government's refusal to date to contribute in full or in part has left the State Government with no choice but to find funding sources which will help ensure that the Victor Harbor tourist railway remains open for business. The State Government refuses to accept that the SteamRanger service to Victor Harbor should be sacrificed because the Federal Government has at long last decided to commit funds to standardise the Adelaide-Melbourne railway line.

ARTS AND CULTURAL DEVELOPMENT TASK FORCE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement.

Leave granted.

The Hon. DIANA LAIDLAW: I am pleased to table the report of the Arts and Cultural Development Task Force. Copies of the report have been distributed widely within the arts community and to other interested parties. I have also sent copies to members of the Opposition who have a special interest in the arts and placed a copy (as I am required to do) in both the Parliamentary Library and the State Library.

Members will recall that the task force was established last February with two broad aims:

- to prepare a plan to identify ways of encouraging, promoting and supporting the arts and cultural development in South Australia; and
- to develop strategies to position the arts and cultural industry to play an integral role in the social and economic activity of our State.

The task force has succeeded in determining the elements that make the arts and cultural development so special in South Australia and identifying the areas that have the greatest potential to contribute to the vitality of the industry and to the cultural strength of our State.

The report shows the way to build on those strengths and opportunities over a timeframe of three to five years. It recommends new directions for the arts in South Australia and new priorities for funding.

The report confirms that the arts and cultural industry is a significant generator of revenue and employment. The total South Australian household expenditure on arts, culture and entertainment is currently estimated to be worth nearly $12 million a week or over $620 million a year. Australian Bureau of Statistics research shows that 150 000 South Australians worked in cultural activities in 1992-93, approximately one-third of whom received payment.

The report's recommendations are wide ranging and include new technologies, commercial opportunities for arts organisations, cultural export and cultural tourism, Aboriginal arts and culture, the North Terrace cultural precinct, marketing and sponsorship of the arts and ways of encouraging new works.

The Adelaide Festival was the subject of a separate report released last June which recommended ways of strengthening its governance, management and operation.

The task force report recommends strategies to give priority to funding those activities which are central to the cultural health and identity of South Australia as well as to those which can contribute to its economic well-being. It also deals with the need to foster strategic partnerships between key organisations and the public and private sectors and identifies three important areas for further detailed planning, namely, festivals; local government and regional cultural development; and arts education and training.

The task force recognised that our education system has a fundamental, underpinning role in fostering a dynamic arts and culture industry and in the development of discerning audiences and consumers through nurturing creativity, developing skills and talents and exposing students to a range of quality arts and heritage experiences.

The report recommends building closer links with education and training providers and the development of more vocational-training pathways between schools, TAFE, higher education and industry. The task force also recognised local government's increasingly important role in community cultural development and recommends stronger links and greater collaboration between State and local governments in this area.

Cultural tourism is seen by the task force as having great potential to benefit the arts. Recommendations include strengthening partnerships between arts and tourism authorities and helping arts and heritage organisations to benefit from tourism. Three areas with particular potential for cultural tourism are identified as festivals, the North Terrace cultural precinct and Aboriginal arts and culture.

Members will be aware that, in the recent State budget, $800 000 was provided from the arts budget for a feasibility study for a national Aboriginal museum at the Museum. This comes on top of stages 1, 2 and 3 of the Art Gallery redevelopment.

The report recommends linking major arts events with other prime attractions of the State: food and wine, the outback and the environment, heritage and lifestyle.

Other recommendations include investigating possible sources of additional revenue for the arts and refocussing the Department for the Arts and Cultural Development to make it more efficient, more customer and service oriented and more responsive to changing needs and directions.

I set the members of the task force an enormous challenge, and I thank them all for their work in grappling with the large and diverse range of issues that characterise the arts and cultural development in South Australia.

In particular, I thank Mr Ross Adler, Managing Director of SANTOS Limited, who chaired the task force meetings. I wish to put on record my appreciation of the generous amount of time that all members made available in agreeing to serve on the task force, and they did so without payment. Also, I thank all the people who willingly gave up their time to address the task force and also those who made written submissions. Their contributions were of great assistance to the task force in its deliberations and in formulating its report.

The report has been noted by Cabinet, and Cabinet has authorised me as Minister to use the report as the basis for long term planning in arts and cultural development in South Australia. Specific proposals emanating from the report will be considered on a case-by-case basis, subject to budgetary considerations.

I commend the report to the Council, confident that it offers a framework for the future in the Government's quest to develop a new spirit of adventure in the arts in South Australia. In response to an interjection from the Attorney-General earlier, I did indicate that copies of the report have

been sent to members who have a special interest in the arts. I am happy to circulate a copy to all members of Parliament.

AUDITOR-GENERAL'S REPORT

The PRESIDENT laid on the table the Auditor-General's Report and the Treasurer's Financial Statement for the year ended 30 June 1994, Volumes 1 and 2.

QUESTION TIME

TEACHER NUMBERS

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about teacher numbers.

Leave granted.

The Hon. C.J. SUMNER: Earlier this year the Audit Commission identified what it described as a surplus of teachers in the Education Department and recommended that the number of teaching staff be reduced to the number of permanent positions. I understand that at that time there were 1 139 teachers in this category. This additional so-called surplus staff has in the past been used to provide resources to schools with special needs and in other ways. Obviously, if the Audit Commission recommendation is accepted this capacity will be removed. In the recent budget the Treasurer announced that there would be a reduction of 422 teacher positions, which could mean a much greater reduction to teaching resources than that announced by the Minister after the budget, depending on the treatment that the Minister intends to give to the Audit Commission's recommendation relating to the 1 139 so-called surplus teachers—in other words, the reduction could be 1 561 teachers. My questions to the Minister are:

1. Will the Government reduce the number of permanent teaching staff employed by the Education Department to the number of permanent positions for teachers, as recommended by the Audit Commission?

2. Is the total of 1 139 the target for the reduction in the number of surplus teachers, which was identified by the Audit Commission, in addition to the 422 teacher positions to be lost as announced in the budget?

3. How many teachers have accepted separation packages since the election last year and, to date, of the so-called surplus teachers identified in the Audit Commission report, by how many have they been reduced?

The Hon. R.I. LUCAS: The Leader of the Opposition I am sure will be delighted to know that we will not be getting rid of 1 500 teachers: the budget statements make it quite clear that the number of teaching positions to be reduced will be 422. I will need to get some information from my department on the number of surplus positions that currently exist, but certainly the most recent advice that I can recall is that we have very few surplus teachers remaining within the system. I will need to check the definition of the Audit Commission's version of what is a surplus teacher and what the personnel section of the Education Department includes as a surplus position; for example, whether the 800 to 900 teachers currently on leave have been included by the Audit Commission in its definition of surplus. I will be pleased to refer the question to my department and bring back a reply as soon as I can.

ROCK THROWING

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Transport a question about bus violence.

Leave granted.

The Hon. BARBARA WIESE: Members will be aware of recent media reports of the number of incidents involving rock throwing at TransAdelaide buses. The most serious of these incidents occurred just over a week ago when a bus passenger was struck by a rock and required hospitalisation. I understand that there have been at least 70 of these incidents this year but that could well be a conservative estimate, because some people have put it at something like five to 10 incidents occurring per week somewhere in the metropolitan area. I have been reluctant to raise this issue at any time during this year, even though it is my view from the reports that I have received that the number of such incidents is increasing, because I am also aware that publicity given to such incidents very often attracts copycat acts and I did not want to be a party to that.

However, in recent times these incidents are receiving publicity. Understandably, bus operators in various parts of TransAdelaide's operation are extremely concerned about them, as are members of the travelling public in the areas that are affected. So much so that today, at the request of operators of the Lonsdale depot, a stop work meeting was held to discuss the issue and to decide on a course of action. Officers of the Public Transport Union were also in attendance at that meeting. I am advised that over 100 operators from the Lonsdale depot (which employs about 130 in total) attended the meeting and subsequently endorsed a four point resolution. The resolution calls on the Government and TransAdelaide to do the following: first, for the Government to fit all bus windows with a product called Sola Seal, or a similar substance. I understand that this product is a treatment for windows that prevents the splintering of glass on impact.

They also want the Government to fit all buses with operator security screens and to fit all new buses with high impact resistant glass. Further, they called on the Minister for Transport and other relevant bodies such as the police, in association with the Public Transport Union, to set up a mechanism to achieve progress on issues affecting operator and passenger security. Such issues would include vandalism, graffiti and assault as well as the recent missile throwing occurrences. I believe that operators also expressed the view very forcefully that they would be taking a close interest in penalties imposed by the courts against individuals apprehended in connection with missile throwing incidents, because they feel that such offenders have been treated too leniently in the past. The meeting asked PTU officers to provide regular reports on progress and resolved that lack of progress will lead to further industrial action.

It is an unusual step for bus operators to call a stop work meeting, and the fact that they did indicates the current level of anxiety that exists amongst them. The attacks of which they complain have definitely escalated during this year, and operators alone are defenceless to stop them. The Government has a responsibility to provide a secure working environment for its work force and a safe public transport system for its citizens. In my view, the Government has now had some nine months to fulfil the election promises that it made with respect to security in the public transport system. Action is long overdue, and it is needed right now.

My question to the Minister is: as the Government pledged at the last election to improve security on our public transport system, will she commit the Government to providing the protections that have been requested today by bus operators? If not, why not?

The Hon. DIANA LAIDLAW: The Government has been active in the field of safety of passengers and bus drivers over the period that it has been in Government. One of the ironies of this situation is that vandalism within buses has decreased dramatically because cameras have been working effectively and the police, who are now responsible for policing the transport service, have been so successful in terms of making arrests—I will come to that in a moment. In respect of the problem which the former Government faced regarding vandalism and graffiti on buses, of which to a huge extent I was critical in this place, the former Government started to implement—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: Are you interested in the reply? I thought you would show some interest in the reply as well as asking the question. The former Government faced an absolute nightmare in terms of vandalism on buses and trains—

The Hon. Barbara Wiese: Nothing like this.

The Hon. DIANA LAIDLAW: That's not true—to the extent that the State Government committed tens of thousands of dollars to the implementation of a video system within buses. That has been successful to a large measure together with the current Government's decision to put the policing of the public transport system into the hands of the South Australian Police Force. The problem with these kids, generally, is now out of the buses not within the buses, and we now face this spate of rock throwing, which the former Minister has described.

In terms of safety on public transport in general, since January when the police took over from the STA operated system, the number of arrests has increased. For instance, last year, after the police took over, the number of arrests increased from 20 in December to 55 in January; 89 in February; 86 in March; 67 in April; 59 in May; and 68 in June. So, it is quite clear that, in terms of trouble on buses and trains, action is being taken by the police and the public are more satisfied rather than seeing these troublemakers get away scot free because they are not being arrested or reported. I seek leave to insert a purely statistical table which indicates the number of offences that have resulted in arrests and reports during the period December 1992 to July 1994.

Leave granted.

1. The following number of offences resulted in arrest or report:

	Arrest	Report	Total
1992—December	30	23	53
1993—			
January	23	17	40
February	12	7	19
March	6	9	15
April	14	8	22
May	9	16	25
June	8	14	22
July	5	17	22
August	6	31	37
September	13	27	40
October	8	16	24
November	12	21	33
December	20	21	41
1994—			
January	55	24	79
February	98	100	198
March	86	118	204
April	67	70	139
May	59	80	139
June	68	66	134
July	70	37	107
TOTAL	669	722	1 391

- A monthly breakdown of the offence categories is attached as Appendix A-F.
- These figures do not include offences detected which were reported on a 'Transit infringement Notice' (TIN) and referred to the STA prosecution section.

The Hon. DIANA LAIDLAW: I also should indicate—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: The honourable member made an accusation that the State Government has done nothing. I also indicate that in respect of trains we have indicated—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —that we will be reintroducing passenger service attendants (60 of them) to replace the former guards. In fact, guarding on that service will be upgraded. The public has continued to tell us that it was a mistake by the former Government to get rid of guards on trains. The new passenger service assistants will free up more of the Police Force to look at issues on buses. So, the Government can hardly be accused by any reasonable member of this place of not taking action in this field.

I also indicate that we have been busy applying Sola Seal laminated film to bus windows, initially to protect the bus driver, because we not only recognise that it is important that the driver be protected in this way as it is an occupational health and safety matter but also if the bus driver were hit the bus would go out of control and everyone would be vulnerable. The front and side windows next to where the operator sits are progressively having this Sola Seal product applied to them. It is successful. As the honourable member notes, it does not allow glass to splinter and therefore cut the person who may be sitting adjacent to the window.

I appreciate the concern of bus operators. I have spoken to many of them individually, and I would be happy to meet with them, in terms of the resolution they have passed, to discuss with them, public transport union officers and others ways in which we can address this issue. Like the honourable member, I, too, am reluctant to speak publicly about this subject, because it is true that whenever it is raised publicly we see copycat trouble or it seems to be a spur for further offences. I raised this matter of rock throwing on one occasion in relation to one bus service, and the honourable member could, essentially, have taken the explanation that I gave at that time for her explanation today.

I can say with confidence that both the police and TransAdelaide are working extraordinarily hard to address this difficult issue. This matter is difficult to address because there is no consistent pattern to the rock throwing which would enable the police to target a particular location. I should, however, note that commencing on 30 August transit police committed extra resources to the southern area to combat this spate of rock throwing and behavioural problems on TransAdelaide buses. Also, a plainclothes patrol is now targeting nine areas of concern in the southern areas, particularly in the hours of darkness and at other times. In addition, two mobile uniformed patrols will be dedicated to the southern areas to police problems that occur on buses.

I note, in conclusion, that on Saturday 28 August, as a result of ongoing inquiries, transit police reported a 14 year old youth for throwing a rock at a bus on South Road,

Morphett Vale earlier that day. Further inquiries are continuing, and it is likely that another youth will be reported in connection with the same incident. Approximately $50 worth of damage was caused to the bus as a result of scratches to the paint work. Yesterday, I was particularly pleased—pleased but sad in a way, because this time it is a 13 year old youth—to learn that transit police have arrested this youth for throwing rocks at TransAdelaide buses at Elizabeth Road, Christies Downs. He is to appear before the Christies Beach youth court, and I understand that, from further discussions with this youth, there are likely to be further reports and arrests.

SCHOOL CLOSURES

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about school closures.

Leave granted.

The Hon. CAROLYN PICKLES: The Minister's budget media statement acknowledged that about 40 schools would be closed over the next three years. Last Sunday, on radio the Minister rejected the proposal for legislation requiring schools to be given 18 months' notice of closure, and he argued that, once the decision had been taken for that school to be closed, that could happen quickly. The Minister acknowledged that schools ought to be consulted about closure and, in addition, to ensure that there was adequate consultation. The first step towards adequate consultation must be to notify the community of the names of those schools being considered for closure so that parents and all other interested parties are aware of the closure, the alternative facilities being offered and what it means for students attending that school. I believe there is uncertainty within the school community about these proposals to close schools. My questions to the Minister are:

1. Have the schools to be closed been identified? If so, what schools will be closed? If not, what process will be used to identify schools to be closed?

2. Will schools be consulted?

3. Will schools be given notice and an opportunity to comment?

4. Will any schools be forced to close?

The Hon. R.I. LUCAS: I can understand why there might be some concern in school communities about school closures, because for the past nine months, commencing before this State election, members of the Labor Party have been running around every part of South Australia saying that 363 schools in South Australia will be closed down by the Liberal Government. The honourable member's colleague the Hon. Ron Roberts is still running rampant in country areas of the South Australia saying that 23 out of 28 schools in his area will close down or are targeted to be closed by the Liberal Government; that there will not be a school left within country South Australia as a result; that every school that contains under 300 students will be closed; and that if a school has under 600 students it will be closed. He has been saying that a particular school will be closed because he has a flight of fancy and decides it will be closed. That is why there is community concern. There is concern because of the actions of the honourable member and her colleagues since October or November of last year. Of course, that is subsequently taken up by the Institute of Teachers. The Institute of Teachers was marginally less irresponsible than members of the Labor Party, because it said that we would close down only 185 schools in the metropolitan area. I never quite got an estimate of what it was suggesting in the country areas, but over the past few months it was suggesting that we would close down half the schools in the metropolitan area. What the budget has indicated and what I have been saying all along is that the claims of Labor Party members and the union leadership, the Institute of Teachers, have been shown—

The Hon. J.C. Irwin: The same thing!

The Hon. R.I. LUCAS: Almost the same thing, as my colleague the Hon. Mr Irwin indicated—to be palpably false, and the Hon. Ms Pickles knows that.

The Hon. Carolyn Pickles: Answer my question.

The Hon. R.I. LUCAS: I am answering your question. That is why there is concern out there, because you have been out there running rampant in effect trying to inflame the concern amongst the parents about their local school, when no consideration at all is involved in many cases. I have answered this question on dozens of occasions, and I am happy to answer it again: there will be consultation. We are using the same policy as the previous Labor Government used when it closed down 60 or 70 schools in six or seven years prior to the 1994 election. There will be consultation, and they will have the opportunity to put a point of view to the Government. However, in the end, the decision will be taken by the Government and by me as Minister.

We will not go down—I think the Hon. Mr Sumner asked this question of me; I refer the Hon. Ms Pickles to the answer I gave to the Hon. Mr Sumner earlier this year, as it is the exactly the same answer—the path the Labor Party was talking about where, if you have three students left in a school and there was a school two kilometres up the road, and the parents of those children wanted the school kept open, the Labor Party's policy was that it would keep open the school for those three students and their three families. That was palpable nonsense, but that was the policy that the Hon. Sumner and his colleagues took to the last election and I presume is still the policy of the Labor Opposition in South Australia. So, in the end, the decision will be taken by the Government, by me as Minister, based on advice from the department, and after consultation with local school communities. When we are in a position, as was the previous Government, to look at reviewing educational provisions in any part of South Australia, we will advise the schools in those areas that a review is to be conducted in some way of educational provision and equality of educational provision being able to be provided by the groups of schools in that area.

The Hon. Carolyn Pickles: If you have a group of over 40, you must know which ones will be closed.

The Hon. R.I. LUCAS: We are working on the same average as the Labor Government. In the last six or seven years, you were closing merrily about 10 schools a year.

The Hon. Anne Levy: And opening a lot, too.

The Hon. R.I. LUCAS: So are we. There is nothing new about opening schools; there is $5 million going on a new school at Greenwith and $10 million or $15 million is going—

The Hon. C.J. Sumner: Is that 40 net closures.

The Hon. R.I. LUCAS: We are not talking about calculations: they are closures.

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: You're asking a question about closures, not about new schools opening. That was the interjection from the Hon. Ms Levy. So, the policy will just

be a continuation. We have the same policy as the previous Government. Prior to the last election, for six or seven years members opposite were averaging closing about 10 schools a year. We have the same policy and procedures, and we are working on the same average. We do not have a hit list of 40 schools, to say, 'You'll close down.' We are working on the same policy and the same averages. We are a very moderate, modest Government in relation to that. We have a very modest program of school closures, nothing like the scare tactics that the Labor Party and the Institute of Teachers' leadership have been trying to put around the community. And we are working on that basis. Therefore, it is impossible for me to stand here today or in the budget and say, 'Here are the 40 schools that will close down.' We are not in a position to know that. It will be a question of ongoing review, of education provisions and other variables in South Australia and we are working on that basis.

OUTBACK AREAS TRUST

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister representing the Minister for the Environment and Natural Resources and also the Minister for Aboriginal Affairs a question about the Outback Areas Trust.

Leave granted.

The Hon. ANNE LEVY: The Outback Areas Trust was established many years ago, with strong bipartisan support and has been extremely successful in providing funds to isolated communities that are not within any local government area. It has dealt with a large number of small isolated communities and, although until now it has dealt with nearly all the Aboriginal communities throughout this State, the Local Government Grants Commission has recently agreed to provide grants from the Federal local government money to communities in the Pitjantjatjara and Maralinga lands, at Yalata and at Gerard. However, many outback communities, consisting very largely of Aboriginal people, will require the assistance of the Outback Areas Trust, along with many other small communities scattered throughout South Australia. I refer, for example, to the Aboriginal communities at Marree, Oodnadatta and several others which are outside local government areas and which will continue to rely on the Outback Areas Trust.

Ever since its formation, the Outback Areas Trust has had an Aboriginal person as a member. It was understood that it was accepted in a bipartisan spirit that as the trust provided assistance to many Aboriginal communities it was highly desirable that an Aboriginal person be one of its members. In fact, the first Aboriginal member was, of course, Lois O'Donohue, who has gone on to far bigger and better things as the Chair of ATSIC, which position she has held for a number of years. However, after Lois, a series of other Aborigines have been members of the trust.

I understand that recently the Aboriginal person who was a member of the trust had to resign due to pressure of other activities. The members of the Outback Areas Trust prepared a list of possible people who could replace the person who had resigned and sent that list of names, all Aboriginal people, to the Minister responsible, that is, the Minister for the Environment and Natural Resources. However, the Minister did not appoint an Aboriginal person to the trust. Instead, he decided to appoint Joy Baluch. Even her greatest friends and greatest enemies combined would not suggest that Ms Baluch in any way could be described as an Aboriginal person. So we now have the Outback Areas Trust, for the first time in its history, with no Aboriginal member, despite the fact that it still has responsibility for a large number of Aboriginal communities. It seems to me that this should be a matter of grave concern to the Minister for Aboriginal Affairs—

The PRESIDENT: This is not opinion, I hope.

The Hon. ANNE LEVY: It is not an opinion; it is a hope that the Minister for Aboriginal Affairs would be concerned, and I would also expect that the Minister for the Environment and Natural Resources would feel ashamed of being responsible for an Outback Areas Trust to which he has not appointed an Aboriginal member. My questions, through the Minister for Transport to the two Ministers involved, are:

1. Will the Minister for Aboriginal Affairs take up with his colleague the question of having Aboriginal representation on the Outback Areas Trust?

2. Will the Minister for the Environment and Natural Resources reconsider his decision not to have an Aboriginal member of the Outback Areas Trust and appoint such a person when there are plenty available from whom he can chose so that the history of the Outback Areas Trust always having an Aboriginal member will not be broken?

The Hon. DIANA LAIDLAW: I will refer the questions to both Ministers and bring back a reply.

INFORMATION TECHNOLOGY

The Hon. M.J. ELLIOTT: I seek leave to give a brief explanation before asking the Minister representing the Treasurer a question about outsourcing information technology.

Leave granted.

The Hon. M.J. ELLIOTT: Throughout this year I have had a large number of people coming to me expressing some concern about the outsourcing of information technology. The biggest source of that concern has been lack of information in the public arena. It is, as I understand it, a billion dollar project with quite significant ramifications for the community. A contract of this size has the potential for significant losses.

I have been told that this may well be the largest outsourcing of information technology anywhere in the world. I note that the Auditor-General in the report tabled today stated that it was one of the largest contracts of its kind in Australia. I know that it is the largest in Australia. He also said that it is considered to be large even by world standards. As I said, it is my understanding that it is perhaps the largest in the world. Nevertheless, the Auditor-General himself notes that it is quite a significant project.

The Government was originally due to announce the winning bid by the end of August. As yet there has been no public announcement, although in recent days the Premier has suggested that we may hear something within the next three weeks.

The Government is talking with two tenderers: IBM and EDS Australia. Both, as I understand it, are promising to provide significant sweeteners as part of the overall deal. In other words, when the Government does announce the successful tenderer it will be announcing at the same time new jobs at Technology Park, which will be a potential diversion from debate on the complexities of the outsourcing arrangements themselves. The Government's move—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: I won't be, but the media are. The Government's move has also raised the issue of privacy of records held by and on behalf of the Government's departments. Again I note that the Auditor-General's Report today states in part:

> The IT outsourcing process is an important issue in the context of public sector structural reform and has significant implications for public sector finances and public sector accountability arrangements. In addition, the process requires consideration of the security, integrity and confidentiality of Government information and arrangements for the audit of that information.

The need for legislation to protect such information is plainly important. At present in South Australia we have only administrative guidelines which were put in place by the previous Government. However, of course, they apply only to the Government sector and cover information and databases held by departments.

The Hon. C.J. Sumner interjecting:

The Hon. M.J. ELLIOTT: I try to.

The PRESIDENT: Order! The honourable member will get on with his question.

The Hon. M.J. ELLIOTT: You've got it wrong. I brought it in; you didn't come back with it. You'd better check your facts.

The PRESIDENT: Order! The Hon. Michael Elliott will proceed with his question.

The Hon. M.J. ELLIOTT: I introduced legislation in 1991. As I recall there were problems with a certain member in the Lower House who used to be an Independent Labor member and who came back into the fold—a Mr Evans—who actually scuttled that piece of legislation. Or was it Mr Terry Groom? It was one of the Independents. In fact, on reflection, I think it was the Hon. Mr Groom who scuttled the legislation. Nevertheless, that legislation eventually failed. I note that virtually identical legislation is now in the New South Wales Parliament and has just been referred to a select committee. My questions to the Minister are as follows:

1. Why are not details other than those which differentiate the EDS and IBM bids being made available for public scrutiny? There cannot be any claim of commercial confidentiality in relation to the commonality of factors that have to be considered.

2. Will the Government re-examine its position in relation to privacy legislation, recognising that it has no punitive powers in relation to individuals in the private sector?

The Hon. R.I. LUCAS: I will refer those questions to the Treasurer and bring back a reply.

ARTS AND CULTURAL DEVELOPMENT TASK FORCE

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to table the report to which I referred in my ministerial statement and which is entitled 'Identifying Strategies to Encourage, Promote and Support Arts and Cultural Development in South Australia'.

Leave granted.

IMMUNISATION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about immunisation.

Leave granted.

The Hon. BERNICE PFITZNER: In an article published in the *Medical Observer* of 19 August 1994 it was noted that a survey of 613 children in Queensland revealed that only 60.3 per cent were fully immunised by the age of two. We all know that most immunisations are to be completed by two years of age. These reported immunisation coverage rates are inadequate to prevent outbreaks of vaccine preventable diseases. I realise that this study was based on Queensland children and that there is perhaps a better coverage for South Australian children. However, there have been outbreaks of measles and pertussis (whooping cough) in this State.

I understand that the South Australian statistics are based on statistics taken some years ago from children attending preschools or kindergartens. At the time the statistics were taken in South Australian preschools, the non-attendance rate of four year olds at preschool was 15 per cent to 20 per cent. Therefore, the statistics may be skewed due to the significant non-attendance of preschoolers. My questions to the Minister are:

1. What is the percentage of preschool children who are fully immunised?

2. In what year was this survey taken?

3. Was a sample taken from four year old children who did not attend preschools?

4. If there has been an increase in four year olds attending preschools, as I understand to be the case, would the Health Commission consider taking another survey of these children in order to get a better sample of four year olds?

5. If the vaccination coverage is reported to be adequate, what are the reasons for the outbreak of measles and other vaccine preventable diseases?

6. What is the Health Commission doing to work towards a 95 per cent coverage required to control outbreaks, in particular, measles?

The Hon. DIANA LAIDLAW: I will refer the honourable member's questions to the Minister for Health and bring back a reply.

GULF ST VINCENT FISHERY

In reply to **Hon. R. R. ROBERTS** (4 August).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following responses:

1. TERMS OF REFERENCE
   1. To review the scientific research and basis of advice provided by the South Australian Research and Development Institute and the Industry to the Gulf St Vincent Prawn Fishery Management Committee during the 1993-94 season.
   2. In particular, review:
      - the most appropriate target size of capture;
      - estimates of recruitment;
      - the level of stock depletion due to fishing.
   3. To recommend the most appropriate research program(s) to provide the short and long term data needs on which to base the future management of the fishery.

2. The Minister for Primary Industries released the report on 9 August 1994.

3. There are two sources of catch data from the fishery; the catching sector and the processing sector. SARDI (Aquatic Sciences) and the industry have long standing confidentiality understandings regarding these data that precludes release of information at the individual licence holder level. These agreements do provide for the release of catch information on a fleet basis. Catches (kgs) for the fleet by month for the format fishing periods from the two sources (provisional to date) are:

MONTH	LICENCE HOLDER	PROCESSOR
March	97 932	87 992
April	69 126	50 562
May	39 999	39 875
June	14 947	10 766

TOTAL	222 004	189 195

(Provisional: licence holder data based on returns from 8 vessels pro-rata to 10, not all returns are submitted from processors at the date of compilation.)

DRIVER IN CONTROL

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Consumer Affairs a question about Driver in Control.

Leave granted.

The Hon. T.G. ROBERTS: The implications of the question carry across three portfolios, but I will direct the question to the Minister for Consumer Affairs. Perhaps the Minister for Transport might like to provide an answer to the question at a later date.

A double-page advertisement that appeared in the *Advertiser* of Saturday 3 September describes Driver in Control, a taxi alternative. It states, 'We are a world-wide patent pending service,' and it basically describes a franchising scheme that advertises 'an exciting new global concept for forward thinking people who want to work'. I do not think anyone could fault the introduction as being fairly glamorous, descriptive and euphemistic. It goes on to state:

> 600 employees required today. Due to commence operations in South Australia from 30 September 1994.

Included in the advertisement is an address to send applications, and today only. I think that should ring warning bells to some people: that the applications are advertised for only one day, and the applications are to be sent to the corner of Regency and Prospect Roads.

I understand from my information that the building on the corner of Regency and Prospect Roads is a disused, used car service which is being used as the centre for the applications. I suspect that they will be doing the interviews at that premises. There are names and telephone numbers for people to contact. For those members who are not aware of the details of Driver in Control, I will state that the components of the franchising scheme require people to make an investment in the franchising service, basically to put an investment of $5 700 in their own job. The number of positions advertised is 600, but I understand that the number of cars available will be 300. So, the implications for the Industrial Relations Minister are that people will be required to work 12 hours a day for shift work for a profit-sharing program of approximately $38 880; that is included in the advertisement. They will be working three days on and two days off.

There are many other components of the requirements by the company that issued the application for expressions of interest, but the main part of the advertisement gives details and asks for a lot of sacrifice or detail to be made by the applicant. However, there is not a lot of information about the people who are putting forward the program.

The taxi industry has said that only a small component of its business is made up of the market which is being targeted, that is, driving home people who have been affected by liquor and that already a company provides that speciality service, and it is not breaking world records. I do not think it is listed on the small board of the Stock Exchange yet. It is probably making turnover profits, but nothing like the expected returns that are referred to in the advertisement. The questions which indicate my concerns are:

1. Is the Minister aware of this franchising scheme?

2. Does this scheme operate in other States, and are there any records of its benefits and history?

3. Will the Minister monitor the program and its progress, to protect small investors money and, if not, why not?

The Hon. K.T. GRIFFIN: Some aspects of that are certainly matters within my area of responsibility. I will refer them to my department and bring back a reply. Other parts relate to the Minister for Industrial Affairs and I will refer those matters to him, while other parts relate to the responsibilities of my colleague the Minister for Transport, and I will now defer to her, if she has some information on the matter.

The Hon. DIANA LAIDLAW: I thank the Attorney-General for this opportunity as I would like to make a number of strong comments in relation to this service. I became aware of the service when I noted an advertisement in the *Advertiser* on 3 September relating to Driver in Control. When I approached the Passenger Transport Board on Monday, arrangements had already been made by the Chair of the Passenger Transport Board, Mr Wilson, for two officers to meet with the proprietor of Driver in Control, or DIC. That person is a Mr Legg. I will read the conclusions of the report that I have received on this matter:

> After interviewing Mr Legg and discussing his proposals with several people and agencies, I have grave doubts that his enterprise will get off the ground, let alone operate successfully. I am concerned that with over 100 people prepared to pay $5 700 to be involved in this 'business opportunity' by Friday 9 September 1994 many, if not all, could lose their money. The reason for this comment is that the costs and earnings potential in a business very similar to the taxi industry simply do not add up. I believe, although after a very quick analysis of Mr Legg's proposals, that his proposal is flawed, possibly fraudulent and he is praying on people who are desperate to obtain employment. I also have grave doubts, after discussions with Mr Legg, as to his fitness to be accredited as an operator.
>
> I therefore suggest that the Minister for Transport at an appropriate opportunity make a statement drawing attention to the fact that Mr Legg is not currently accredited as an operator and that the board will consider this matter carefully when fully appraised of the details of his operation. This action may cause prospective investors to more closely examine this investment opportunity. In addition, it appears that Mr Legg has failed to register a prospectus, which may have breached the Australian Corporations Law.

In relation to that matter, a representative of the Australian Securities Commission did meet with the Chairman of the Passenger Transport Board earlier today. As an indication of the concern that all in this place should have about this operation, contact was made with the Ford Motor Company, as it is suggested in the advertisements that all successful applicants, in addition to paying up front $5 700, would have access to a new Ford Falcon. The Ford Motor Company has advised that two months ago it was approached with a request from Mr Legg to purchase 410 vehicles. After discussions with Mr Legg, they advised him that they would not deal directly with him and that he should approach a Ford dealer. Mr Legg apparently did so and approached Ford Credit, which similarly rejected his request for finance. At present Ford is seeking legal advice regarding comments that Mr Legg has made to prospective investors that he has a formal relationship with Ford to purchase and lease vehicles. I have much more information. I suspect that it is not appropriate, even under Parliamentary privilege, to refer to it at this time.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, and it will be said again later today on radio. It is a matter that will be taken up further by the Attorney-General. I thank the honourable member for raising the matter.

INFORMATION TECHNOLOGY

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Leader of the Government in the Council, representing the Premier, a question about privatisation of the State Government's computer system.

Leave granted.

The Hon. T. CROTHERS: In an article on page 10 of the *Advertiser* of Thursday 25 August 1994, it was reported that the State Government would privatise its computer systems under a contract reported to be worth an estimated $1 billion. It was said that the contract will be made for seven years and will be shared between American giants IBM and EDS and will include virtually all the Government's various computer systems. The *Advertiser* article also reports that this is a world first for any Government. The original 30 June deadline set for IBM and EDS to submit their bids was further extended for three months after local computer firms and the Opposition questioned the Government on the nature of the closed bidding process. It is further understood by me from the article that IBM had promised the Premier in a pre-election promise that it would invest in South Australia if it won a slice of the contract. In the light of the foregoing, I direct the following questions to the Leader, representing the Premier:

1. Will the Premier give to this Parliament an unequivocal guarantee that the private rights of the citizens of this State will be protected and that large and suitable penalties will be put firmly in place in order to ensure that our citizens' rights are enforceable?

2. Who will be responsible for any damages actions brought against those international computer giants in the light of claims for damages being brought by citizens who have been hurt or damaged in any way from the computer programs, which will then be in the hands of private computer operators?

3. Who will write the programs for the computer system?

4. Will locally based computer companies be favourably considered over outside based companies?

5. If the contract goes to the multinationals, how many South Australians will lose their jobs due to those two companies bringing in their own experts from outside Australia?

6. Finally, but by no means exhaustively, what weight, if any, in the Government's final placement of the contract, will be given to Australia's current parlous balance of payments problems before the contract is let?

The Hon. R.I. LUCAS: I will refer the honourable member's questions to the Premier and bring back a reply.

ETHNIC CRIME

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Emergency Services, a question about ethnic crime.

Leave granted.

The Hon. SANDRA KANCK: I refer the Minister to a story on the front page of today's *Advertiser* entitled 'Gang link to slain MP', and to various other reports over the past few years on the subject of crimes committed by people of Asian and other ethnic backgrounds. I was deeply shocked, as I am sure all honourable members were, at the death of the member for Cabramatta in the New South Wales Parliament, Mr John Newman. Cultural diversity can create special problems for law enforcement, and I am concerned that South Australia's Police Force and police recruitment policy should reflect the cultural diversity of our community.

I am informed that a number of ethnic people, for a variety of reasons, believe they are not being adequately served by a predominantly white Anglo-Saxon Police Force in this State. I was disturbed to discover that the South Australian Police Department currently has no recruiting policy aimed specifically at ethnic groups. I understand that this policy is currently under review. My questions to the Minister are:

1. Does the Minister believe it important to the concept of community based policing to have a Police Force that reflects the cultural diversity of the community in order to address ethnic group based crime and to provide effective protection for people of other ethnic groups?

2. Does the Government intend to develop recruiting policies aimed specifically at people from ethnic backgrounds?

The Hon. K.T. GRIFFIN: I will refer those questions to my colleague in another place and bring back a reply. My recollection is that it is not correct to say that there are no proper recruitment policies addressing some of the issues referred to by the honourable member. I do not have the detail at my fingertips, but I will be pleased to bring back a response after consulting with the honourable Minister.

REAL PROPERTY (VARIATION AND EXTINGUISHMENT OF EASEMENTS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Minister for Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Real Property Act 1986. Read a first time.

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

That this Bill be now read a second time.

I appreciate the concurrence of the Council in allowing me to suspend Standing Orders for the purpose of introducing this Bill immediately; it is a matter that has some urgency attached to it. During the last Parliamentary session a series of miscellaneous amendments to the Real Property Act were passed by the Parliament. As a consequence of amendments moved during the passage of the Real Property (Miscellaneous) Amendment Act through the Legislative Council (to accommodate concerns raised by the Law Society Property Committee), the potential scope of the amendments relating to the extinguishment of easements is considerably narrower than had been originally intended.

This Bill proposes further amendments dealing with the issue of the extinguishment of easements. There is one potential development in the State which is currently impeded by the existence of an easement over a closed road, which has in fact been built over for some 20 years. Under the terms of the Real Property Act as it now stands the easement can only be removed from the title with considerable difficulty and expense in locating and obtaining the consent of all dominant owners, believed to be in the vicinity of about 100. The proponents of this development have requested that the Government give further consideration to the matter of the variation and extinguishment of easements.

In order to facilitate this development in particular, but with a view to streamlining the process of the extinguishment of easements, the issue has been further considered and new provisions have been prepared. The amendments provide a mechanism whereby the consent of the owner of the dominant or servient land to the variation or extinguishment of an easement may be dispensed with if the Registrar-General is satisfied that the proprietor's interest in the land will not be detrimentally affected.

Two special provisions are included for the extinguishment of certain rights-of-way. It is often the case that a right-of-way which was originally created to provide access to the dominant land becomes separated from the dominant land by the creation of intervening allotments. Provision is made in this case for the Registrar-General to extinguish the easement if satisfied that there is no reasonable prospect of the proprietor or a successor in title using the right-of-way for access to the dominant land. Further provision is made for the Registrar-General to extinguish a right-of-way where the dominant land is separated from the intervening land and the Registrar-General is satisfied that the continued existence of the right-of-way would not enhance the use or enjoyment of the dominant land.

Each of the provisions require notice to be given of the proposed variation or extinguishment of easement. Section 276 of the Real Property Act deals with the manner in which notice must be given. This section provides notice may be given personally or by certified post or by publication of the notice in a manner directed by the Registrar-General. This provision permits consideration of the particular circumstances relating to particular easements in determining which is the most appropriate method of giving notice. These amendments will provide a useful addition to the Real Property Act and will make the processes of extinguishing easements simpler. I commend this Bill to honourable members, and I seek leave to have the detailed explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 90b—Variation and extinguishment of easements

Clause 3 amends section 90b of the Real Property Act 1886 inserted by the Real Property (Miscellaneous) Amendment Act 1994. This amending Act has not yet come into force and therefore consolidations of the Real Property Act 1886 do not include new section 90b. The Bill replaces subsection (3) of section 90b with six new subsections. New subsections (3) and (3a) replace the substance of subsection (5) but in addition allow the Registrar-General to vary or extinguish an easement without the consent of the proprietor of the dominant or servient tenement if 28 days notice has been given to allow the proprietor to make representations to the Registrar-General. New subsections (3b) and (3c) are examples of the situations catered for by subsections (3) and (3a). Subsection (3d) requires the Registrar-General to be satisfied that 28 days notice has been given to the proprietor of the dominant land before taking action under subsection (3b) or (3c). Subsection (3e) prescribes the requirements for the notice to be given under these provisions. Paragraph (b) of clause 3 removes subsection (5) of section 90b.

The Hon. C.J. SUMNER secured the adjournment of the debate.

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 3 August. Page 36.)

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition supports this Bill, but I will have some questions I would like answered by the Attorney-General. Subject to being satisfied with those answers, I anticipate no problems with the Bill at the third reading. This Bill is part of a process that I set in train a few years ago to comprehensively review the criminal law in South Australia. This was being done as part of a national exercise which at that stage was to see the development of a national criminal code. It followed earlier recommendations for reform of the criminal law made in the 1970s by the Mitchell committee, the Committee on Criminal Law Reform chaired by then Justice Mitchell of the Supreme Court and now Governor of the State. A considerable amount of activity took place around the Mitchell committee report over the ensuing years and, when I introduced this current program for reform of the criminal law, I had an assessment done of the recommendations of the Mitchell committee that had been implemented, and they were tabled in Parliament at that time.

So, over the past couple of decades we have seen considerable attention given to reform of the criminal law, and that is a process that is ongoing and I understand will be ongoing as far as the present Government is concerned. This Bill is part of that process and follows a discussion paper which was prepared by the Criminal Law Officers Committee (CLOC), a subcommittee of SCAG (the Standing Committee of Attorneys-General), and which was produced for consideration around Australia as part of the codification exercise. It was also provoked by consideration to issues raised by the Hon. Bob Ritson, who dealt a couple of years ago with some of the issues that are repeated in the Bill currently before us, including the treatment of persons who are found not guilty by reason of insanity and the situation relating to their detention and release from detention. I trust that this process that I have outlined, of which this is a part, will continue under the present Government and that we will see further proposals introduced that ultimately will lead to a codification of the law in this area.

The Bill merits support, but there are some concerns which I wish to identify. First, a 'victim' is defined as 'a person who has suffered significant mental or physical injury'. I query why it is necessary to stipulate the word 'significant'. Also, this definition would not cover people living in justifiable fear of a further attempt at being harmed by the defendant after being the subject of an attempted attack from which no mental or physical injury was suffered. Secondly, the defendant's next of kin and the victims (if any) of the offence with which the defendant was charged are: to have their views expressed in court, a report to be arranged by the Crown (provided for in proposed section 269O); to be given reasonable notice of proceedings by which the defendant may be released or supervised less rigorously (proposed section 269Q(2d)); and to be provided with counselling services in respect of an application for release of the defendant (proposed section 269V).

The question that arises in this context is: should not the next of kin of victims be included in these provisions to cover situations where the victim is a child or where the actual victim is deceased possibly as the result of homicide? Presumably, the fact that the alleged offender is never brought to trial (through being unfit to plead) will not prevent a person from being considered a victim. I think the definition of 'victim' allows for this, but I would like that confirmed by

the Attorney-General. The general point I make, though, is whether there are people who should be notified of a change in status of a defendant who has been found not guilty on the ground of insanity and whether or not the current proposals give the broader category of person the capacity to comment on any change in status. I do not believe that is the case at present, but I would like the Attorney-General to give attention to it. There may be people with a justifiable fear of being harmed on release of a person who has been committed to an institution, but who are not technically victims, and there may be, as I said, the next of kin of the actual victim in the case of the parents of a child or the relatives of a deceased person who was the actual victim.

The third point is that there is no penalty for a person who escapes from detention after having been committed to detention as a result of committing a crime while mentally impaired. This is dealt with in proposed section 269X. The proposed provision simply provides for the return of the escapee to detention. There is no penalty despite the fact that the escapee may be perfectly well aware of the implications of escaping from detention and thus morally is culpable. In other words, it may be that the person who leaves the detention is not sufficiently mentally impaired so as not to understand what they are doing. I ask the Attorney whether that matter needs to be looked at.

The only other matter of substance with which I wish to deal concerns a submission from the Royal Australian and New Zealand College of Psychiatrists, whose Chairman, Dr Jo Lammersma, has written to me and to the Attorney-General expressing some doubts about the Bill as currently drafted. I would like to outline those concerns so the Attorney-General can respond to them and put on record any reply that he has. I will then be in a position to consider it. The first point is made in a letter dated 9 August 1994 from Dr Lammersma to the Attorney-General. It deals with the question of lack of consultation. I will not labour that point except to say that that seems to be a common complaint that emerges in respect of this Government's activities. Dr Lammersma makes the following point:

> At no time has the college been approached or consulted about these matters, which is of grave concern to our branch given that its fellows will be affected by these proposed changes.

The Hon. K.T. Griffin: I have actually consulted with a number of its members.

The Hon. C.J. SUMNER: That may be. All I am saying is that the Chair of the college does not believe that there has been adequate consultation. The Attorney can comment on that in his reply. The first substantive point made by the college is that it has grave concerns about the very broad definition of 'mental illness', as follows:

> We are particularly concerned that the definition allows for the possibility of a claim by a severely personality disordered individual is eligible for an insanity defence on the grounds that he/she is mentally impaired and unable to control his/her conduct.

I think it is fair to say that the Bill consciously clarifies the situation relating to the defence of insanity and probably does broaden to some extent the circumstances in which that defence might be available, but the Attorney might care to comment on the concerns of the college. I am not sure whether its concerns involve whether the definition is being expanded, matters of principle about the definition or the second point it makes, which is a major concern, where it refers to the potential to open flood gates and shift many people from correctional services to mental health services. The college comments:

> This will have enormous resource implications (both manpower and financial) to the South Australian Mental Health Service.

So, there are two points: first, the issue of principle and, secondly, the issue of the effect of this legislation on the delivery of mental health services. I would like the Attorney to comment on those matters.

The other issue of major concern to the college concerns what is described by Dr Lammersma as the demedicalisation aspect of the proposed legislation. It is concerned that the experts who are used to make a determination of mental impairment under this Act are not specified as psychiatrists. The college makes the point that only a psychiatrist is trained to diagnose mental illness such as schizophrenia, bipolar affective disorder, major depressive disorder, etc. The college makes the point that other professional groups, such as general medical practitioners and psychologists, do not have adequate training to make these diagnoses as frequently they are complex matters. I take it that the Government's view on this point is that, while one would expect a psychiatrist to be engaged as one of the three experts, it is a matter for the court to determine, and that it may not be only a psychiatrist who is able to contribute to this assessment, there may be others, such as a psychologist or a neurologist who could be called into account. With three experts being needed, almost certainly one or two would be psychiatrists, but the court may need other expertise. I take it that that is the answer, but I would like the Attorney to respond to that concern from the college.

The other point was made in an earlier letter to Mr Goode of 19 November 1993, in which it is pointed out that in an earlier draft of this Bill a defendant could be supervised by the Guardianship Board. Dr Lammersma points out that this option is not mentioned in the second draft. She states:

> The profession believes that there is merit in the option of Guardianship Board supervision of a defendant and in our opinion this option should be included in the legislation.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Well, they must have been on that basis. Yes, that's right; they must have been consulted. That is a letter from Dr Lammersma to Mr Matthew Goode, dated November 1993. Obviously, that was prior to the last election. Mr Matthew Goode is the senior legal officer in the Attorney's Department who has the carriage of this project of criminal law reform. So, the Attorney might like to give consideration to that point. In that context, I ask the Attorney to consider whether there needs to be a specific power to place conditions on the release of the defendant on licence pursuant to proposed section 269L(1)(b)(ii) which provides that a court may release the defendant on licence. As I see it, there does not seem to be any specific power in the Bill to impose conditions on that release on licence. Perhaps, then, it should be specified that release on licence should be subject to terms and conditions set at the discretion of the court, which I would have thought was a commonsense point in any event. The Attorney might say, 'Well, we don't need the specific power,' but I am not sure that is clear. It might be that that issue needs to be looked at, or perhaps the Attorney might like to consider an amendment and, if he does not, I will, depending on his response. But the conditions of release might include conditions as to the place of residence of the defendant; it might include the supervision of the Guardianship Board, etc.

Proposed section 269L provides that the court by which a defendant is declared to be liable to supervision may release

the defendant unconditionally (that is fine) or make an order, a so-called supervision order, committing the defendant to detention in an approved treatment centre (that is okay) or releasing the defendant on licence. There does not seem to be any specific power to deal with the conditions of that release on licence. It might be that one would want to release the defendant on licence but on certain conditions relating to place of residence, supervision of the Guardianship Board, contact with victims, etc. The answer might be that it is adequately covered, but I would suggest to the Attorney that it would be better if that position was specifically dealt with.

So, with those few queries, which may in turn lead to amendments, depending on the response of the Attorney-General, I indicate the Opposition's support of the second reading of the Bill. If the Attorney feels there is any merit in the queries raised, I would be quite happy for him to indicate that he intends to move the amendments, to get them moving to shorten the process, if he feels that the comments are justified; if not, then I will have to consider his response and consider whether I should move amendments in any event.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

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

Adjourned debate on second reading.

(Continued from 4 August. Page 48.)

The Hon. C.J. SUMNER (Leader of the Opposition): The Opposition supports the second reading of this Bill. In his second reading explanation in support of the Bill, the Attorney-General said that the present approach in the current Act, the South Australian Office of Financial Supervision Act, which was passed in 1992, prohibits persons being board members or employees where that person or an associate of that person has a substantial financial interest in a financial institution. He then goes on to say:

> The combination of a broad but unexceptional definition of 'associate' in a wide ambit of financial interests made this approach unworkable.

This is very interesting but not very informative. I would like to know from the Attorney how this approach has made the situation unworkable. My recollection is that there was some discussion about this when this Bill was introduced—if not in the Parliament at least in the drafting of the Bill prior to its introduction into Parliament when I was Attorney-General.

It was considered that there did need to be some fairly strict rules relating to conflict of interest and, indeed, rules which precluded people with a financial interest as defined being involved in the South Australian Office of Financial Supervision or its board. But, as I said, these issues were considered, and it was thought that there did need to be those strict requirements. So, with respect, it is not all that helpful to say that they are unworkable without pointing out how and with respect to whom. Presumably, people have been approached to participate who have not been able to because of this provision. The approach now being taken is full disclosure but, as I understand it, there will be no circumstances in which a person could be excluded from participation in SAOFS, no matter what their financial interest in a building society or a credit union. Therefore, I am asking the Attorney-General: what was the unworkable situation? Does he believe that disclosure will be adequate in this area, even though the person concerned might have a substantial interest in the building society? What provisions will apply relating to participation in activities of the board? Will there be any circumstances in which a member had such a substantial financial interest that they could not participate in any activities of the board? Those are matters that need to be looked at.

Section 33 is being amended. This makes it quite clear that a person is not eligible to be a member of the board or an employee of SAOFS if that person has a certain amount invested or deposited and the amounts that are concerned are prescribed by regulation. I have not had a chance to look at the level at which they are prescribed, but the Attorney-General might like in his response to expand a little on that in justification of his proposition that the current approach is unworkable. It also precludes a person who is indebted to a financial institution being a member of the board.

The approach taken in 1992 was actually to say that it would be unwise for certain people to participate on the board of SAOFS or as an employee of SAOFS because of their financial interests. The current approach, as I understand it, is to say that it does not matter what interests you have or how big your interest in one of the institutions being supervised—a building society or a credit union—and it does not matter what key role you might play in that institution: you can still participate on SAOFS. I raise the question whether or not that is in fact going too far the other way.

I take it that the Attorney's view is that disclosure will be adequate. I am not yet convinced that that does overcome the problem, although I assume that the Attorney in his response will say that, if it involves a matter that specifically concerns the institution in which the member of the board or employee has an interest, that member of the board or employee cannot participate in the decision making, although I am not clear about that. However, it is an issue that I think should be responded to.

As I have said, I support the second reading, but I would like more information to be provided by the Attorney-General before considering our approach to it in the Committee stage. In particular, I want to know what the concerns were that made it unworkable. I want to be assured that the Parliament is convinced that a person can be on the board of SAOFS or an employee, no matter what their financial interests, and that people are satisfied that disclosure is an adequate situation to deal with a conflict of interest rather than prohibition from participating on the board.

I emphasise that a person might have a very substantial interest in one of these organisations or might be in a very significant position of power and influence within the organisation. I am not, as I said, entirely convinced that the approach adopted by the Government overcomes the question of conflict or at least the issue of the perception of conflict.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for his contribution on the Bill and his conditional support of it. I understand that the Hon. Mr Elliott has no difficulties with it. I will deal with the final matter referred to by the Leader of the Opposition: that is, if a person has a substantial interest in a financial institution then what are the consequences for that person who might be a member of the board? I draw the Leader's attention to section 29 of the principal Act, which is in similar form to many other sections relating to disclosure of interest because it provides:

If—

(a) a member has a direct or indirect personal or pecuniary interest in a matter being considered, or about to be considered by the board; and

(b) the interest could conflict with the proper performance of the member's duties in relation to consideration of the matter,

the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to a meeting of the board.

So, there is the disclosure. Subsection (2) provides:

A disclosure under subsection (1) must be recorded in the minutes of the meeting and, unless the board otherwise determines, a member must not—

(a) be present during any deliberation of the board in relation to the matter; or

(b) take part in any decision of the board in relation to the matter.

Then, subsection (3) provides:

For the purpose of the making of a determination by the board under subsection (2) in relation to a member who has made a disclosure under subsection (1), a member who has a direct or indirect personal or pecuniary interest in the matter to which the disclosure relates must not—

(a) be present during any deliberation of the board for the purpose of making the determination; or

(b) take part in the making by the board of the determination.

So, the Bill envisages public disclosure—and that is full public disclosure. In relation to any matter which comes before the board where there is a direct or indirect personal or pecuniary interest—remembering that it is not just pecuniary interest but a personal interest which is admittedly not defined but which is certainly much broader than pecuniary interest—then that has to be declared at that meeting and any disclosure must be recorded. Also, the member must be not be present during any deliberation or take part in any decision.

It seems to me that that is the framework which we follow in most, if not all, other cases where the member of the board or committee or other body must declare the interest and, if it is declared, not participate in the decision making process in relation to that matter. However, this goes further, because in the proposed new section 33 there is again the full public disclosure in a register of financial interests in financial institutions. I think that covers what is proposed more than adequately.

I should say that the amendment will be in similar form to and provide a similar framework as that which applies in the majority of the States and that, to some extent, is the reason for moving in this direction. In relation to why the present provision is inadequate—

The Hon. C.J. Sumner: Unworkable.

The Hon. K.T. GRIFFIN: —is unworkable (and I will obtain some more information which I will provide during the Committee stage), the information I have presently is that regulation No. 4 prescribed the limits in relation to the level of financial interests of those persons or their associates who are involved in the institutions being supervised. So, it involved not just the level of financial interests of the person but also their associates.

Regulation No. 4 has been revoked primarily because of the wide meaning of the expression 'associate'. I do not have a copy of former regulation No. 4 here, but I will obtain that and provide more information to the Council. However, that included partners, and I gather that it caused difficulties in conjunction with the limits prescribed in the regulations. At least the three non-GME Act members and one acting member would have been ineligible as the regulation applied. The persons were and still are partners with large accounting and legal firms, in some cases with 50 or 60 partners, and they would find it difficult to have knowledge of the financial interests of such associates.

As I understand it, that was the major reason why, first, regulation No. 4 was revoked (I think it was done by the previous Government) and why I felt it necessary, on advice, to move in the direction proposed by this Bill. That is all the information I can provide at the moment, but I undertake to give further information during Committee to put the honourable member's mind at rest about the direction which is proposed to be taken by this Bill.

Bill read a second time.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 235.)

The Hon. BERNICE PFITZNER: I support the second reading of this Bill, on which I will make a short contribution, as those of us who were present in this Council in September last year have already had the opportunity of a full second reading debate and the beginning of a full and contentious Committee stage.

As a medical practitioner, I can say that this Bill is long overdue. In practical terms, it seeks not to prolong a life that is virtually not there and, if there, where the pain of prolonging that life is intolerable and unbearable for the patient and their close relatives. I have seen patients hooked up to artificial life support systems, where the patient is in a moribund state and the medical practitioner is in a difficult position knowing that professionally he or she should cease these extraordinary resuscitation measures but where, being dictated to by legal demands, he or she continues to keep on with such treatment.

Many medical practitioners have opted to follow their medical professional demands at the possible risk of legal prosecution. It is therefore with relief and satisfaction that now the medical practitioner is able to relieve distress and suffering and act appropriately during medical emergencies without fear of criminal or civil liability.

Further, and more importantly, this Bill returns the rights to the patient. It gives the patient the right to refuse treatment and it establishes a new concept: the medical power of attorney, a medical agent, given delegated powers to make decisions on behalf of the patient.

The objects of the Bill are clear. Briefly, they are to administer emergency treatment in certain circumstances without consent; to provide for medical power of attorney; and, to protect the dying from medical treatment that is intrusive, burdensome and futile. These objects are in the body of the Bill. However, I have some concerns about the Bill for which I have instituted, or will institute amendments, and I will listen to debate during the Committee stage.

The amendments I propose to put forward are that the age of 18 years be reduced to 16 years. Consent to other types of medical treatment are based on the age of 16 years. Some of us Legislative Councillors may not have 16 or 18 year olds yet, or may have forgotten about persons of that age, but they are adult and very precocious. When practising medicine I specialised in child development, and I observed 16 to 18 year olds. It does appear to me that we are rather protective, patronising, or perhaps insecure, to feel that a 16 year old is

not capable of making such decisions about his or her own life.

As I have related before and will relate again, I have known of two 16 to 17 year olds who have suffered broken necks during football games and have had to be put on full artificial life support. These two 16 to 17 year olds have opted to have their total life supports ceased. Therefore, I find that to decree the arbitrary age of 18 to be the age of consent is rather anachronistic for this day and age.

I also intend to move into the body of the Bill, instead of its being only in the first schedule, the principle of the best interests of the patient in relation to the medical agents' decisions. This makes paramount that important principle, that of the patient's intent, and gives it a prominent place in the body of the legislation.

I also have great difficulty with clause 1 of schedule 2, which relates to the prescribed form for giving a future direction. I feel that the wishes of the patient should be given in general terms and that there should not be specific conditions and specific forms of treatment. Dr Malloy (I think from Canada) has supplied me with a copy of the 'Personal Health Care Directive', from which I will read some of the advanced directives on the Personal Health Care Chart. This chart refers to life-threatening illnesses and has a section on feeding and on cardiac arrest. It states that if one's condition is reversible, you should do palliative, limited, surgical, intensive; or if it is irreversible you should do such and such. The same applies to feeding and cardiac arrest. The definition of 'reversible condition' is as follows:

> Condition that may be cured without any remaining disability; eg, pneumonia, bleeding ulcers.

Does that mean completely without any disability? The definition of 'irreversible condition' is as follows:

> Condition that will leave lasting disabilities;

I find that this type of advanced directive for specific conditions is too medical and that it would be too confusing perhaps for the medical agent in the future to fulfil. Another advance directive, entitled 'The South Australian Advance Directive For Medical Care', states:

> In the event of a future illness or injury which leaves me in an incurable or irreversible mental or physical condition, with no reasonable prospect of recovery, I direct the medical practitioner responsible for my care to initiate only those measures which are deemed necessary to maintain my comfort and my dignity. . . These instructions apply if I am. . . permanently unconscious.

That would be a rather difficult decision to make: whether that patient would be permanently unconscious, or temporarily unconscious. So, again I feel that these specific conditions and specific forms of treatment are rather too technical and I would prefer a more general term to be put, and one that I suggested in my last—

The Hon. C.J. Sumner interjecting:

The Hon. BERNICE PFITZNER: Yes, the Leader of the Opposition says it could be general, but sometimes I feel that a patient may be coerced to completely fill in something that he or she does not fully understand. A more general way of putting things would be much better, something like, for schedule 2:

> . . . in the terminal phase of a terminal illness in a vegetative state that is likely to be permanent or be incapable of making decisions about my own medical treatment, effect is to be given to the wishes that I am not to be subjected to extraordinary measures if the effect of taking or continuing the measures would be merely to prolong my life in the terminal phase of a terminal illness.

I would much prefer that phrase in the schedule rather than individual medical treatment.

The Hon. C.J. Sumner interjecting:

The Hon. BERNICE PFITZNER: No, besides difficulty with individual medical treatment; medical technology changes and there is—

The Hon. C.J. Sumner: Can't you have the option to do the general one or the specific one?

The Hon. BERNICE PFITZNER: Yes, the Leader of the Opposition has suggested that. I have not considered that yet, but will do so. My concern is that the patient will be coerced or intimidated to be very definite on how his or her agent has to perform or react, should the patient be unable to do so for himself or herself. It is putting too much burden not only on the medical agent but perhaps some GPs may disagree with medical specialists on the definition or on the clinical state of the patient or on these very technical medical directions. I propose to insert an amendment in schedule 2 that will request in general terms, the cessation of extraordinary measures in treating the patient if the effect of so doing would be merely to prolong life in a moribund state without any real prospect of recovery.

I also note the debate on the Guardianship Board and the differences, and at present I am of two minds in relation to this matter. I shall listen to the debate on this issue carefully in Committee. So, we have a very important Bill before us as it has to do with death and dying. We as legislators have to decide. I note that those from a legal background seem frequently to fear that decisions will be made against the best interests of patients, perhaps for avaricious reasons. However, I am always encouraged from my own long years in medical practice that people on the whole are good and that they seek to alleviate pain and suffering and not to contribute to it. I therefore support the second reading strongly, with my amendments, and I urge other members of the Council to consider giving their support to this Bill. I support the second reading.

The Hon. SANDRA KANCK: I rise to speak in support of the second reading. The fact that this Bill is considered controversial is a indication of a general inability within our society to come to terms with human frailty and death. We are much more able to deal with sick and dying animals than we can with our own species. Despite what some in the community think, this is not a voluntary euthanasia Bill, although if it was I would certainly be supporting it. Nor does it seem to be as controversial as many want to make it to be. Basically, I want to be able to make up my own mind about whether or not I will be connected to life supporting tubes, assorted drips and so on, and I want other people to be able to make up their own minds as well. It does not force anyone to take that action but it provides a means to do so for those who wish to. I personally have chosen to make that decision now while I am in complete possession of all my faculties, knowing that at a later stage in life, if I was to get dementia, for example, I would not be able to make that informed decision.

As a consequence of the strong feelings I have on this, I have been a member of the South Australian Voluntary Euthanasia Society for a number of years and I have already signed a form pursuant to the Natural Death Act. At all times I carry with me a little card that the Voluntary Euthanasia Society prepared. I carry it in my purse on top of all my other personal papers and it reads:

To whom it may concern: If I am injured or unconscious, please respect my wishes as expressed within this folder.

On the inside the says:

Please take note: Should I be unable to communicate that I have signed in the presence of two witnesses a notice of declaration pursuant to the Natural Death Act 1983 indicating that in the event I suffer a terminal illness or condition I do not wish to be subjected to medical or surgical measures intended to prolong life incapable of independent operation. I request that in such circumstances I receive whatever quantity of drugs may be required to keep me free from pain or distress.

It then indicates where in my home the related papers can be found, my signature and the date on which I signed the form. I hope that in carrying it around on top of all my other papers, that is, my driver's licence, car registration papers, and all those sorts of things, if I am in an accident people who might find this will find it before they see anything else and will observe it accordingly.

Others in this debate both now and in previous Parliaments have referred to death with dignity. I have pondered over this question of just what is this dignity that we are looking for. I am not sure that it will always be possible to die with dignity, but as much as possible in defining dignity it seems that part of it is a desire to not be deliberately kept alive. Years ago when I was studying to become a teacher I remember watching a film from the Man: A Course of Studies curriculum. In this film a Canadian Eskimo tribe is shown leaving an old woman from the tribe behind on the ice to die. It is part of their culture, when somebody becomes too old and is no longer able to contribute to the survival of that tribe, and in fact when that person's life is slowing down that community, that person is left to die on the ice. The appropriate goodbyes were said by the family. She knew that she would shortly die, probably as a result of being attacked by wolves or bears out there on the snow.

She and her relatives knew that it would not be dignified in terms of its prettiness, but they knew that the time had come, they understood this, and they knew it would be quick. Therein was the dignity, the dignity of accepting human mortality and the opportunity for the families to complete the unfinished business that might lie between them. By contrast, the lack of dignity in our system shows particularly in the prolongation of life, when life would otherwise have expired without medical intervention. Some of those who spoke against the Bill in the last Parliament raised thin edge of the wedge arguments and suggested more sinister agendas.

In the end, it comes down to a matter of trust in our medical practitioners. If I do not trust my doctor, I will find a new one. It is a bit like the public electing members of Parliament: if they find us inadequate, generally eventually they will dispense with us. Apart from those few doctors on the get rich quick trip, I have faith in the majority serving in our medical profession. They are sometimes placed in an onerous position when making decisions about dying patients, and the passage of this Bill will provide them with some certainty. I have been told by people working in the field that some medical practitioners withhold painkillers or, at least, administer smaller amounts of painkilling drugs than those required to reduce pain effectively, because of the possible effect such drugs can have in hastening death.

If those doctors felt comfortable that no legal action would result from giving patients the necessary amount of painkiller, some slowly dying patients would have that little bit more comfort in those final days. This Bill gives that certainty to those doctors. During the Committee stage I will be introducing amendments regarding the terms 'extraordinary measures' and 'the dying', which I will speak to at that stage. There are many things I would like to speak about now, but I will refrain from doing so until we deal with the amendments in the Committee stage where, no doubt, we will debate many of them *ad nauseam*, if how things went in the last Parliament is any guide. However, one issue I do want to address is the age of consent.

I understand that at least one honourable member will be introducing amendments to bring back the age of consent to 16, as it was in the Bill last year, and I will be supporting that move. If that does not eventuate, I will introduce my own amendment. I will have more to say on that during the Committee stage, but suffice to say that, given appropriate information, most young people are completely capable of making such decisions. I know this from teaching primary school children. Children are very wise if we give them a chance to exercise that wisdom. The ability to make responsible decisions has nothing to do with age: there are some people who at 40 or 50 years of age will still not be capable of making such a decision. In my opinion, age is quite immaterial, and I am quite convinced that a 16-year-old dying of cancer would be highly tuned to the state of his or her body and would know exactly what she or he wanted.

In the end, this Bill in its present state would condemn that hypothetical 16-year-old to a slow or painful death if his or her family is unwilling to let go, as happens sometimes. Last year in her second reading speech supporting this Bill the Hon. Diana Laidlaw read a poem, which had appeared in the publication *The Country Web*, produced by the New South Wales Rural Women's Network. As she has not used it in her second reading speech this time, I have asked her if she minds if I repeat her example, because it is such a beautiful poem that sums up the pain we are willing to put dying people through because we are not willing to let go. I have shown that poem to a number of people who are supportive of this Bill, and they have been as moved by it as I am. The poem, with its simple title 'Grace', was written by Quendryth Young of Alstonville. As it says so much of what I want to say and how I feel about this issue, I will conclude my remarks with the reading of this poem:

You wanted to die, Grace.
We wouldn't let you.
'The time has come,' you cried,
'I've parried pain and platitudes,
now I decide the time is right to go.'
'Oh, no!' we cowered, 'You mustn't leave us.'
Doctors nodded, 'It is not allowed.'
Nurses carefully plumped up pillows, cradling your despair.
And so, in spite of you, and for your sake,
We threw your aching body, weak with chemotherapy,
back onto the rack of the terrifying treadmill
of treatment that carried you against your will
through 'all that can be done is being done',
against your will 'to give her every chance'
against your will to Psychiatric Ward.
You died, Grace. Six months too late, you died.
Dignity denied, spirit undermined.
Sacrificed, you suffered for our sake,
and then you died.

The Hon. M.S. FELEPPA secured the adjournment of the debate.

FINANCIAL AGREEMENT BILL

Adjourned debate on second reading.
(Continued from 23 August. Page 174.)

The Hon. T. CROTHERS: I rise on behalf of the Opposition to indicate support for this Bill. Indeed, most of what was needed to be said in relation to it has already been put on record by the Opposition spokesperson in another place. However, there are a couple of points that I believe must be made, if only for the erudition of some members on both sides of the Chamber. First, this legislation is necessary in order that our State Parliament has the essential complementary legislation in place to give full effect to a new financial agreement between the Commonwealth and States and Territories. This agreement was signed by the respective heads of Government on 25 February this year at the meeting of the Council of Australian Governments. The final passage of this Bill through this House will, in so far as South Australia is concerned, give full formal effect to the new agreement in South Australia.

The new agreement gives full legal effect to many informal practices that had gone on since the old agreement came into force way back in 1927. Whilst, to those happenings parties were inclined in the interests of progress, it is felt by all concerned that the new agreement will ensure the absolute legality of what has become under the old agreement and for want of better wording a kind of de facto best practice method which, as I have said, now has the full force of law to back it once this Bill is carried here.

In addition, the new agreement will also remove the Commonwealth's explicit power to borrow on behalf of the States. As well as the foregoing, the new agreement will also remove the requirement for future Commonwealth and State borrowings to be approved under the provisions of the agreement. All up, these new borrowing and loan raising proposals will place full responsibility in the States for financing and managing their own debt, thus subjecting their fiscal and debt management strategies to greater community and financial market scrutiny.

I conclude my remarks by saying that it says a lot for a new era of financial maturity between the Commonwealth and the States and Territories when it comes to the better management, in the interests of all their financial affairs. The Opposition believes that this is a step in the right direction and on a pathway to bringing some form of better financial management into Commonwealth-States financial affairs which too often have been and are bedevilled by the archaic nature of our present Constitution. The Opposition says, long may that type of approach continue, as better financial management of our affairs requires it to be so. The Opposition supports the Bill as it has come to us, without amendment.

The Hon. BERNICE PFITZNER secured the adjournment of the debate.

LAND AGENTS BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 217.)

The Hon. ANNE LEVY: I rise to support the second reading of this Bill. I will undertake what is perhaps a slightly unusual process as I wish to speak simultaneously on all four Bills: the Land Agents Bill, the Conveyancers Bill, the Land Valuers Bill and the Land And Business (Sale and Conveyancing) Bill. They are all inter-related, they come from a carving up of the old Land Agents (Brokers and Valuers) Bill, and it would seem most efficient to speak to them all together.

It is with some sadness that I view these Bills as the beginning of the dismantling of our consumer protection laws. South Australia has a very enviable reputation in consumer protection laws. They were built up carefully, mainly by Labor Governments but also by the Tonkin Liberal Government, throughout the 1970s and 1980s. The credit for beginning this consumer protection legislation lies with the then Attorney-General now Chief Justice, Len King. As a result of his initial work and that which has followed by all successive Governments, we currently lead the nation in consumer protection laws. I think it is very sad to see our consumer protection laws now being weakened and consumer protection being given a much lower priority than it has been at any time in the past 20 years. I understand that about 18 Acts are committed to the Minister for Consumer Affairs. The vast majority of these were due to wise legislation undertaken by Labor Governments which certainly cared about consumers and determined to protect them throughout the past 20 years.

Before commenting in any detail on the four Bills, I could perhaps make a few general remarks as an overall view. One of my chief concerns is that the Commercial Tribunal is being bypassed in the legislation before us. Complaints and disciplinary measures relating to land agents, conveyancers and valuers are being sent to the District Court. The Opposition opposes this step very strongly. The Commercial Tribunal has served this State very well indeed. It was initially set up by the Tonkin Liberal Government, although the preliminary work for its establishment was begun by the Dunstan Government, which preceded it.

The Commercial Tribunal is a very specialised tribunal. It knows very well the area within its jurisdiction, something which individual judges in the District Court certainly do not know. If matters relating to land agents and so on are to go to the District Court, this will be a most inefficient means of dealing with them as matters will be dealt with by inexperienced judges who do not know the area. Indeed, various studies have shown that the Commercial Tribunal is more cost efficient than the District Court for the type of matters that fall within its jurisdiction. To go to the District Court would be far more costly than to go to the Commercial Tribunal for ordinary consumers. Currently, lodgement fees for the Commercial Tribunal are exactly zero, but they are at least $200 for the District Court. So, in the first place, there is that financial barrier to ordinary consumers.

The District Court, by its very nature, is far more legalistic than the Commercial Tribunal. The rules of evidence are stricter, and the whole thing is far more formal. The Commercial Tribunal is renowned for the fact that it is more flexible. It dispenses with undue formality and is far more user friendly to the ordinary person. Use of the Commercial Tribunal is simpler, quicker and cheaper for all concerned. We feel it is a very retrograde step to suggest that the District Court should be used instead of the Commercial Tribunal. In fact, if this Government wants to abolish the Commercial Tribunal, I would ask it to be honest and bring in the appropriate legislation so that we can debate that issue. The current procedure seems to be to whittle away and remove matters from its jurisdiction, and then, when it is left with absolutely nothing to deal with, to say that it will have to be abolished.

I certainly oppose this abolition by stealth. Let us have a true and honest debate about the worth of the Commercial

Tribunal in a Bill which deals directly with that matter, not the backdoor approach which is being adopted in the four Bills before us. We certainly hold that matters pertaining to land agents, conveyancers and valuers should stay with the Commercial Tribunal, and I will move amendments to that effect. If at some later time the Commercial Tribunal is abolished, its jurisdiction can, at that time, be given to the District Court, but while the Commercial Tribunal exists its jurisdiction should remain and it should continue to function.

The four Bills before us are a carving up of the old Land Agents (Brokers and Valuers) Act. We now have one Bill for each occupation and a fourth Bill which contains the leftovers from the old Act. I have no fundamental objection to this, although it certainly means that more forests will be destroyed to obtain the paper to print them on, because many clauses are absolutely identical for all three occupations and having them all in the one Bill would certainly save paper. Because of the similarities, I certainly want to discuss them all simultaneously.

The major feature of the Bills is that licensing for these three occupations which has applied until now is to be replaced by registration for two of the occupations and not for the third. Registration can be done administratively by the Commissioner for Consumer Affairs. I certainly have no objection to this approach of replacing licensing by registration. The proposal for this change has been around for quite some time, and it may well be simpler administratively. Personally, I doubt whether it will make very much difference. The paper work will certainly move from the tribunal's office to the Commissioner's office, but resources will have to move with the paper. It will, basically, be the same work. For licensing, the tribunal officers have had to check that people have the requisite educational qualifications and that they are fit and proper people to be licensed in that occupation, but checking whether they are fit and proper people has mainly consisted of obtaining information from the police as to whether an individual has a police record.

With regard to the registration that will now be carried out in the two cases of land agents and conveyancers, again, a check will need to be made that the proper educational qualifications are held and that there is no criminal record, which will again be ascertained by contacting the police. The differences between the previous licensing method and the proposed registration are not as great as has been suggested, and there will be little if any savings in either time or money in this new procedure: it will involve merely a change in location. However, I certainly do not oppose the proposed change.

However, I point out that under the Bills before us the land valuers will no longer be either licensed or registered. They will have to have basic educational qualifications, which is an improvement on the Bill that was originally introduced here in May, where valuers did not even have to have any educational qualifications. Anyone in this Chamber could have set themselves up as a land valuer. That does not apply in the Bill before us, but the educational qualification is all that will be required of valuers. I understand that the valuers themselves would like a registration system similar to that of the land agents and the conveyancers, as they feel this will safeguard their standards and certainly enable deregistration as a penalty for totally inappropriate or fraudulent behaviour, should such occur. I wonder why the Attorney-General, as Minister for Consumer Affairs, is adopting registration for land agents and conveyancers but not for land valuers.

Another question I ask of the Attorney is whether the educational qualifications for all three occupations are expected to be changed. The Bills, which deal with the three occupations, provide that the individuals, before undertaking these occupations, must have the educational qualifications prescribed in the regulations, as indeed they currently are. I ask whether it is expected any changes will be made to the educational qualifications that exist. This is particularly relevant to the conveyancers where two alternative courses are available in South Australia for people who wish to become conveyancers. There is a one year course through the TAFE system or a three year course through the University of South Australia. Either educational qualification is currently accepted. I would ask whether it is expected that this duality of educational qualifications will continue under the new scheme.

If we look at the three occupational Bills (that is, Land Agents, Conveyancers, and Valuers Bills), there is another striking difference between them. The land agents are to contribute, by means of the interest on their trust funds, to an indemnity fund as they do at the moment, but they do not need to have professional indemnity insurance. That is the current situation for land agents, and the legislation before us continues this procedure. Likewise, conveyancers have an indemnity fund—and I am certainly glad to see that the existing indemnity funds are being retained—but, under the Bill before us, they also have to have professional indemnity insurance. On the other hand, land valuers have neither. Their trust funds contribute to no indemnity fund, nor is there any requirement that they should have professional indemnity insurance. I wonder why there are these differences between the three occupations.

I can certainly appreciate that valuers do not need to have an indemnity fund. They do not handle consumers' funds, and they are not dealing with large sums of money. In any case, there is no opportunity for them to defraud consumers of cash, which would have to be compensated for by the fund. I wonder what extra protection is given to consumers by the conveyancers having professional indemnity insurance which their indemnity fund does not provide to consumers. I wonder what extra protection professional indemnity insurance gives to consumers. If this provides something extra—an extra protection to consumers that the indemnity fund does not provide—why should such extra protection not be given to the clients of land agents by requiring them to have professional indemnity insurance as well as the indemnity fund? Why not professional indemnity insurance for land valuers? The Australian Institute of Valuers, which is its professional association, insists that all its members have professional indemnity insurance. Of course, not all valuers belong to the association—even though most do. There is no requirement for them to belong to such an organisation and to have professional indemnity insurance.

Another matter of concern across all the three occupational Bills is the question of delegation of powers. It is perfectly usual for a Minister and the Commissioner for Consumer Affairs to be able to delegate some of their powers to public servants, and that is found in virtually any such Bill. But it is most unusual for this power of delegation to be to any other person—whether or not such delegation requires the Minister's consent. We really need an explanation of just what powers are to be delegated before we can sensibly consider this new provision. In the Land Agents and Conveyancers Bills, there is an ability on the part of the Minister—I think it is the Minister, not the Commissioner—to recognise

professional associations. Furthermore, there is power for agreements to be made with professional associations relating to administration or enforcement of the Act.

This provision does not apply to the valuers, though it is certainly true they have a very competent and disciplined professional organisation, with probably a higher percentage membership than applies to the other two professions, that is, the Real Estate Institute and the Australian Institute of Conveyancers. I am told that discussions are still occurring with the Real Estate Institute as to just what is to be delegated to it. I do not understand how we can approve of the principle of delegation before we know what is to be delegated.

I suggest that it may be better to have the delegations done by regulation rather than by the proposed sweeping power that is in the Bills before us, so that Parliament will at least have the opportunity to oversee what is being delegated and will be able to approve or disapprove of the regulations when they are brought before us. As it stands in the Bills, any agreement reached between the Minister and a professional association will merely be tabled in Parliament so that we will know about it, but Parliament will have no say whatsoever as to whether it approves or disapproves of that delegation. I do not really think that we should approve of the Bills as they are before us; I do not like this blank cheque approach. We are being asked to approve the power of delegation without knowing what is to be delegated or to whom.

In any case, I do not think that professional associations should have any role in the enforcement of laws. It may well be appropriate for them to have an administrative role, but an enforcement role could lead to clear conflicts of interest, given that they are associations of members of the profession. In any case, at a philosophical level, enforcement is a legal procedure that should be undertaken by the State, not by a private organisation. I can think of no example where a professional organisation has a legal enforcement role, not even the AMA or the LGA, and they are both pretty powerful and respected organisations—the latter with 100 per cent membership coverage. However, the principle is that the State, through the Parliament, makes the rules and the State should therefore enforce those rules and not delegate their enforcement to non-State authorities.

Another matter of concern in all four of the Bills before us is the clause that relates to the liability of employers for the acts of their employees. This is to be found in clause 57 of the Land Agents Bill, clause 59 of the Conveyancers Bill, clause 17 of the Valuers Bill and clause 37 of the Land and Business (Sale and Conveyancing) Bill. The equivalent section (section 99) in the existing legislation—that is, the Land Agents, Brokers and Valuers Act—provides:

> . . . an act or omission of an employee or agent of a person carrying on a business will be taken to be an act or omission of that person unless it is proved that the employee or agent was not acting in the course of the employment or agency.

All four Bills before us phrase this quite differently. They talk about an act or default of a person and provide:

> . . . an act or default of. . . an employee will be taken to be an act or default of that person unless it is proved that the person could not be reasonably expected to have prevented the act or default.

This is a vast difference in approach which considerably weakens consumer protection. I have always understood that it is a general principle that an employer is responsible for the actions of an employee carried out in the course of their employment. That is certainly true as a general rule; it applies in Government and has applied in the three occupations we are considering in these Bills.

A consumer who suffers detriment can hardly sue for damages against an employee if the consumer has, for example, suffered due to misrepresentation on the part of the employee. The new clause in all four Bills gives very much less protection to the consumer, as an employer could easily say that he could not control what his employee said or that they were acting against his instructions and that he had done all he could to see that they behaved properly. This would then leave the consumer with absolutely no avenue of redress, as there would not be any point in suing the employee, and the employer would be ducking his responsibility—a responsibility that is accepted by employers generally in this State.

Some of the officers of the Attorney-General's Department suggested that the new wording was only a modern version of the old phraseology. If that is true then they should not mind the amendments that I will move to change it back. However, I do not believe this, and a legal practitioner supports my view that it is a considerable weakening of consumer protection as it is virtually removing any avenue of redress for the consumer.

I have another query relating to the indemnity funds for land agents and conveyancers. These two Bills make provision for consumers to be paid less than is due to them if the fund is too low in cash to pay the full amount. I ask: why are these new provisions being inserted? To my knowledge, the funds to date have never not fully recompensed consumers when they were awarded sums by the Commercial Tribunal. There has never been an occasion where the tribunal has awarded a certain sum to a consumer and the fund has not paid that full amount.

So, why do we have these new clauses allowing for less than full payments to be made to the consumer? Is it expected that the calls on the funds will rise so that they will not be able to cope, that the number of calls on the funds will be increasing as a result of increased complaints following the proposed deregulation, or is it because it is intended that the funds will be used for other purposes, such as paying for a complaints procedure run by the REI or the AIC? This obviously would be a drain on the funds and would leave less for the purpose for which the funds were originally set up, that is, to provide compensation to consumers who have suffered as a result of wrong action on the part of land agents, conveyancers or their employees. I will object most strongly if that is the reason why the funds are expected not to be able to cope.

If there is a danger that the indemnity funds will not be able to cope with the justified claims that are made on them, perhaps we should specify that the funds can be used only for satisfying claims and for the administration of the funds themselves and remove all other purposes from the appropriate clauses which set up the indemnity funds. That issue is addressed in clause 29 of the Land Agents Bill and clause 31 of the Conveyancers Bill. The funds were initially set up years ago as a protection for consumers and this must remain their top priority.

In both the Land Agents Bill and the Conveyancers Bill the schedule contains provisions relating to mortgage financing activities of land agents and conveyancers. The provisions in the schedules are the same as those which were passed by this Parliament last year but which were never proclaimed. There was not time to proclaim them before the election and the new Government has chosen not to proclaim them since the election. Basically, they provide that mortgage finance activities are not to be covered by the indemnity

funds that exist to cover the fiduciary defaults of land agents and conveyancing activities only.

I certainly support this wholeheartedly. In this case it only needs to be in the schedule as a transitional measure, as the new definition in the Land Agents Bill and the Conveyancers Bill is such that the mortgage financing activities which such people may undertake will not be covered by the indemnity fund. Therefore, the funds cannot be used for compensation for defaults in areas other than land agents and conveyancing activities.

In both the Land Agents Bill and the Conveyancers Bill 'money' is defined 'as an instrument. . . that may be negotiated by a bank'. Can the Attorney explain why 'bank' and not 'financial institution' has been chosen, so including in the definition of 'money' credit unions, building societies and such organisations. Perhaps that matter can be discussed during Committee.

I now comment on the individual Bills. First, I consider the Land Valuers Bill. It is not true to say, as the Attorney-General did in his second reading explanation, that valuers are mainly used by corporations, banks and large organisations which have a pretty good idea of the value of a property and are therefore likely to be aware if a valuer is giving a totally inadequate valuation, perhaps because of lack of skill on his or her part. It is not true that valuers rarely deal with ordinary consumers. There are many situations where ordinary consumers employ valuers, and small individuals could suffer greatly if a valuer is incompetent, negligent or fraudulent.

Many family law settlements require property valuations so that property can be divided between divorcing couples. There are property valuations in regard to distributions to beneficiaries of a will, where a property needs to have an independent, accurate valuation before the estate can be divided between the beneficiaries.

Consumer protection for relatively unsophisticated people is just as important when we are considering land valuers as when we are considering land agents and conveyancers. They deal frequently with ordinary people who need to be able to rely on their integrity and accuracy. While I have said that I agree that valuers do not handle large sums of other people's money, so an indemnity fund is not appropriate for them, their probity and integrity is just as important for the consumer as for other occupations. Therefore, it is hard to understand the lack of registration, coupled with the lack of requirement for professional indemnity insurance, which is in the Bill before us.

I now comment on the Conveyancers Bill. I note that the Government has not tackled the issue of single representation only. This would mean that one conveyancer could not act for both the buyer and seller of a property. I recognise that existing legislation does allow one conveyancer to act for both parties, and I realise that this does save costs for the two parties concerned. But there is an obvious potential for conflict of interest to arise when the one person acts for two different parties whose interests may be in conflict.

I hope that the Attorney has given consideration to this matter, which should be considered when a review of this legislation occurs. Perhaps the Attorney could tell us whether he did consider this issue and, if he did, why he did not feel it desirable to prevent conflicts of interest by including in the legislation single representation only. It is not just that this provision is absent from the Bill, but its absence has not been commented on, as one would expect it to be in a proper evaluation of legislation relating to conveyancers. I noted in clause 31 of the Conveyancers Bill, which deals with the Conveyancers Indemnity Fund, that the possible uses of the fund do not include the cost of administering the fund, unlike clause 29 of the Land Agents Bill. I wonder whether this is an oversight or a deliberate differentiation for some undisclosed reason.

I will now address the Land Agents Bill. I support the exclusion of rental accommodation referral business, and also the exclusion of either licensing or registration for hotel brokers and real estate managers. Rental accommodation referrals hardly exist today. Such provisions were put in the legislation in very different times, and the other occupations were recommended for deregistration at a national level. I think they were licensed in South Australia only. They are, anyway, activities which are usually undertaken by real estate agents, who are to be registered individuals, or else they are such a specialised activity as not to warrant Government regulation because normal consumer protection is not a matter for consideration.

However, real estate sales representatives are another matter. The Bill provides that while agents—those who run the firm—have to be registered, sales representatives—their employees—must have a basic educational qualification (to be set out in regulation). However, there is no other restriction at all. This is an advance on the Bill that was before us in May, where sales representatives did not even have to have a basic educational qualification. The Bill does not say that they should be registered.

I know that VEETAC, at a national level, recommended that real estate sales representatives should no longer be regulated, but this was on the basis that they are a partially regulated occupation—in other words, they are not currently regulated everywhere in Australia. If we examine this more closely, we find that real estate sales representatives are in fact regulated in all six States of Australia and in the Northern Territory.

It is only in the ACT that they are not regulated. I really do not see that the rest of Australia need follow the ACT, which is a rather special environment. Certainly to me that is not sufficient reason to deregulate them. I note that Queensland has recently confirmed that regulation of real estate sales representatives will continue in that State for the protection of the public. I certainly would not oppose a registration system instead of a licensing system which they had previously, but more supervision and protection is required for the public than merely having a minimal educational qualification for real estate sales representatives.

Real estate representatives as sales representatives go into other peoples homes, they have contact with family members including children and someone with, say, a previous conviction for breaking and entering should not be a real estate sales representative who goes around examining people's homes and contents. I am sure most people here would not like the idea that the real estate sales representative may be casing the joint when they come to see your property that you are about to sell. We all expect probity in those that we let into our homes. This would be safeguarded if registration were required, which currently is not proposed.

Furthermore, the Bill before us does not even have a negative licensing system for the real estate sales representatives. They cannot even be barred from the occupation if they are found to have cheated, lied or misrepresented facts to their clients. They can, of course, be sacked by their employer, but without any other disciplinary system available in the Act they could be employed the following day by another real

estate agent who was not aware of the fact that the individual had been sacked by another real estate agent. So, this individual would have the potential to injure a whole new lot of clients. I certainly approve of having minimum educational qualifications, but I feel that this does not go nearly far enough to protect the public from any dishonest and misleading real estate representatives. I am not suggesting for a minute that they are all rogues, but any barrel can have a rotten apple in it and consumer protection must be a high priority in this matter.

I note in the information that the Commissioner of Consumer Affairs has kindly provided to the Opposition that the real estate complaints received by the Commissioner of Consumer Affairs in the past two financial years relate particularly to matters such as misrepresentation by people involved in the industry. The complaints relate to matters arising in sale or purchase of property and, while they cover a broad range of topics, certainly the greatest numbers occur in purchase and sale. In those areas most consumers would be dealing with a representative rather than with the head of the firm.

Even with our existing system, the potential exists for consumers to lay complaints. Figures show that in only a small proportion, about 20 percent of complaints, did the Consumer Affairs Office find that the complaint was not justified. In other words, most complaints were justified complaints, whether or not redress could be found by the Office for Consumer Affairs. The potential exists, even in the current system, for real estate representatives to have many complaints made against them, often for misrepresentation. I certainly feel that greater control or regulation by the State in this matter is a very important part of consumer protection. After all, buying a house is one of the most important financial activities that most individuals ever undertake and they want to have confidence in the people with whom they deal in making that expensive purchase.

Finally, I shall make a few comments on the fourth Bill, the Land and Business (Sale and Conveyancing) Bill. This really contains the left-overs of the old Land Agents, Brokers and Valuers Act, when you take out the three occupational Bills. It certainly includes very important provisions such as the cooling off period, which applies in real estate sales and also the old so-called section 90 statements. They will now be section 7 statements under the new Bill. A few penalties have been updated. I understand that the cooling off period in which the actual number of days is determined by regulation is expected to remain at the current three day cooling off period. I would certainly appreciate confirmation of that from the Attorney. The vendor statement section is still being reviewed, so before long we may have further legislation related to that section of the legislation.

Other important sections of the old Act have been retained, such as section 23, which prohibits an agent and his or her employees from having an interest in land or a business which the agent is commissioned to sell. One might have expected this provision to be included in the Land Agents Act instead of remaining in this Bill, but perhaps Parliamentary draftsmen felt that it was more appropriate where it is. Two very minor points to the Attorney-General: I notice in the Land and Business (Sale and Conveyancing) Bill that auctions remain prohibited on a Sunday, and I wonder why this prohibition remains. We are going to have shops open on Sundays, so why cannot auctions occur on Sunday? I note also that in the definition section of the Bill a business day is defined as meaning any day except a Saturday or a public holiday. I wonder why such a definition is being picked. Is it meant to be that a business day is any day except a Sunday or public holiday? Is it a typographical error or is there some deeper significance to saying that Sunday is a business day, again related to the shopping hours question?

I do not think it makes much difference in this Bill, but it is perhaps something that the Attorney or his officers might care to look at. As I am sure the Attorney-General will have gathered from my remarks, we will be moving amendments to at least three of the four Bills that are before us. Just what form the amendments will take in their entirety will probably depend on his response at the end of the second reading debate. It would certainly be convenient for all members if the second reading debate could be concluded this sitting week, so that there will be a period when we are not sitting during which amendments can be prepared and put on file well ahead of time, so that we can move to the Committee stage of the Bill when we resume after the Estimates Committee sittings of the House of Assembly. In summary, I support the second reading of all four Bills, but will certainly be moving amendments on a number of the topics I have indicated.

The Hon. C.J. SUMNER (Leader of the Opposition): I endorse what the Hon. Anne Levy has said about this package of Bills. She has outlined the approach that Labor Governments have taken to consumer issues. Of course, it was an issue taken up by the Labor Government in the 1970s through the agency of the then Attorney-General (Hon. Len King), followed by the Hon. Peter Duncan, and pursued again through the 1980s when I was Minister of Consumer Affairs. There is a feeling that this set of Bills is designed to wind back consumer protection to some extent and, although supporting the second reading, we will need to be very wary of what might be the result of these Bills. That is why the Opposition is giving them careful scrutiny, why we are interested in responses from the Attorney-General and why amendments will be moved.

I want to concentrate briefly on one matter, that is, what appears to be the impending abolition of the Commercial Tribunal. It is not spelled out by the Attorney-General in these Bills, but the fact that the Commercial Tribunal is not mentioned in the Bills and the District Court is, probably means that it is the Government's intention to abolish the Commercial Tribunal. That will be strongly opposed by the Opposition and, I hope, by the Democrats. It would be a massively retrograde step to have these issues dumped into the general jurisdiction of the District Court. The Commercial Tribunal was established with expertise. It is constituted with a presiding officer, a consumer representative and an industry representative, but under these Bills that will be done away with. In addition to having that industry and consumer input into the decision making, the Commercial Tribunal had procedures which were simpler than the District Court procedures, which were cheaper than the District Court procedures and which were designed to ensure that consumers had ready access to decision making through the Commercial Tribunal.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: That is not true: I will get to that in a minute. In some other States specifically consumer tribunals have been established, and in this State from time to time there have been calls for us to establish a consumer tribunal. I took the view that we had a Small Claims Tribunal in the Local Court that could deal with minor claims (now

claims under $5 000), and that effectively that was a consumer tribunal for many purposes, but that in addition to that we had the Commercial Tribunal, which consumers could access if they had disputes with land agents, with secondhand motor vehicle dealers, with builders and other areas where consumers were dealing with traders.

The Commercial Tribunal came about by bringing together many different and separate tribunals dealing with those individual occupations, which had grown up a bit like Topsy during the 1970s. So, the Commercial Tribunal was to consolidate their activities, and it would be differently composed depending on the issue that was before it. Under the previous Government I know there was a proposal to take away from the Commercial Tribunal the process of licensing, give that to the Commissioner for Consumer Affairs and leave the Commercial Tribunal with an appellate jurisdiction, that is, a jurisdiction to hear, in effect, administrative appeals against decisions made on licensing or registration matters by the Commissioner for Consumer Affairs.

The proposal was to take those licensing functions away from the Commercial Tribunal, vest them in the Commissioner for Consumer Affairs with a right of appeal to the Commercial Tribunal. That would then leave the Commercial Tribunal with an adjudicative function, a judicial function, in determining not just the appellate matters but disputes between consumers and traders in the areas of building, secondhand motor vehicles, land agents, etc; in other words, across the range of professions and traders that deal with consumers.

I have no objection to that proposal, if that is what the Government has in mind. In fact, I think there is some merit in separating the administrative functions from the judicial functions in the Commercial Tribunal. It was always a bit of a mixed bag having both the licensing function and the adjudicative function vested in the Commercial Tribunal. So, to separate functions and give the Commissioner for Consumer Affairs the power to issue licences with a right of appeal to the Commercial Tribunal is not something offensive to me. In fact, it was something that was in the pipeline under the previous Government and would be similar to the situation that exists, for instance, with the Liquor Licensing Commissioner. The Liquor Licensing Commissioner can issue certain sorts of licences, but there is an appeal to the Liquor Licensing Court against a decision by the Liquor Licensing Commissioner either to grant or not to grant a licence.

A similar situation could exist with the Commercial Tribunal but, while supporting that, I am strongly opposed to the abolition of the Commercial Tribunal, which seems to be the agenda that the Government has with this set of Bills, or that it seems to be commencing—

The Hon. Anne Levy interjecting:

The Hon. C.J. SUMNER: Yes. It seems to be the agenda. It was not spelled out in these Bills but, by interjection, the Attorney-General has said that he will oppose the Commercial Tribunal. In terms of the interests of consumers, in terms of what has been built up in this State in the area of consumer protection and fair trading over the past two decades, this would be a most retrograde step. We have generally been regarded as leaders in this area. It is a movement that does not have the same high priority that it had in the 1970s, because at the present time many of the things that concerned consumers in the 1970s have been addressed and protections have been put in place. But we should ensure that those protections are not wound back. They can be dealt with in different ways, adjudicated on in different ways; that may be the case. This set of Bills deals with the issues of consumer protection in a different way, and we can have an open mind about that. But basic support and protection for consumers should not be undermined. My fear with this package of legislation and the abolition of the Commercial Tribunal is that that is exactly what this Government is intent on doing with its friends from industry whom it undoubtedly has. I expect that it made commitments before the election that it would move in this area after the election. It has done that. The Attorney-General has given high priority to this area, because basically it is the main thrust of his legislative program during this year.

However, as I said, it would be quite retrograde to go back on the gains that have been made for consumers. Whatever might be said about changes that have occurred in the last decade, consumers are still in a weaker bargaining position in their dealing with traders and big companies. To some extent, the position of consumers has changed because people are better educated about consumer issues and better able to pursue their rights than they were 20 years ago; nevertheless, it is still a fundamental situation that there is not equality of bargaining power in the marketplace. Legislation needs to be in place to achieve greater equality for consumers in that bargaining relationship, but more importantly there needs to be in place a simple means for consumers to get redress if they find themselves in dispute with traders.

The problem with the abolition of the Commercial Tribunal is that that relatively simple procedure will no longer exist.

The Hon. K.T. Griffin interjecting:

The Hon. C.J. SUMNER: Just a minute. If these issues are just thrown into the District Court willy-nilly without any special rules, the capacity for consumers to access remedies will be reduced. Make no mistake about it—if you abolish the Commercial Tribunal and do not replace it with anything else, the capacity for consumers to access their rights through the legal system will be diminished. It is already a complaint in this community that citizens have difficulty in accessing the legal system because of the costs involved. We all know about that. In fact, the Hon. Mr Feleppa last year when Chair of the Legislative Review Committee did a report on access to the law. The Federal Government, through the Minister of Justice (Duncan Kerr) and the Attorney-General (Michael Lavarch) have produced a paper on access to the law. As Attorney-General, I prepared a whole lot of papers on access to the law: the reform of the legal profession, mediation, conciliation, and a whole range of issues dealing with access to the law. Despite all those changes, there is still legitimate complaint that individual citizens without the means have difficulty pursuing their legal remedies whether it be in this area, defamation law or whatever, particularly when they are confronted with the power and the money of large corporations or trading enterprises.

I do not think we should agree to do anything by the passage of these Bills which would diminish the capacity of consumers to access their rights. It may be, as I said, that there are things in these Bills to which we can eventually agree depending on the Attorney-General's answers. We are not being bloody minded or saying that circumstances do not change and that you cannot deal with these issues in perhaps a slightly different way today from what occurred 20 years ago, but we do say that the Bills need to be examined carefully. We do not want to see a retreat from consumer protection or the basic fundamental principles of fair trading,

and we do not want to see diminished the access which consumers currently have to remedies. They have access through the small claims court, which is a good procedure for small claims, and they currently have access through the Commercial Tribunal with procedures which are simpler, more expeditious and cheaper than those that would be available through the District Court generally.

In fact, in some of these issues, the amount of money involved may not even get to the jurisdiction of the District Court, but they would still be heard by the Commercial Tribunal because it is simpler and more expeditious. So you have a situation where you are putting into the District Court disputes which, in normal circumstances, would not require a District Court judge to deal with.

The Hon. K.T. Griffin: The Commercial Tribunal was constituted by a District Court judge.

The Hon. C.J. SUMNER: It was constituted by a District Court judge, but it didn't have to be. I am not saying that there still should not be a District Court judge in charge; what I am saying is that the procedures should be simple. I have no problem if you want to sever the administrative functions of the Commercial Tribunal and give them to the Commissioner for Consumer Affairs, and leave with the Commercial Tribunal an appellate jurisdiction and an adjudicative jurisdiction, but I do object to the abolition of the Commercial Tribunal. You can do those things with the Commercial Tribunal and put it—if you want to, if you are worried about getting savings in administrative costs and back-up, etc.—into the branch of the Administrative Appeals Tribunal. I have no problems with that provided, however, the Commercial Tribunal remains with procedures that are tailored to ensuring that consumers can access the law.

The current proposal does not allow that. Just to bundle the whole lot off into the District Court, whether or not it be in the Administrative Appeals Tribunal or, worse still, the general jurisdiction of the District Court, would be a major retrograde step which should not be countenanced by the Council. Obviously, we will move amendments on this, but we should make it quite clear in the first Bill—and I hope we get the support of the Democrats—that the Commercial Tribunal is maintained, that it is a consumer tribunal and that it has special rules. You can relocate it within the District Court from a physical point of view, but the critical point is that it should continue to exist as an entity and it should have special rules which enable it to be accessed by consumers. For instance, it should have special rules relating to evidence and the cost of proceedings. If the Commercial Tribunal is collocated with the Administrative Appeals Tribunal, it would not be a problem to designate a magistrate to deal with some of those disputes which do not involve large monetary amounts. That is my contribution. I would be most disappointed if this Parliament agreed to wind back the clock to that extent on the very significant consumer provisions which this State has enjoyed for the best part of two decades.

The Hon. SANDRA KANCK secured the adjournment of the debate.

FINANCIAL AGREEMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 263.)

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank the Hon. Mr Crothers for his contribution to the Bill. I have also had a discussion with the Hon. Mr Elliott, who is acting on behalf of the Australian Democrats, and, as I understand the position in this Chamber, there is no opposition to the passage of the legislation. Therefore, I thank the honourable member for his contribution to the second reading.

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

ADJOURNMENT

At 5.58 p.m. the Council adjourned until Wednesday 7 September at 2.15 p.m.