LEGISLATIVE COUNCIL

Thursday 8 September 1994

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

SODOMY

A petition signed by 120 residents of South Australia praying that this Council pass a law to make the commission of sodomy a criminal offence, to prevent this serious health hazard from being promoted in the media and educational institutions as a valid form of sexual intercourse was presented by the Hon. Bernice Pfitzner.

Petition received.

A petition signed by 512 residents of South Australia praying that this Council pass a law to make the commission of sodomy a criminal offence, to prevent this serious health hazard from being promoted in the media and educational institutions as a valid form of sexual intercourse was presented by the Hon. G. Weatherill.

Petition received.

A petition signed by 737 residents of South Australia praying that this Council pass a law to make the commission of sodomy a criminal offence, to prevent this serious health hazard from being promoted in the media and educational institutions as a valid form of sexual intercourse was presented by the Hon. J.C. Irwin.

Petition received.

CHRISTMAS TRADING HOURS

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to table a ministerial statement by the Minister for Industrial Affairs in another place in relation to Christmas 1994 trading hours.

Leave granted.

QUESTION TIME

JUSTICE INFORMATION SYSTEM

The Hon. C.J. SUMNER: I seek leave to make a brief explanation before asking the Attorney-General a question about the justice information system and the courts computing system.

Leave granted.

The Hon. C.J. SUMNER: When the justice information system was established the previous Government determined that the courts should not be included in it but that they should have a separate facility. This has been established, and received recognition around Australia as an excellent system. Indeed, when Attorney-General I gave a ministerial statement outlining an award won by the Courts Services Department for its computer system.

The present Government is currently negotiating to decide who should run the Government's computer facilities and be responsible for its information technology facilities. That is a matter of some controversy, as there are two potential recipients of the contract to provide these services, namely, IBM and EDS. I do not wish to enter that aspect of the controversy today.

However, it does raise the question of the future of both the justice information system and the courts computer system. The issue of the courts computer system is also related to the issue of judicial independence. When the justice information system was established the Chief Justice (Hon. Len King) made it quite clear that in his view the justice information system, which included the courts computer facility, was incompatible with the principle of judicial independence and that the courts could not agree to being part of a facility that was run by the executive arm of Government. It was on that basis—

The Hon. A.J. Redford interjecting:

The Hon. C.J. SUMNER: The argument, which the Hon. Mr Redford seems to be unable to grasp, despite his being a lawyer, is that the judiciary and the courts are independent of the executive arm of Government and it is inappropriate for the courts to be involved in a computer system that is run by executive Government and not by the courts. He can have his own views about it, but that is the argument that was put. As a result, it was determined that the courts should have a separate facility under the control of the courts, not under the control of the executive arm of Government.

The other issue related to this is the future of the justice information system, given that it is a system which contains details of the personal lives of many citizens. There are clearly privacy implications in the justice information system which were recognised by the previous Government, and strict provisions were put in place relating to security and privacy. This is similar to an issue raised a day or two ago by the Hon. Mr Elliott.

There are serious questions, then, as to whether it is appropriate for a private firm, whether it be EDS or IBM, to run these computer systems, in particular the justice information system, on the grounds of the security of information and privacy, and the courts computing system on the grounds of conflict with judicial independence. My questions to the Attorney-General are as follows:

1. What is the Government's intention with respect to the courts' computer facility in the light of negotiations relating to the future of information technology in South Australia?
2. Will a separate facility, under the control of the courts, be maintained?
3. Has the Chief Justice been informed of Government proposals in this area and, if so, what is his view?
4. Will the Attorney-General table any correspondence between the Chief Justice and the Government on this topic?
5. Will the justice information system be maintained under Government control?
6. If not, what procedures will be put in place to ensure security and privacy?

The Hon. K.T. GRIFFIN: I will make just one initial remark about the passing reference by the Leader of the Opposition to the Government's program in relation to information technology being a source of some controversy. The only point I wish to make in relation to that is that it is only the source of controversy in the minds of members of the Labor Party.

The Hon. C.J. Sumner: No, that's not true.

The Hon. K.T. GRIFFIN: Well, it is correct.

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: As the Hon. the Premier, I think it was, said either yesterday or the day before in the House of Assembly, the Opposition, certainly in that place, seems to be intent upon sabotaging the whole IT outsourcing negotiations.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The Auditor-General has made some observations about it, and there is no impropriety in the process. In terms of the JIS and the courts' computing system, the JIS is no longer the responsibility of the Attorney-General. That has been transferred to the responsibility of the Minister responsible for the whole of the Office of Information Technology.

The Hon. C.J. Sumner: Aren't you responsible for JIS any more?

The Hon. K.T. GRIFFIN: No, I'm not: that was transferred.

The Hon. C.J. Sumner: You were sacked.

The Hon. K.T. GRIFFIN: No, I wasn't sacked. It was believed to be more appropriate for the functions relating to JIS to be under the responsibility of the Office of Information Technology. In terms of the courts computing system—

Members interjecting:

The PRESIDENT: Order! There is far too much interjecting.

The Hon. K.T. GRIFFIN: Well, when the Hon. the Leader of the Opposition was Attorney-General and when his Government was in place, when we asked them questions about privacy protection and security of information in relation to the JIS, they always gave assurances that proper provisions and proper procedures were in place. As far as I am aware, none of those protections against abuse of privacy or of information has been changed. But I'm not Minister responsible for it.

The Hon. C.J. Sumner: Who's in charge?

The Hon. K.T. GRIFFIN: The Treasurer. I will have the question of privacy protocols and security protocols checked by the Treasurer, and I will bring back an answer. But, as far as I am aware, nothing has changed since when—

The Hon. C.J. Sumner: So all the police files are now with Baker.

The Hon. K.T. GRIFFIN: Police aren't.

The Hon. C.J. Sumner: All the police files are with Baker.

The Hon. K.T. GRIFFIN: The privacy protections are the same, whether it is with one Minister or another.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! You've had your chance.

The Hon. K.T. GRIFFIN: It is the privacy protections which are in place, and they were in place under your—

An honourable member: These are your guidelines.

The Hon. K.T. GRIFFIN: These are your guidelines, and I am not aware that there has been any change at all.

The Hon. C.J. Sumner: The Attorney-General was in charge then.

The Hon. K.T. GRIFFIN: What's the difference? Whichever Minister is responsible—

Members interjecting:

The Hon. K.T. GRIFFIN: The mess that the previous Treasurer made of the affairs of South Australia indicates quite clearly that you could not trust the former Treasurer. In terms of the courts computing system, there have been some discussions with the Chief Justice and through that with the Judicial Council in relation to the way in which—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: In the earlier stages there was a problem: there was a hiccup in the earlier stages because of some communications, but that has all been sorted out. There was a misunderstanding about the role of the Courts Administration Authority by people who had had no previous association with that. That was all sorted out. Everyone acknowledged that there was a misunderstanding, and that was resolved at a very early stage. There have been some discussions by the Courts Administration Authority with the Office of Information Technology in relation to the courts computing system and some measure of outsourcing.

In fact, the Leader of the Opposition ought to recognise that when he was Attorney-General there was already some outsourcing in place by the Courts Administration Authority, but the outsourcing did not require the courts to vest in some outside body the responsibility for or the proprietary interest in the data that was on the system. That has always been a paramount concern: that even if functions were outsourced the data always remained the property of and under the control of the agency which previously had responsibility for it.

In terms of the Government's intention, there is no intention to usurp the responsibility and role of the Courts Administration Authority. There have been some discussions with the Courts Administration Authority about it, but there have been no firm proposals, as far as I am aware, which have been negotiated with the Courts Administration Authority.

The Hon. C.J. Sumner: Are they included in the deal that is being negotiated at the moment?

The Hon. K.T. GRIFFIN: There have been some discussions with the Courts Administration Authority, but nothing has been finalised.

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: You will find out about that when some announcement is made about the way in which the—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: There are negotiations, and you know that. In terms of the separate facility under the responsibility of the Courts Administration Authority, no proposal has been put to me that there should not be a separate facility which remains under the authority and responsibility of the Courts Administration Authority. The third question was: 'Has the Chief Justice been informed?' As I indicated, he has been kept informed and been consulted in respect of particular issues relating to the courts' computing system. I have had no correspondence, as far as I am aware, with the Chief Justice in relation to the current negotiations. The last question was: 'Will the JIS remain under Government control?' That has not been an issue that has been finalised at this stage. As I indicated, the control—

The Hon. C.J. Sumner interjecting:

The Hon. K.T. GRIFFIN: No, I am not. The control of the data and information will always remain under the responsibility of the Government. Simple. All the other privacy protections which the previous Government had in place as far as I know are in place and will continue to be in place.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: Because information technology and the whole of the negotiation processes are the responsibility of the Treasurer, I will refer the questions and my answers to him. If I have made any mistakes, I will identify them in my reply. If I have not made any mistakes and the information needs to be identified, I will bring back some expanded information for the Council.

SPENCER GULF BEACONS

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

Leave granted.

The Hon. BARBARA WIESE: Recently I was approached by a member of the Australian Volunteer Coast Guard organisation who is very concerned that two safety beacons in Flinders Channel located between Whyalla and Port Augusta have been decommissioned with no intention of replacing them.

Many individuals and associations involved with recreational boating and sea rescue in the Spencer Gulf believe that without these beacons a serious boating accident is inevitable. Only last week two yachts ran aground in this area and, although no one was hurt on that occasion, local people feel that it is only a matter of time before this happens. I understand that a petition signed by 700 concerned people was handed to the member for Eyre last week and, in addition, support for reinstating the safety beacons has been forthcoming from such organisations as the Port Augusta council, Port Augusta Yacht Club, the Whyalla Sea Rescue, Spencer Gulf Cities and the Boating Industry Council of South Australia, as well as the Australian Volunteer Coast Guard.

I understand that the Minister for Transport has been advised that these beacons are no longer required and that this advice may have be based on the views of the South Australian Fishing Industry Council. I am sure that the Minister would agree that the needs of the fishing industry and the needs of recreational boating users do not always coincide. Therefore, since there has been such an overwhelming negative reaction to the loss of these beacons, I ask the Minister whether she will re-examine this issue and reverse the decision.

The Hon. DIANA LAIDLAW: I am aware of the issue and, as the honourable member will recall, the replacement of beacons by solar powered units was a process begun by the former Government. It has been highly successful in my assessment of this issue. The project was initiated about three years ago to replace what were then deemed to be outdated beacons which were of a high health and safety risk and an expensive system to operate—we estimated at the time about $4.5 million. It is true that discussions were initiated with the South Australian Fishing Industry Association about 12 months ago to establish a list of beacons used by the fishing industry, as the honourable member suggested. When I became Minister I was advised that decisions had been made with respect to these beacons and their removal and that, with respect to the two in question, a retro-reflective tape would be installed.

The Hon. T.G. Roberts: About 2 000 glow worms and some reflective tape.

The Hon. DIANA LAIDLAW: I am not too sure about the glow worms, but certainly retro-reflective tape, after discussion with the Fishing Industry Council and local fishers, was seen to be adequate.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: Apparently a lot of local fishermen and women and people who operate recreational boats are very dependent on these beacons. I have done a lot of sailing myself in the Coorong in the past and I know how dependent I am on beacons. While I have indicated to the council that the department is loathe to reinstall these lights at an estimated cost of $60 000, which certainly has not been budgeted for, I will nevertheless look at the issue again because I agree with the honourable member that the number of representations and protests must be of concern to me as Minister. It was clear that the consultation, which I was advised was adequate and I considered to be adequate on the advice given to me, has not been sufficiently extensive enough.

I believe that we will look at the issue again. As I said, however, it is not a matter that I can easily address, because the cost is $60 000, which I do not have in the budgets at the current time. Advice that I provided to the local member and to the council is that, in terms of getting this matter into some context, the particular beacons under question are two of 59 unlit markers in the Port Augusta channel, and across the State there are about 340 lit beacons and another 490 unlit markers. So, they are two of a very large number of safety devices that the department maintains on behalf of the fishing industry and the people engaged in recreational boating. Nevertheless, these two seem to have generated quite a storm. As I say, it is a storm that I will investigate, because I believe that the number of people who have expressed an interest does certainly deserve to be taken into account.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Hon. T.G. ROBERTS brought up the Fifth Report of the Environment, Resources and Development Committee on amendments to the supplementary development plans.

NOARLUNGA THEATRE

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the Noarlunga College Theatre.

Leave granted.

The Hon. CAROLYN PICKLES: The operation of the Noarlunga College Theatre is in doubt because of a decision by the Minister for Employment, Training and Further Education to axe funding from next year. The theatre has, until now, been supported financially by DETAFE through the Noarlunga College. This has been subject to review since 1992 in a bid to find other resources for the theatre. Before this has been achieved, the future of the facility has been threatened by the decision of the Minister for Employment, Training and Further Education that funding will cease from July 1995. The Minister has simply adopted the attitude that theatre is not part of his department's core business and that if the southern community wants a theatre it will have to pay for it. My questions are:

1. What action has the Minister for the Arts taken to ensure that the residents of the southern suburbs of Adelaide are not deprived of the only theatre facility south of O'Halloran Hill?

2. Will the Minister guarantee funding for the theatre while new arrangements are being considered?

3. Why did the Minister embarrass her colleagues the Minister for Education, the Minister for Employment, Training and Further Education and the members for Kaurna, Reynell and Mawson by walking out of a meeting held yesterday with the Friends of the Theatre?

The Hon. DIANA LAIDLAW: I met with the principal of the Onkaparinga Institute of TAFE yesterday and also the manager of this theatre along with the local members, to whom the honourable member has referred. The Minister for

Education attended for some time, as did the Minister for Employment, Training and Further Education. So, considerable interest in this project was expressed by members of the Government. Essentially, there were six members of the Government to hear the representations of two members. When I attended that meeting, I made those present aware that I had a little time to spend—that I had other commitments.

I have spent some time, as has the Department for the Arts and Cultural Development, exploring this issue. As I indicated to the group yesterday, and as I have in other written correspondence, I am particularly keen to see that arts at the community level are maintained across South Australia, whether it be the Adelaide area, the outer suburbs or the country. We have looked at whether the centre could be incorporated under the Country Arts Trust, which is responsible for the management of four major theatres in the country area. However, the boundaries for the Country Arts Trust, proposed by the former Government and passed last year—

The Hon. Anne Levy: And supported by you.

The Hon. DIANA LAIDLAW: Yes, I said, 'and passed last year'—without dissent, to further the south. The Country Arts Trust has indicated that it has its hands full with the management of the four theatres, and the Government concurs with that response. However, the Country Arts Trust is prepared to work with the theatre and include it in its very successful touring program. The Shedley and Octagon theatre in the northern area of Adelaide is essentially a commercial operation, which is heavily supported by the local council. It is my belief that the local council in the Noarlunga area—and, in fact, neighbouring councils—should give an indication of strong support to the Noarlunga College theatre, and I expressed that belief to the group yesterday.

I also indicated—and I understand that the group accepts this plan—that, because it is a frustrating exercise for it to be dealing with all Ministers on an individual basis, that the most appropriate way to deal with this issue is through strategic planning. I understand that the Minister for Further Education will take the issue to the Strategic Planning Unit in the Department of the Premier and Cabinet, so that it can then have an overview of this issue. I have written today to the Principal of the Onkaparinga Institute and also to Wendy Brooksby, the Manager of the unit, explaining that they have my support in their endeavours to keep the theatre going. The theatre is valued at $6.5 million. No-one—I repeat 'no-one'—would want to see the theatre lock its doors when we have such an asset in the community. All those statements were made yesterday, and I do not think there was any doubt about that.

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: I indicated at the start of the meeting that I had limited time to give to it. I explained the position as far as the arts were concerned, and I also listened with interest to the presentations. I was there for three-quarters of an hour. One could hardly say that the group did not receive a good hearing. I am not able to guarantee funding from the arts budget, which has been confirmed for this year. As I indicated, this matter must be dealt with by the Strategic Planning Unit of the Department of the Premier and Cabinet, and that will happen.

KANGAROO ISLAND FERRY

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about the new Kangaroo Island ferry service.

Leave granted.

The Hon. SANDRA KANCK: I refer the Minister to two media releases from the Premier, both dated 6 September 1994 and both entitled 'New Kangaroo Island ferry service', which announce the Government's intention that a company named Boat Torque will operate a new service from Glenelg to Kingscote. I must explain how I come to have two copies of this release. My office contacted the Premier's office to get a copy of this release and was told that they were too busy and that we should get a copy from the Parliamentary Library, which we duly did, but one also arrived from the Premier's office.

The Hon. C.J. Sumner interjecting:

The Hon. SANDRA KANCK: Well, they eventually did, but as a result we found a number of inconsistencies in these two releases. One of the releases states that the length of the new ferry will be 45 metres and the other states that it will be 45 feet. One says that the upgrade of the moorings required for the new service will cost $200 000 and the other says that the cost will be $150 000. One says that both the Glenelg and Kingscote moorings will need to be upgraded, and the other says that only the Glenelg jetty will need to be upgraded—

The Hon. C.J. Sumner: Which one came first?

The Hon. SANDRA KANCK: I do not know—perhaps it is a chicken and egg situation. Both releases, however, say that Boat Torque is negotiating with the Glenelg council to build a ferry terminal at the breakwater near the Patawalonga.

An article in the *Advertiser* of 6 July 1994 quotes a report on the jetty by Glenelg council officers which says that the council faces a $100 000 repair bill because of alarming failures in the Glenelg jetty construction. My questions to the Minister are:

1. Given that there were two estimates of the cost of the new service to taxpayers on Tuesday, can the Minister tell the Council what the figure is today? Will the Government now come clean on how much the upgrade of mooring facilities will actually cost?

2. How can the Government justify upgrading the Glenelg jetty to accommodate a new ferry service when the company concerned is planning to be involved in building a new ferry terminal behind the breakwater at Glenelg?

3. Has the Government done any work on the actual cost of upgrading the Glenelg jetty and the Kingscote mooring to ensure the physical safety of the new ferry and the people using the moorings? If not, why not? If the Government has decided on a final cost, will the Minister give a breakdown of that figure?

4. Will the public access to the Glenelg jetty be jeopardised as a result of the operation of a new service from it?

5. Has the Government given an undertaking to Boat Torque that, in exchange for establishing a new ferry service, the Government will close the *Island Seaway*?

The Hon. DIANA LAIDLAW: In reply to the last question, I give an unqualified, 'No.' In respect of the first question, I have not been involved in all the arrangements.

The Hon. M.J. Elliott: You didn't know about it at all. They didn't tell you about it until after they decided.

The Hon. DIANA LAIDLAW: No.

The Hon. M.J. Elliott: They didn't tell you about it.

The Hon. DIANA LAIDLAW: That's not true. I do not know what you are getting excited about; I have been aware of this project for some time, because there has been—

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: No, I don't know; he is giggling away—

Members interjecting:

The Hon. DIANA LAIDLAW: —as if he is suggesting something. He is getting over-excited; that is true. I have been involved in discussions on this project in respect of the Marine and Harbors responsibilities for some weeks now. I am aware that in relation to the Marine and Harbors responsibilities we have been asked to participate in terms of four large pylons adjacent to the Glenelg jetty which would steady the ferry when it was moored there. The sum of money involved is $70 000. I will seek clarification on the other sums referred to by the honourable member.

In terms of the Glenelg jetty, there is no reason for the Government to be involved in any assessments, as suggested, because the Government does not own that jetty. It is owned by the Glenelg council, which apparently has supported this initiative. In terms of public access to the jetty, I understand that will not be jeopardised, but I will make inquiries on behalf of the honourable member with the local council. As I say, it is a local council jetty, not a Government responsibility.

The Hon. SANDRA KANCK: I have a supplementary question. As the Minister has been involved in this matter for a number of months—

The Hon. Diana Laidlaw: I didn't say 'months'—weeks.

The Hon. SANDRA KANCK: All right, for a number of weeks. If there is a consultant's report, would the Minister be willing to release it and, secondly, could she inform the House when Glenelg council was advised of this service?

The Hon. DIANA LAIDLAW: I will make inquiries on both accounts. As Minister for Transport, I was asked to investigate what role we could play in accommodating this venture. As I indicated, my role was limited to discussions about pylons at the Glenelg jetty. I will make further inquiries.

SCHOOL BUSES

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, as Leader of the Government in the Council, a question about education country bus services.

Leave granted.

The Hon. M.S. FELEPPA: Approximately 22 000 students are transported to school on a daily basis by the school bus fleet of 622 buses. Just over half the buses are owned and operated by the Education Department, with the remainder provided by the department under contract. The cost this year will be $14 million. The Audit Commission recommends that the management of this service be transferred from the Education Department to the Passenger Transport Board in order to achieve an identified saving through synergies and economies of scale. The commission also suggests that additional savings of between $1.5 million and $2 million could be achieved by a review of routes and further contracting out.

Will the Minister say whether the transfer of the school bus service to the Passenger Transport Board would mean that country students would be required to pay the minimum fare of $5.10 per week that applies to children travelling to school in the metropolitan area? This would raise approximately $4.4 million per year.

The Hon. R.I. LUCAS: The budget has been brought down and it is quite clear that, attractive as it might seem to the honourable member to raise another $4 million on behalf of the Government, there is no provision for the collection of $4 million from students in the country in the fashion that the honourable member has suggested. It is true to suggest that the Liberal Party, when in Opposition, had a policy of moving school bus transport to the new Passenger Transport Board. Discussions are ongoing with officers from the Minister for Transport and my officers in relation to how that process can be managed and implemented.

The Hon. C.J. Sumner: Will that have any effect on the cost?

The Hon. R.I. LUCAS: As I said, there is no budget provision at all for $4 million or indeed any dollars in relation to this area. The Minister for Transport and I await with interest the report from our officers in relation to this issue.

The only other point is that, in relation to school bus transport, the budgeted savings over the next three years do factor in a saving of about $1.7 million, but that does not relate to the introduction of charges; it relates simply to implementing the school bus transport policy as it exists at the moment. We have found, through a variety of special arrangements that have developed over the past few years, that a number of school bus transport routes have developed and grown quite contrary to the provisions of the school bus transport policy.

In a town such as Clare, for example, we found that students were being transported at taxpayers' expense from one side of Clare to the other, bypassing a particular school. The school bus transport policy was not intended to cater for that circumstance. It is to cater for those students, generally on farms or in farming communities more than five kilometres from their nearest school, and they are transported to their nearest Government school as a result of that policy. It was not intended that they be transported from one side of a town to the other at taxpayers' expense.

In some other areas we are looking at the number of bus routes. There may well be five bus routes operating with five separate buses for one particular school, and, through having a look at the particular routes where the children live, we may be able to rationalise those five routes down to four with, therefore, the subsequent alteration to that policy so that you need only four buses, and therefore reduce expenditure to the taxpayers of South Australia. That sort of review process has been going on for some time. It was commenced by the Labor Government prior to the last election, and the Liberal Government is continuing that policy.

In relation to the question of charging for fares, as Minister for Education and Children's Services and the person responsible now, and for some little time, at least, for school bus transport, because there are still a number of issues to be resolved, I will certainly not be implementing charges for country bus transport.

ARTS AND CULTURAL DEVELOPMENT TASK FORCE

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for the Arts a question about the report from the task force.

Leave granted.

The Hon. ANNE LEVY: This morning I received my copy of the task force report, which the press received last

Friday and which the Minister two days ago indicated had been sent to those members of Parliament interested in the arts and which she would see was sent to others. It may be expressing an opinion, but I was rather surprised to find I was not in the category of people interested in the arts to have received the task force report. But, as I indicate, I am very grateful that I received a copy this morning.

As with many such reports, I suppose one can describe it as a curate's egg; there are good bits and bad bits in it. Obviously, there are many parts of the report on which I and many others will wish to comment at the appropriate time. It does confirm the predictions I made before the election, and which can be referenced quite readily, that a Liberal Government would mean that resources would be cut for the small groups, the community groups, which obviously is a recommendation of the report.

There are two other recommendations in the report that arouse great concern. One is the suggestion that entrance fees should be charged for admission to the institutions along North Terrace or, at least, the Art Gallery, the Museum and the Migration Museum. I do not think even this report suggests entry charges for the library.

I am sure I do not need to remind you, Mr President, that the permanent collections of those institutions belong to the people of South Australia and many people take the view that, belonging as they do to the people of South Australia, the people of South Australia should have access to them without the payment of a fee. Special exhibitions are, of course, a different matter.

The second matter of concern is the suggestion that all boards and committees appointed in the arts should have a committee to appoint the committee. This was recommended by the Festival subcommittee of the task force, and we know that the Minister agreed to that procedure and that the Festival Board is to have a committee appointed to appoint the board. As yet, we do not even have appointed the committee to appoint the committee. Obviously, it will be some time before there is a new Festival Board.

However, this report recommends that the same procedure should be used for all boards and committees in the arts. On a quick count, I have come up with 25 boards and committees that have been appointed by the Minister for the Arts, and I may well have missed quite a number, even allowing for the fact that the Minister has so far abolished at least one of them. It would not be feasible to have the same selection committee for all boards and committees in the arts. One could hardly imagine people having the knowledge and expertise to cover all the areas from the Jam Factory to Tandanya to Carrick Hill to straight opera and on for the remainder of the 25. So, this would mean that, in addition to having 25 different boards, there would be 25 different selection committees. I would imagine that many people would consider that an absolutely absurd proposition.

My questions to the Minister are: will she categorically deny that the Government will introduce entrance charges for the Museum, the Art Gallery and the Migration Museum? Will she indicate whether she will be accepting the recommendation of having a committee to select a committee for each of the 25 boards and committees under her jurisdiction?

The Hon. DIANA LAIDLAW: I will make inquiries about why the honourable member did not receive her report until today. She was one the people on the top of the list that I prepared to receive the report. I was advised that they would be forwarded—

The Hon. Anne Levy: Mine came yesterday afternoon.

The Hon. DIANA LAIDLAW: Right. Well, I was advised that they were being packaged up on Monday to be sent around. I will make inquiries, because I know of the honourable member's keen interest in the arts. Notwithstanding that interest, it is true that we have a lot of work to do to ensure that the damage done to the arts over the past 10 years does not hold—

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: No, I'm not getting offensive: I am just stating a fact.

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: Well, that's what Alex referred to as well, didn't she?

Members interjecting:

The Hon. DIANA LAIDLAW: She did say more, and I am sorry that she is so ill-informed. It is clear that I will have to—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Certainly she is misinformed, and it is clear that I will have to spend a little time with Alex—

The Hon. C.J. Sumner: That should be a pleasant experience for you.

The Hon. DIANA LAIDLAW: Which should be a fantastic experience for me, yes, I quite agree. I might even look forward to it.

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: No; I have known her for years. I have not seen her for some time, and clearly I should. In terms of the—

The Hon. C.J. Sumner interjecting:

The Hon. DIANA LAIDLAW: Well, I'm not sure that having a cup of tea or coffee with Alex will—

The PRESIDENT: Order! I suggest the Minister confine her remarks to the original question.

The Hon. DIANA LAIDLAW: Yes, Mr President. I am sorry that the honourable member read—

Members interjecting:

The PRESIDENT: Order! That applies also to the Leader of the Opposition.

The Hon. DIANA LAIDLAW:—in terms of her comments on the report, what she wanted to read from the report in relation to the smaller companies in South Australia. There is no reference, nor is there any suggestion, that there are cuts to these smaller groups.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes, that's because she and particularly Labor members have wanted to believe that which is just not so. If the report was read accurately, as I said, it would be seen that there is no specific reference to nor suggestion of the fact that there would be any cuts to any group in South Australia. The report states that, in terms of arts grants in the future, there should be a sharper focus on companies that provide a product that is of intrinsic worth to South Australia. In my experience, and having attended a lot of the performances by the smaller companies, I have found that they produce the work that the task force suggested was so important, not only to the cultural product of the State but also as a training ground for new work, innovative exciting work, which is absolutely vital to ensure that there is life within the arts in South Australia.

To fund—as the Labor Party would want people to believe the Government would do—only the bigger companies and not to generate strength, creativity, new blood and life from

the bottom would be self-defeating. It is not even suggested for one moment in the report. Quite the contrary: it is said that there should be strong focus on innovation and new works, and I solidly endorse that. So, there is no suggestion across the board that there would be any cuts for any specific group. What we must do is suggest to all the companies—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW:—that they are all on alert in terms of performance, participation and a number of bench marks, and it is only fair to them to hear how the Government in the future will be making at least basic decisions in terms of arts funding. We certainly will be introducing new forms of funding, including triennial and base funding, and challenge grants, all of which are healthy in terms of introducing new impetus, excitement and adventure in the arts in this State.

In terms of the gallery fees, I knew that Labor would deliberately miss out the key points in terms of the issue of entrance fees. The report deliberately recommends that such fees should be introduced only after the major capital works programs have been undertaken. It specifically states 'only after those capital works have been undertaken'. In Australia, there are charges for the National Art Gallery in Canberra for its permanent and touring collections. In Victoria there have been entrance charges for many years for the permanent collections and for touring. Both places, because of the funding, have been able to provide additional facilities for people to attend, and at both galleries the attendances continue to increase.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I am saying that the entrance fees have not affected the attendances at either the art galleries in Melbourne or Canberra where entrance fees are charged. Those fees are to be discussed after the capital works programs have been provided from moneys which this Government has found. In terms of the Museum, if the Hon. Ms Levy cares to remember, between 1979 and 1982 the former Liberal Government undertook a major program to redevelop the Museum. It was the honourable member's Government that put it on hold for three years. We have just announced that there is an $830 000 feasibility study to make up for lost ground in terms of competition between other States in museum policy and plans.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes; you've always talked about plans. There was just so little action in terms of commitment to the arts over the past few years. We are trying to make up for lost ground now. We will be discussing with all those institutions along North Terrace the issue of entrance fees when capital works programs have been completed. These are very costly programs in the environment that we inherited from Labor. So we have a situation where your Government let down the arts in South Australia, allowed our major cultural institutions to deteriorate, and then you—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —starved them of funds because of the State Bank situation. We have inherited this very difficult situation and I, with great pride, say that the State Government has found funding for stages 1, 2 and 3 of the Art Gallery. Notwithstanding the frightful nightmare of the economic climate that we find arising because of the State Bank—

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: —we have found money for stages 1, 2 and 3 of the Art Gallery. We have also found $800 000 for the Museum redevelopment. In eight months this Government has done more for those institutions along North Terrace than you did in 10 years in government.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: I only wish you had shown as much energy when you were Minister for the Arts as you are now showing in screaming across the Chamber.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order! The Hon. Anne Levy, as a former President of this institution, ought to know better than to continue to interject time after time. It sounds like a kitchen debate. We are not in a kitchen debate. The honourable member had a chance to ask her question. The Minister now answers. I have no control over what the Minister says, but I suggest that she keep her response related to the question.

The Hon. Anne Levy interjecting:

The PRESIDENT: Order!

FORWOOD PRODUCTS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about privatisation.

Leave granted.

The Hon. T.G. ROBERTS: The widely read *South-East Times* contains an article which reports that the Minister for Primary Industries, Dale Baker, has announced the sale of Forwood Products. Although it did not receive too much of a headline here in the city, in the South-East it has raised a lot of eyebrows and questions.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The *South-East Times* has some very good investigative reporters. Unfortunately, its editorial content does not match the standard of the rest of the paper. The Hon. Ren DeGaris has a column in that paper on which I will not comment, but I suggest that every Liberal Party member in the Council read it.

Members interjecting:

The PRESIDENT: Order!

The Hon. T.G. ROBERTS: The article indicates that the Minister is selling Forwood Products. There is also a comment by the union which represents members in the South-East as to its attitude to the sale.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: I welcome the $400 000 announced expansion program for Mount Burr. I congratulate the Minister for doing that. In the auditor's report for 30 June 1994 timber assets were valued at over $500 million; and the value of the milling operations are considerable, at many millions of dollars. My questions are:

1. For what reason, purpose and by what criteria is Forwood Products being sold to the private sector?

2. Have any preliminary negotiations commenced?

3. Have any approaches been made by the private sector for any of the integrated milling operations of Forwood Products?

4. If the sale of Forwood Products does proceed, what influence will the Government have to maintain its social

obligations to people of the South-East and the central and northern softwood growing regions?

The Hon. K.T. GRIFFIN: I will refer the question to my colleague and bring back a reply.

SOUTH AUSTRALIAN COUNTRY ARTS TRUST (TOURING PROGRAMS) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for the Arts) obtained leave and introduced a Bill for an Act to amend the South Australian Country Arts Trust Act 1992. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This is a Bill to amend the provisions of the South Australian Country Arts Trust Act 1992 relating to the functions and powers of the South Australian Country Arts Trust. The trust was established in January 1993 with a broad mandate to develop the arts in country South Australia. As one of its principal responsibilities, the trust develops and manages performing arts tours throughout country South Australia. These tours are performed in venues owned by the trust and in a number of other venues in smaller centres throughout South Australia.

In 1992, at almost the same time as the Act was passed, the Federal Government established a national performing arts touring fund called Playing Australia. This touring fund supports interstate tours of subsidised performing arts companies throughout Australia. Although Playing Australia has only been in operation for a little under two years, it has already proven to be a significant benefit to the trust with a number of country tours supported by this fund. In 1993 and 1994 financial support through Playing Australia was provided to tours of country South Australia including the Australian Choreographic Ensemble (ACE) with Paul Mercurio, the Australian Ballet, the Dancers Company—*Triple Bill*; the Black Swan Theatre Company—*Bran Nue Dae*; the Sydney Theatre Company—*Two Weeks with the Queen;* and the Australian Chamber Orchestra.

Playing Australia guidelines suggest that the best approach when applying for funding is to ensure that a 'presenter' organisation, such as the trust, manage proposed tours. The trust is well placed, given its geographic location and its sound administrative base, to manage larger scale multi-State tours. Playing Australia believes that this approach provides the best opportunity to maximise the number of touring performances from the grants its provides. In a number of cases this will require the trust to take on the responsibility for the management of tours which tour not only in country South Australia but throughout the country areas of other States.

The trust, when managing interstate tours, would not take any financial risk on performances (except in South Australia). Rather, the trust would negotiate a fee with each of the interstate venues that are taking performances. These fees, combined with the subsidy provided by Playing Australia, would meet the cost of touring salaries, living allowances and other touring expenses. The trust would also draw a small management fee from the tour to assist with its South Australian activities.

On the basis of the Crown Solicitor's advice as to the meaning of the provisions relating to the trust's functions and powers, it is considered desirable to amend the Act to ensure that the trust has power to develop and manage touring programs of country arts activities within, or within and outside, South Australia. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

This clause is formal.

Clause 2: Functions and powers of Trust

This clause amends section 9 of the principal Act to remove references to "Statewide" in relation to the Trust's functions of—

- establishing and maintaining an information service for country arts; and
- developing and maintaining touring programs for country arts activities.

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

CRIMINAL LAW CONSOLIDATION (MENTAL IMPAIRMENT) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 6 September. Page 253.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their attention to this important Bill. Because of the importance of the Bill I intend to reply and allow members an opportunity to consider the reply over the next week or so, and then resume the Committee after the next two or three weeks.

There may well be some amendments that the Hon. Mr Sumner and the Hon. Mr Elliott may wish to consider and there are several amendments I want to put on file. The Hon. Mr Sumner raised some questions about the definition of victim. The first question is about the definition of victim in the definition section of the Bill. That definition is, in relevant part:

> A person who suffered significant mental or physical injury as a direct consequence of the offence or the conduct.

In the Ritson Bill, which is now law, the relevant part is:

> A person who suffered mental or physical injury or nervous shock as a result of the offence.

There are clearly differences between the two. The Hon. Mr Sumner is concerned at the addition of the word 'significant'. It was added at the request of the South Australian Mental Health Service. The reason is that victims have certain rights under the legislation. They have the right to have their views put to the court by the Crown under section 269O and the right to receive counselling under section 269V. The example that the South Australian Mental Health Service provided was Mr Pangallo. It is arguable, it said, that the definition of 'victim' in the Ritson version would include half the Riverland. It is not reasonable or practical to confer those rights so widely and that has to be right.

The second question is a variation on the first. It is that the definition does not cover those who are:

> 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.

The Hon. Mr Sumner is correct about that. It is of course true, under the Ritson version as well. The Ritson version is in fact the standard definition of 'victim' used in criminal injures compensation, victim impact statements and truth in senten-

cing. Apart from 'significant', the difference is that Parliamentary Counsel has taken out 'nervous shock'. My officers indicate (and I am certainly in a position to say) that we do not believe that we instructed it specifically. Assuming that the Hon. Mr Sumner's hypothetical victim has not suffered nervous shock either, the answer must be that the person is not a victim for the purposes of any of the legislation that we have in place. The underlying question is whether 'nervous shock' should go back in. Parliamentary Counsel advises that he takes the view that mental injury includes nervous shock.

The third question is whether the next of kin of victims should also be included. The example given is where the victim is a child or is the victim of a homicide. I think the answer to that has to be the same as the last point I made; that, (a) the entitlement should be tightly confined and, (b) that these people are not victims for any other legal purpose. One is sympathetic to such cases, but to include the next of kin to all victims would be to go far too far. In the case of the child, the child would be entitled to counselling and any decent counselling would have to include the immediate family. In the case of a homicide, the question whether the family is included within the description 'victims' for these purposes I understand has been controversial from the beginning, but I note that in relation to victim impact statements, in respect of homicide, for example, the family of the victim makes and has made representations to the court under the general umbrella of victim impact statements.

The next question is whether the fact that the defendant was found unfit to plead makes any difference to the operation of the definition of 'victim'. That is an acute point. It says that the definition of 'victim' is:

> In relation to an offence or conduct that would, but for the perpetrator's mental impairment, have constituted an offence.

It is very clear then that a person found not guilty by reason of mental impairment can have victims. The fitness to plead speaks of the question of whether:

> The person's mental processes are so disordered or impaired—

This refers to section 269G. In addition, the court must have found that the evidence for the prosecution is sufficient to establish the objective elements of the offence beyond a reasonable doubt (section 269K). The reason is that if that is not so the defendant is entitled to be acquitted, whether or not the defendant is fit to plead. So, there will be victims of the conduct established. The definition does cover the case. It should be read as:

> In relation to an offence or conduct that would, but for the perpetrator's mental impairment, have constituted an offence.

So, if one was sane at the time, it is an offence. If one is not, then it is conduct. I turn now to the issue of escape. The next question raised by the Hon. Mr Sumner concerns the fact that a person who escapes from detention under section 269X is to be returned to prison, but there is no provision for a penalty to be imposed. The reason is that the provision is straightforwardly a modernisation of section 56a of the Mental Health (Supplementary Provisions) Act 1935, which this Bill repeals. That provision also has no penalty. It was inserted in 1967 because of doubts about who could arrest escapees, but section 254 of the Criminal Law Consolidation Act states:

> (1) Subject to this section a person subject to lawful detention who—
>
> (a) escapes or attempts to escape from custody or,
>
> (b) remains unlawfully at large is guilty of an offence.
>
> Penalty: Imprisonment for seven years.

A person detained under the provisions of this Bill would be lawfully detained and hence subject to that penalty. The question of the psychiatrists is the issue I now address. The Hon. Mr Sumner has put the objections of the College of Psychiatrists on the record. I will deal with it in a slightly different order. It has been alleged that there has been no consultation. There was consultation with Dr Ken O'Brien and Dr Yellowlees of James Nash House and Doctor Ben Tovim as Chief Psychiatric Adviser to the Minister for Health. Proposals were sent at an early stage to the Australian Medical Association, which made no response. I sent the Bill to the AMA again when it was introduced and there was still no response. There was extensive consultation with the South Australian Mental Health Service.

The college wrote of its concerns in late 1993 and the conversations which one of my officers had with the persons to whom I have specifically referred led him to believe that they would not change their minds. As I understand it, he had some initial discussions with the college. The concerns raised by the college were put to me and I made some decisions on them and then they went to Cabinet in the context of the approval of the Bill. There have been consultations, and the representations by the college have been given appropriate attention. The college is concerned that the Bill adds to the grounds on which there might be found to be a mental impairment defence by adding:

> . . . unable to control the conduct to the traditional common law grounds, section 269C(c).

The common law did not have this component, colloquially known as irresistible impulse, but this addition has existed in the criminal codes of Queensland, Tasmania and Western Australia for very many years. It is also part of the model criminal code recommended by the Model Criminal Code Officers Committee and the Model Criminal Code Bill introduced into the Commonwealth Parliament.

The college objects to defining mental impairment to include severe personality disorder. This is, I acknowledge, a vexed question, because the psychiatric mainstream does not define personality disorders as being mental illnesses. There is a number of points to be made about this:

1. The addition of 'severe personality disorders' in this way was recommended by the Victorian Law Reform Commission in its report on the subject in 1990. Again, it is also part of the model criminal code recommended by the Model Criminal Code Officers Committee and the Model Criminal Code Bill introduced into the Commonwealth Parliament. The Victorian Law Reform Commission commented that, in its view, severe personality disorders could qualify under existing common law, in any event.

2. Just because a person has a severe personality disorder does not mean that the person will be able to access the Bill. The person with the severe anti-social personality disorder must also satisfy the court that he or she did not know the nature or quality of the conduct committed or did not know that the conduct was wrong or was unable to control conduct. If the accused can persuade a court of those things on the balance of probabilities, what is the case for holding that personal criminally responsible?

3. The word 'severe' is crucial. The Social Development Committee of the Victorian Parliament held an inquiry into this area in 1990. It recommended that anti-social personality disorders be not included as a mental illness within the Mental Health Act. That is not the issue here. What is relevant is that Department of Corrections evidence before

it was to the effect that about 15 to 40 per cent of the population had some kind of personality disorder and about 10 per cent of prisoners and 20 to 30 per cent of remandees exhibited behaviour which would benefit from therapeutic intervention. They estimated that one to two per cent of the prisoners are severely disturbed; that is, about 20 to 25 prisoners. I repeat: they have to show that the disorder also had one of the three alternative exempting effects.

4. It should be remembered at all times that this defence is not a full defence. The person who received the benefit of the defence remains liable to judicial orders, which may include detention or release on conditions.

5. The Burdekin report commented in this area as follows:

> The inquiry was told the refusal to treat personality disorders is based on a belief that these disorders cannot be treated. The inquiry was also told that this is not true. Treating personality disorders is costly and time-consuming because it requires behavioural programs rather than medication. Given the size of the problem and the severe impact that people with personality disorders often have on their families, the wider community, welfare agencies and the prisons, it is essential that this unjustifiable stand-off between the health and prison sectors is resolved.

The Hon. Mr Sumner raises the concern of the college that there will be enormous resource implications for the South Australian Mental Health Service. There is in fact no way of knowing whether that is so and, if so, to what extent. Some figures are given above which suggest that in South Australia there may be at any one time less than a dozen such people. They will have an impact if they choose to employ the system, but we do not know if they will and we do not know if they will be able to show, on the balance of probabilities, that they were not criminally responsible for their actions.

The South Australian Mental Health Service has been consulted extensively and regularly on the Bill. If the Bill is passed it will, of course, not be proclaimed until appropriate mechanisms are in place to deal with anticipated consequences. The college is concerned with what it calls the 'demedicalisation' in the legislation. That means that the Bill allows expert witnesses other than psychiatrists to be called to give expert evidence on the issue. The Hon. Mr Sumner correctly points out that three such witnesses are required, but of course more can be called.

In relation to the issue of fitness to plead, any requirement that the expert evidence must in all cases come from psychiatrists is untenable. Fitness to plead may arise from intellectual disability, extreme physical illness or, in a couple of reported cases, because the accused is a tribal Aboriginal from a very remote area who simply cannot be fairly tried because he or she has no concept of trial, instructions and the like. It should be up to the parties to a trial to call whatever expert evidence they wish in support of the case that they want to make. It is not up to the law to compel them to call witnesses that they do not want or need to call.

The earlier letter from the college remarked that the defendant could be supervised by the Guardianship Board. The matter was gone into thoroughly by extensive consultation. The Guardianship Board strongly submitted that it simply did not have the resources or the capacity to do the job. The supervision responsibilities in this Bill were worked out at a meeting of the representatives of the Australian Mental Health Service, the Guardianship Board, the Public Advocate, the Parole Board, the Legal Services Commission, the Attorney-General and Dr Ben Tovim.

I turn now to the question of conditions of release on licence. The Hon. Mr Sumner correctly points out that section 269L(b)(ii) provides that the defendant may be released on licence but does not specifically empower the court to attach conditions. The power to attach conditions is clearly implicit in the section, as the Hon. Mr Sumner acknowledges. If it were not, there would be no difference between the power to release unconditionally (section 269L (a)) and the power to release on licence (269L(b)(ii)). Moreover, for example, section 269O(2)(b), speaks of varying conditions of the licence. I arranged for the Parliamentary Counsel to be asked for his views on whether the clause should be amended to make the implicit explicit. He thinks that it should, and there will be an amendment which I will move in the Committee dealing with that particular issue.

I repeat what I said at the commencement of this reply: it is not intended to proceed with the Committee consideration of the Bill today. Any amendment which I propose will be notified to relevant members of the Council, hopefully well before 11 October when we resume. If there are other amendments that members wish to put on file, it would facilitate the consideration of the Bill on our return on 11 October if they could be placed on file at an early opportunity. If there are issues that members wish to raise either with me or with my advisers on the Bill prior to that time, I invite them to do so. Again, I thank members for their consideration of the Bill.

Bill read a second time.

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

In Committee.

Clause 1—'Short title.'

The Hon. K.T. GRIFFIN (Attorney-General): When I replied to the second reading debate I indicated that there may be some further matters upon which I should provide information to the Committee. There is some further information that I wish to place on the record. The first issue relates to what matters made the situation under regulation 4 unworkable and which led to the revocation of that regulation.

I have made available to several members of the Committee a copy of regulation 4. The regulation was revoked primarily because of the wide meaning of the expression 'associate', which included partners. That caused difficulties in conjunction with the limits prescribed in the regulations. Evidence supplied at the time by two members and one acting member who were (and still are) partners respectively in the firms of Price Waterhouse, Edwards Marshall and Lynch and Meyer (now Michell, Sillar, Lynch and Meyer) was that to varying degrees it would be impractical and unworkable to ascertain the private business interests of all their partners, some of whom would operate in interstate offices.

Having regard to this, it was ascertained at the time that the limits which would not create difficulty for the appointed members would need to be not less than (and, to be certain, in all probably more than) the following: deposits, $200 000; withdrawable shares, $250 000; other securities (for example, permanent shares), $5 million; housing loans, $250 000; unsecured loans, $100 000; and business loans, $200 000. To increase the limits to such magnitude would have been inconsistent and incongruous with what Parliament intended.

The second matter relates to the disclosure regime proposed in the amendments and to whether that is adequate, even though the person concerned might have a substantial

interest in a society. Does the proposed approach overcome the question of conflict or at least the issue of perception of conflict? I have referred already to the provisions of section 29 of the Act which, as I indicated in my reply, are similar in form to many sections in other legislation relating to disclosure of interests of board or committee members, and I have indicated that the proposed amendment goes further than many of those because full public disclosure is required.

Some additional points need to be made. The scheme for declaration of interest is consistent with the guidelines for members of statutory authorities issued by the Crown Solicitor (Legal Bulletin No. 5, 24 May 1991). Again, I have made a copy of that available to certain members, to the Leader of the Opposition and to the Hon. Mr Elliott for information purposes. The guidelines include the common law fiduciary duties of members, as set out in paragraph 2 of appendix B to that Legal Bulletin.

These duties have statutory effect in section 34 of the Act. A two tier level of disclosure is suggested in the guidelines: first, periodic disclosure of commercial interests (paragraph 7(a) of the appendix)—the proposed amendment has this effect; and, secondly, a disclosure of apparent conflicts relating to a specific matter on a board agenda (paragraph 7(b) and others of the appendix). Section 29 of the Act covers this.

There is then the question of additional reporting to the Minister. SAOFS recently sought legal advice from the Crown Solicitor concerning members' obligations to report matters not associated with their duties under the SAOFS Act to the Minister, for example, in relation to informing of adverse developments in the financial situation of bodies with which the member is associated or of which the member is a director. The advice was that the member does have such a responsibility to advise the Minister and that, in general, 'it is a responsibility of members to make known to the Governor (through the Minister) any circumstances affecting the ability of the member to discharge his or her duties, or of matters which would cause a reasonable member of the public to consider that the ability of the member to carry out those duties was affected.'

Additionally, the Crown Solicitor observed:

> The members of the board are appointed by the Governor on a nomination of the Minister. They hold office on terms and conditions determined by the Governor and may be removed by the Governor. In those circumstances, the Governor and Executive Council have a responsibility to monitor any matters which have the potential to affect the ability of members of the board to effectively carry out their duties and any matters which may affect public confidence in the ability of SAOFS to carry out its function.

It seems to me that that is a fairly wide responsibility which has been placed upon the Executive Council and one which I am not sure has ever been actively practised, but quite obviously in the light of the Crown Solicitor's advice it certainly now must be more diligently observed.

The matters identified in the Crown Solicitor's advice together with the specific requirements in the Act and the proposed amendment will provide a framework for adequate disclosure and accountability.

The final matter relates to whether or not there will be any circumstances in which a member had such a substantial financial interest that they could not participate in any activities of the board. It is extremely unlikely that a member would have interests in all supervised financial institutions that would have the effect under section 29 of precluding the member from participating in all board activities. Certainly this is not the current situation. Individual financial interests must be reported under section 29 if they could conflict with the members' proper performance of duties. This depends on the circumstances of the interest and the matter under deliberation. I have not been able to check the matter definitively; however, I believe that there have been few disclosures by members that have been necessary under section 29 which relates specifically to financial interests of the type described in the amending Bill.

One which the senior corporate regulator at the State Business and Corporate Affairs Office recalls is Mr Kennedy's ownership of convertible notes in the Cooperative Building Society. The notes were subsequently sold to remove any possible conflict. Again, his recollection is that the disclosures have generally related to Mr Kennedy's interest as a partner of the firm which audits the CPS Credit Union (he is not the signing partner—a fact that was known when he was appointed), and that relating to Mr Lynch's interests as member of the SGIC board in a joint venture with the Satisfac Credit Union, an interest which was subsequently disposed of by SGIC.

I should make the observation that, through my officers, I checked that the persons whose interests have been referred to in this information agreed to its being made available publicly and, in any event, under the legislation it will have to be on a register which is subject to public scrutiny.

I think that resolves all the outstanding matters which the Leader of the Opposition raised. If there are any further matters, I would be happy to endeavour to answer them.

Clause passed.

Remaining clauses (2 to 4) and title passed.

Bill read a third time and passed.

LAND AGENTS BILL

Adjourned debate on second reading.

(Continued from 6 September. Page 263.)

The Hon. SANDRA KANCK: Quite a deal has been said by the Opposition about these four Bills and, as a result, I will be brief because otherwise I will be repeating a lot. But, as I have read the four Bills in this package, I have had a vague feeling of discontent about it and a fear that it seems to be pushing us down a much more legalistic and less user friendly path, which generally seems to be the cost of deregulation, no matter what area we are talking about.

The Attorney-General in his second reading speech said that such regulatory costs are ultimately passed on to consumers. I wonder if he was indicating that this is a bad thing, because it seems to me that consumers are willing to pay that cost. He further said that whilst in Opposition the Government received many complaints from associations representing land agents, conveyancers and valuers about the nature and effectiveness of the regulatory provisions relating to these occupations. I wonder if there were any complaints from consumers. Certainly, in any representations I have had about this Bill the impetus for this seems to have come from industry, and consumers have been reasonably happy with the current situation.

The Attorney-General advised members in his speech that the Government will be working with industry to develop appropriate complaint resolution procedures and codes of conduct for real estate agents to ensure that a balance exists between the rights of consumers and the responsibilities of agents. I found that to be a very surprising statement because

I cannot see that there can be a balance between the rights of consumers and the responsibilities of agents. To me they seem to be one and the same.

In the second reading explanation the Attorney-General rejected professional indemnity insurance for land agents, yet he has strongly supported it for conveyancers, presumably, I guess, because the conveyancers' institute said that it wanted it. I wonder about that inconsistency.

In relation to particular clauses, clause 8(1)(a) provides that the person has to have educational qualifications required by regulation. Can the Attorney, at this stage, indicate what those educational qualifications are likely to be, because it is going to be in the league of 'trust us' otherwise? Clause 22(1)(a) requires auditing of trust accounts. What is the audit period likely to be? One hopes that it would be annually; otherwise, a shonky agent could make off with a lot of money over a period of time if it was not.

Clause 23 refers to people who are going to examine accounts and records. Who are these examiners likely to be and what will their qualifications be? Will it be a permanent pool, or will they be pulled out of a hat at some stage when it is necessary? Clause 33 quite surprised me. If a partner or employee has done something wrong and they are made to pay compensation, the other partner, or the employer in the firm, can apply to be compensated.

It seems to me that if these people are capable of running firms they should be responsible for making the right choice in the first place of their partner or employee and keeping an eye on what they are doing, and it looks to me as though you could have a situation where the consumer has been wronged, one person in the firm has to pay out something for which the other person in the firm gets compensation, and the net effect is that the firm does not end up having any financial deficit over it at all. While a consumer might feel some Pyrrhic victory in that, there would not be much satisfaction in it at all. If, however, a commissioner does go ahead and decide that he or she will compensate, the Bill says that the commissioner would have to write to the claimant advising. I wonder whether there is anybody else who needs to be advised and whether the public has any way of finding that out.

I am particularly referring to my hypothetical consumer who has laid the complaint and had the original amount awarded against the employer or partner. Will that consumer be advised that this is what has happened? I ask this partly because when I had my briefing last week it lasted an hour and we ran out of time and I did not actually get round to asking some questions, but I wonder what clause 49 actually means. It provides:

> The Commissioner may, with the approval of the Minister, make an agreement with an organisation representing the interests of agents. . .

Presumably, this is what was talked about when the package was first mooted, the delegation of powers, and the Opposition expressed some concerns about that and the lack of information that is attached to it. I have a similar concern. Clause 51 relates to the register of agents. I find this a very strange clause to have inserted, because it is saying that a person who wants to see that register has to pay for the privilege. At the same time, clause 33 says that if the consumer knew, or ought to have known, that the agent was not registered or licensed, then she or he will not be entitled to make a claim. It seems to me to be a rather worrying procedure that we have here, where a consumer ought to have known but, in order for them to know, they have to have paid money up front to look at the register. I indicate that I will be moving an amendment to provide access to that register without charge. With those questions, I indicate that I support the second reading of the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their consideration of the package of Bills. The Hon. Anne Levy spoke on all four, and I intend to address the issues that she raised in the same way, although if the Hon. Ms Kanck raises issues in relation to the other Bills when she speaks on those I will endeavour to deal with those matters on those Bills. If there are matters that are not picked up by way of reply, if there are questions that members wish to have answered before we resume on 11 October, they may contact me if they wish a formal response or, as they have already had from my officers a briefing, they may have a further briefing. So, the intention is to ensure that members are as informed as possible about the provisions in the Bill and the Government's direction.

I recognise that not all members will agree with the direction that the Government is proposing to take, but they are issues that we will argue about in much more detail during the Committee stage. I understand from what the Hon. Anne Levy and the Hon. Mr Sumner say that they have particular difficulties about the Commercial Tribunal, and I hope my reply now will help to allay some of the fears and to put that matter into a different perspective. Before I deal with the specific issues raised, I want to repeat the offer that, whilst we should be putting all the concerns and responses on the public record, which will occur during the Committee consideration of the Bill, over the next four weeks the offer which has been exercised but which I now reiterate in relation to access to information about the Government's position is available to all members.

I want to deal with a major issue touched upon by the Hon. Mr Sumner but more deliberately dealt with by the Hon. Anne Levy, relating to South Australia's role as a leader in consumer protection laws. The Hon. Anne Levy, in her preliminary comments stated, among other things, that we currently lead the nation in consumer protection laws, and that they are now being weakened and consumer protection being given a much lower priority. That is a totally erroneous statement in relation to the direction which these Bills take and which the Government believes is appropriate for the mid to late 1990s in relation to consumer protection. Many jurisdictions have developed much more contemporary and relevant consumer protection laws in the past few years. One has only to look at Queensland and the way in which it deals with some issues relating to consumers to recognise that different directions are now being taken, and even at the Federal level, with the focus by the Federal Government on the Hilmer report and processes relating to a greater level of competition, to recognise that there is an opening up of business and consumer activity, and that different styles of approach are now being adopted to regulatory frameworks in order to protect consumers.

South Australia may have been a leader in consumer protection laws in the 1970s, and I am not seeking to detract from that, because it was appropriate at the time for that focus to be recognised in a certain framework of legislation which is now outdated. In the past 10 years South Australia's focus on consumer protection laws has been characterised by neglect and disinterest in what is a very important area of Government activity. I suggest to the Council that the former Government presided over an organisation that lost complete touch with its constituency. It had no dialogue at all with

industry, resulting in a them and us attitude being developed towards industry. I suggest that the former Office of Fair Trading could best be described as insensitive and blunt, overly costly in administration and compliance, unresponsive and out of step with market realities, not involving industry in an effective way and, certainly, very expensive in the use of Government resources.

In policy terms, as evidenced by work that has been undertaken on a national level, South Australia's role and influence diminished to a very large extent, with many other jurisdictions assuming more creative policy positions on issues of national significance. That deterioration to which I have referred has been reversed and significant new initiatives are being taken by the Government in relation to a redirection of the efforts of the Government in the area of consumer affairs protection.

In the eight months since the new commissioner was appointed, we have witnessed a number of major developments under a reform program which has really been driven by customer service and legislative change. The organisation is being rebuilt from the ground up. A new organisational structure has been implemented. A new and professional management team has been appointed. There has been a change in the name to Consumer and Business Affairs, which was designed to reflect a more balanced approach to both business and consumers. The organisation has swung from one of low morale and policing compliance *modus operandi* to an output focussed organisation developing mature relationships with business and consumers; implementation of a customer service program, which is designed to improve relationships with customers and effect a shift to service culture and publication of a customer service charter; and upgrading information technology and telephone systems. All the changes which have taken place and which are currently taking place have long been overdue, and are absolutely necessary if the organisation is to survive and add value to the South Australian community in what are rapidly changing times.

I want to just repeat that we have not lost the emphasis upon consumer protection and the recognition of consumer interest; we have placed a comparable emphasis upon that but have sought to develop a different approach, and that is an approach which involves business accepting responsibilities, being more responsive to consumer needs and demands, and for consumers to endeavour to work more in business in resolving issues of dispute and complaint at a much earlier stage, and for the Government, in a sense, to be the honest broker.

The Hon. Anne Levy raised an issue relating to the need for four separate Bills, and I suppose, superficially, one can ask, 'Well, why do you need four when it was all previously in one?' The existing Act includes all the professions in the real estate industry. It was developed at a time, 20 years or so ago, when not a great deal of thought had been given to the different occupational groups, the way in which they operate in the community, the sorts of services which they deliver and the focus of their particular activities. Over time, each group has developed in its own way as a separate professional or business grouping, even though there exists some common membership of industry organisations.

As part of the legislative review process, the legislative review team, which I established and which I have referred to in the second reading report, actually received submissions from those groups requesting that they have specific legislation dedicated to their professional business occupation. It may be that there have been some representations to the previous Government on that issue. But we took the decision, as a result of our overhaul, that we would move in that direction of isolating the particular profession or occupation in respect of a particular piece of legislation.

The Hon. Anne Levy made extensive reference to the Commercial Tribunal and accused the Government of seeking to repeal it or abolish it by stealth. I am disappointed that that perception has been created. When I first announced the overhaul of the whole of the legislation administered by what was then the Office of Fair Trading, I gave a clear indication that certainly we would be removing the Commercial Tribunal from a significant area of responsibilities, and I indicated that there would be a significant review of all legislation relating to residential tenancies and commercial tribunals. It may not have been as explicit as perhaps in retrospect it should have been, but certainly at that time we were anxious to confine the functions that had to be judicially or quasi-judicially determined to a body such as the Commercial Tribunal or the Administrative Appeals Division of the District Court.

The review process has proceeded on an Act-by-Act basis from the perspective of each Act's own jurisdiction. It was intended that, because we were doing it in that way, the Commercial Tribunal Act would be the last because, if we removed jurisdiction progressively, then at the end of the day we could determine what, if any, jurisdiction was left for the Commercial Tribunal. If the perception has been created that we were doing this by stealth, I regret that, but what we have been trying to do is to find, in respect of each area, what jurisdiction should be administered by what body and then take the final decision about the Commercial Tribunal at the end of that review process.

Radical changes to the Commercial Tribunal, in any event, were foreshadowed in the green paper, which was released in the term of the former Labor Government—certainly removing the licensing responsibilities from the Commercial Tribunal. It would cease to be the licensing authority and the commissioner would take up that role. I understand also that at that time there were discussions within the agency about subsuming the tribunal into the District Court structure. I am not suggesting that there was any decision, but certainly—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Well, I understand that within the agency there were discussions about that. Whether it would go there as a separate entity or simply become part of the general jurisdiction was never finally determined prior to the change of Government. I will return to the issue of the Commercial Tribunal and its jurisdiction later in relation to the statistical material which it is important to consider. In relation to the licensing and Commercial Tribunal functions and the reference to the Licensing Commissioner, I indicate that I am pleased that the Opposition is supporting a change from the tribunal to the Commissioner for Consumer Affairs. I am not being difficult about it; I am just saying that I am pleased to note that support. As I said, the change was foreshadowed in the green paper released by the former Labor Government. It was then firmly and strongly supported by the Chairman of the Commercial Tribunal who was also a former Commissioner for Consumer Affairs. It is also pleasing to have the support of the Opposition for excluding claims against mortgage financiers from the fund.

The Hon. Anne Levy: We brought it in the first place.

The Hon. K.T. GRIFFIN: Yes, I know you did. We intend to proceed with it. If I can just digress for a moment,

it is also a question of looking at the issue of the legal practitioners' area, as well as the conveyancers and the agents indemnity generally. That is a matter we can pursue in Committee if the honourable member wishes to do so.

I turn now to the question of access and costs of justice, that is, the tribunal as opposed to the court. It is not accurate to describe the Commercial Tribunal as a consumer court. In reality, its role in determining cases affecting consumer rights is limited largely to disputes concerning the statutory warrantee of second-hand motor vehicles and domestic building work disputes. The largest part of its workload concerns disputes between commercial landlords and tenants. Under the Land Agents, Brokers and Valuers Act, only eight disciplinary matters were brought before the tribunal last year and nine in 1992-93. All were instituted by the Commissioner for Consumer Affairs.

The tribunal also hears appeals from decisions by the Commissioner with respect to claims against the Agents Indemnity Fund. The vast majority of these claims relate to the activities of mortgage financiers who will now be excluded from the fund.

The Hon. Anne Levy: Dear Mr Hodby!

The Hon. K.T. GRIFFIN: Yes, and I want to deal with that later. Much has been made by the Opposition about the perceived inexpensiveness of the tribunal, and it has been claimed that access to justice for consumers will be restricted. But who has access now? Not all consumers by any means. Those with a dispute concerning the duty to repair a second-hand car within its warranty period, but not those with any other dispute about a secondhand vehicle, such as a claim for breach of contract, have to rely on the normal court system. Those with a domestic building—

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: You were dealing with what was going to be the difference, and what I am trying to draw attention to is the fact that the Commercial Tribunal has not been a court that has been a court readily accessible by consumers in a range of areas of dispute involving consumers. Those with a domestic building work dispute can use the tribunal if the dispute concerns workmanship, but they cannot make a claim there if the dispute is about the cost of the contract or any matter that does not involve an issue of workmanship. Again, those people have to use the normal court process. In terms of real estate matters (which are the subject of these Bills), there is not and never has been any means whatsoever for a consumer to ask the tribunal to determine a dispute between the consumer and a real estate agent, conveyancer or valuer. Again, for those costs consumers have to use the normal system.

I deal now with the question of costs. Bearing in mind that consumers in dispute with real estate agents, conveyancers or valuers must now, under the existing system, take their disputes to the general court system, I cannot see what additional costs will be incurred by them under these Bills. Disciplinary actions will be heard in the general division of the District Court. Experience has shown that in these jurisdictions particularly consumers very seldom bring disciplinary actions. Most commonly, those with a complaint act as witnesses for the Commissioner who takes the action. I expect that this situation will continue under the new arrangements.

The Hon. Anne Levy: I thought it was going to the REI?

The Hon. K.T. GRIFFIN: No, not disciplinary actions. There has never been any intention for disciplinary actions to go to the REI.

The Hon. Anne Levy: The REI thought so.

The Hon. K.T. GRIFFIN: It may have, but the REI and I do not agree on a number of things about this legislation, including professional practising certificates. I am sure that the honourable member has been given some briefing on these matters by the REI, which is its right: I have no criticism of that at all. I just put it on the record that the REI and I have disagreed about aspects of the way in which we should be approaching some of these matters. In relation to the rules of evidence, the Commercial Tribunal Act provides (section 13(1)):

> The tribunal shall act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms, and subject to subsection (2) and the provisions of any other Act is not bound by the rules of evidence but may inform itself on any matters in such manner as it thinks fit.

Subsection (2) provides:

> The tribunal is bound by the rules of evidence in disciplinary proceedings and proceedings related to contempt of the tribunal.

So the rules of evidence already apply in relation to disciplinary proceedings and proceedings related to contempt of the tribunal. The court similarly will not be bound by the rules of evidence except in disciplinary matters and contempt proceedings. As a general practice, the tribunal up to the present time has, in effect, sat as a court. It does adhere fairly strictly to the rules of evidence, even in matters which do not fall within these categories. So a reference to the administrative appeals division or the general division of the District Court will not change that approach to the rules of evidence and the flexibility which is presently provided in the Commercial Tribunal Act.

In relation to the issue of expertise of the tribunal, the Hon. Anne Levy has referred to the expertise of the tribunal because it is constituted by members experienced in certain relevant areas such as building, secondhand motor vehicles or real estate. While I am sure that these members have made a valuable contribution over the years, other courts, including the District Court, have managed to deal with cases of great complexity in both the civil and criminal areas without such panels. If they were not able to do so the tribunal arrangement would be imposed on all courts, not just one. I remind the Opposition that, while it was in office, it was happy to amend the tribunal regulations to permit the chairman to have complete discretion as to whether or not he used panel members in any matter before him.

As I said earlier, there may be some matters relating to tribunals that I want to return to before I conclude this reply. I seek leave to have incorporated in *Hansard* a statistical table of Commercial Tribunal panels which sat during the period July 1993 to June 1994. This will provide members with some information about the panels which sat during that time.

Leave granted.

Commercial Tribunal panels which sat during the period 1993 to 1994

Classification	July 1993	August 1993	Sept. 1993	Oct. 1993	Nov. 1993	Dec. 1993	Jan. 1994	Feb. 1994	March 1994	April 1994	May 1994	June 1994
Land Lord and Tenant Act												
Discipline												
Licensing												
Civil	4	3		1	6	10	1	5	3	3	2	2
Second Hand Motor Vehicles Act												
Discipline						1		2	1		1	
Licensing	1	4		4	2	4		1	2	3		1
Civil	14	11	4		1	1		4	1		2	1
Commercial and Private Agents Act												
Discipline	4				1	2		1	1		2	1
Licensing	3	3	5	5	2	4		6	2	1	7	2
Civil												
Builders Licensing Act												
Discipline	1	3	2		2	1				2	1	2
Licensing	6	6	2	3	5	5		12	8	3	6	1
Civil	3	4	2		3	3	2	8	1		6	4
Consumer Credit Act												
Discipline												
Licensing												
Civil	2					1						
Land Agents, Brokers and Valuers Act												
Discipline	2	2	1	1					2			
Licensing	2	3	1	2				2	4	1	1	2
Civil												
Other Categories												
Credit Act												
Licensing						1						
Good Securities Act												
Civil				1				2				
Travel Agents Act												
Civil				1								
Licensing										1		
Discipline												1
Total number of sittings per month	42	39	17	18	22	33	3	43	25	14	28	17

Grand Total of sittings during 1993-94 Financial Year 301

The Hon. K.T. GRIFFIN: I now turn to the question of delegation of powers. The Hon. Anne Levy raised the issue of delegation of powers and requested an explanation of what powers are to be delegated before considering the new provision. The three Bills—the Land Agents Bill, the Land Valuers Bill and the Conveyancers Bill—each contain new and significant and provisions which enable the Commissioner, under the Act, to delegate specific matters to industry organisations. It was envisaged that, upon the introduction of the Bills to Parliament, the various industry associations would commence negotiations with Government in relation to specific tasks in which they were interested and which may be possible to delegate to them.

It was for the individual associations to approach Government and identify what tasks they were interested in having the conduct of, and to follow this up with a detailed proposal. It was never intended that Government would adopt a prescriptive approach and advise industry of the tasks it wanted industry to perform. It is really a matter for each industry group to undertake an honest assessment of its capacity to assume particular roles and functions in maintaining high standards within its industry, and to negotiate this with the Commissioner.

The rationale for delegating a range of tasks to industry and professional associations will depend on the maturity of each organisation, its desire to have responsibility for particular functions and the nature of the industry in terms of the extent of likely consumer detriment. For example, many industry groups already have developed mechanisms to deal with the resolution of disputes within their industry. The Government will maintain a watching brief over industry, and it is not envisaged that the enforcement of the laws will pass from the Government to these bodies. However, in many instances these groups are better placed than the State Government to identify the extent to which problems may be occurring within their industry and the Commissioner will work in close liaison with industry groups in these matters.

In respect of the suggestion to enshrine delegations in regulations, this would negate the object of streamlining the administration of the legislation. The agreements with

industry groups will be laid before both Houses of Parliament and, by virtue of that, will be subject to public scrutiny. More discussions are occurring with the Real Estate Institute. The Commissioner is meeting with the Chief Executive of the Real Estate Institute next week, with the clear expectation that the REI will outline the delegations that it would like to have under the new Bill. I come back to the point I made in response to an interjection by the Hon. Anne Levy, that there are a number of areas where, quite obviously, the Real Estate Institute would like to have a large measure of involvement in the administration of the industry and it has put proposals to me in relation to structures that it would want in place, even under this Bill, which would certainly give it a much higher level of involvement than it has presently in the industry. Practising certificates is one issue. I have indicated quite clearly that it is not the Government's view that by legislation we should be imposing upon all those who have to be registered the obligation to take out a practising certificate, either with the Government or through the Real Estate Institute.

If it so wishes, the Real Estate Institute can impose the obligation upon its own members for a practising certificate, but it should not have the responsibility either to collect, to administer or to require the Government to include in legislation provisions for practising certificates. However, I make the point (and I have made it whilst in Opposition, so I am sure that the Council is well aware of it) that there are some functions which might well be delegated to the Real Estate Institute relating, say, to the surveillance of trust accounts.

The Hon. Anne Levy: Why do you have enforcement in clause 49?

The Hon. K.T. GRIFFIN: Well, it was not intended as enforcement. It has been raised with me. It may well be that that will be the subject of amendment. I cannot say categorically that it will, but it was certainly not intended that there would be enforcement obligations delegated to the REI. To pursue the issue of the trust accounts, I was highly critical (not of the Hon. Anne Levy because she was a Minister at the time) of a Minister and the Government about the problems that occurred with Hodby and the lack of surveillance by the then Office of Fair Trading. Subsequent to that a contract was let to private sector auditors to maintain an auditing oversight of brokers in particular. My experience within the legal profession is that lawyers generally get a better idea, at a much earlier stage than Government, when a lawyer is going off the rails. It gets an indication that someone is not paying settlements quickly in damages cases or that someone has been seen too frequently in the hotel bar and is not answering correspondence, or is always at the races or the Casino, or whatever. A lot of intelligence comes back through the legal profession. I am not saying that they are all acting in that way, but—

The Hon. Anne Levy: Does the same apply to Ministers who take a long time to answer letters?

The Hon. K.T. GRIFFIN: If you have a problem with my answering mail, by all means let me know and I will deal with it. In terms of behaviour in the legal profession which is likely to bring the whole profession into disrepute and to signal that there are problems with a legal practitioner, it is generally the profession that gets some impression that something is wrong at an early stage. Under the Legal Practitioners Act the Law Society can appoint a spot auditor or set up the whole process of spot auditing or periodical audits in addition to the other auditing obligations placed upon legal practitioners under the Act. So, the Law Society undertakes a surveillance authority in respect of audits.

It may be that the Real Estate Institute might be able to undertake that sort of responsibility—I am not saying that it will. However, it may be that, because its own intelligence from its members might be more up to date and accurate than what the Office of Consumer and Business Affairs receives, there is a problem with a broker or an agent at an early stage and it may be given authority to act to appoint a spot auditor or to take some other action which might overlap that area of enforcement but which accompanies the general obligation to perhaps put someone in as an auditor to check the records of that agent or, in the case of conveyancers, brokers. For that reason it may be necessary to have some reference to enforcement if that is the area in which there is a negotiated package with the Real Estate Institute.

The Hon. Anne Levy: Does it come under administration?

The Hon. K.T. GRIFFIN: Well, it may do and I am happy to look at that issue. Some real estate agents have contacted my office and said, 'Please don't let the Real Estate Institute undertake that responsibility in respect of our trust accounts.' So, obviously some tension exists and we want to get a handle on it. It may be in relation to a resolution of disputes. With a lot of professional, business and occupational areas we are trying to say to organisations like the REI, the conveyancers, the Motor Trades Association, 'Look, you set up a dispute resolution process which, at least for your members but may be for others within a particular occupation, might be a quick and easy method of resolving a consumer's complaint at a much earlier stage before it festers and develops to a point where it cannot be easily resolved. If you set that up we may recognise it.' They are the sort of areas in which there is some advantage for an industry, for consumers and for government to be able to enter into arrangements which will provide for industry involvement. After all, it is in its interest in the longer term that issues like this are dealt with in the best interests of the consumer.

Professionally, in terms of business, service is the driving characteristic. They are the sort of things at which we are looking and which are really the rationale for the wide power of delegation. I recognise that it might be different from what has happened in the past, but it will be on the public record by virtue of the obligation to table in the Parliament, and issues can be raised as a consequence of that.

I turn now to the issue of professional indemnity insurance. The Hon. Anne Levy has raised the question of why land agents are not being required to have professional indemnity insurance whereas conveyancers are. In the case of land agents, professional indemnity insurance is considered to be an unnecessary additional impost on the real estate industry, with no demonstrable benefit to either land agents or consumers. The indemnity fund covers defalcation, misappropriation or misapplication of trust funds on the part of agents. Those items are normally covered by insurance, in any event. Fraudulent activity on the part of an agent is something that would most likely be dealt with by the criminal justice system rather than by a policy of insurance.

The Hon. Anne Levy: You can't insure against criminal events, anyway.

The Hon. K.T. GRIFFIN: No, you can't. There is nothing to stop a land agent from obtaining insurance of his or her own accord, should the agent wish to do so. Different considerations apply for conveyancers in respect of professional indemnity insurance. They do operate in an area where

there is overlapping responsibility. The legal practitioners do a lot of conveyancing. Conveyancers do, legal practitioners handle significant amounts of money through their trust accounts, not just in relation to conveyancing but in relation to settlements of damages and other sorts of cases. They are required to have professional indemnity insurance.

The Hon. Anne Levy: They don't have an indemnity fund.

The Hon. K.T. GRIFFIN: Yes, legal practitioners have an indemnity fund. There is the Legal Practitioners Guarantee Fund, which also deals with defalcation. However, professional indemnity insurance deals with questions of negligence as well as defalcation.

The Government took the view that there was a desirability in the area of conveyancing to have some consistency between the groups. However, more particularly, because the conveyancers will also be dealing with significant amounts of clients' money, not in the context of finance broking but in the context of land broking, it was deemed appropriate and desirable, because it was generally in relation to what would be the biggest purchase in ordinary people's lives and because they handle large sums of money, with the actual conveyancing being the key to the transaction (settlements with mortgagees, mortgagors and vendors), that compulsory insurance should be imposed.

I will just digress in relation to that. An issue has been raised about legal practitioners' compulsory professional indemnity insurance. Certainly, as a result of Hilmer and consideration at COAG, there has been a suggestion that we should open that up completely and, whilst still compulsory, anyone in the insurance community can offer the cover. In South Australia there is a master policy organised by the Law Society. As a result of that it builds in some obligations upon practitioners to undertake regular updates of information and to improve practices in relation to trust accounts and the way in which they deal with matters. They get a fee which this year I think is $3 500 and last year was $2 500, which is a third of what is presently available in New South Wales and Victoria.

So, there are some advantages in compulsory professional indemnity insurance for conveyancers as there are for lawyers. However, from a consumer's perspective, the Government has taken the view that there is a more pressing and obvious rationale for it for conveyancers and lawyers than there is for real estate agents.

Valuers are in a different category again. They do not usually hold consumers' funds, and more often than not—although Hon. Ms Levy made some observations about this—they do deal more frequently with businesses than with private individuals.

The Office of Consumer and Business Affairs has no evidence to justify the mandatory imposition of indemnity insurance across the whole industry. However, if these industries feel that their members should hold professional indemnity insurance then I would suggest that it is a matter for their professional or business organisations to decide upon as a condition of membership.

The Hon. Anne Levy: The valuers do, but they don't have 100 per cent coverage.

The Hon. K.T. GRIFFIN: I was going to add that the REI and the valuers and land economists do require their members to hold professional indemnity insurance.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: Not necessarily. They may with their members, but that does not give you 100 per cent coverage of the whole of the land valuing industry.

The Hon. Anne Levy: That is what I say. In the institute you have to have insurance, but not everyone is in the institute.

The Hon. K.T. GRIFFIN: I misunderstood you; I thought you said that made it 100 percentage coverage. In relation to the indemnity fund, the Hon. Anne Levy raises the issue of the land agents and conveyancers Bills making provision for consumers to be paid less than is due to them. I point out that these provisions are the same as those which exist in the current Act in that the Commissioner has the power to make partial payments to consumers.

The purpose of this provision is to cover the situation, as unlikely as it may be, where compensation awarded may be greater than the amount available in the fund, although I point out that in relation to Hodby and some of the other significant claims there were occasions where the claims actually exceeded the amounts in the fund at the particular time and therefore dividends had to be declared rather than up-front payments in full. It is interesting to note that in relation to the agents' indemnity fund there has been—

The Hon. Anne Levy: They got the lot eventually.

The Hon. K.T. GRIFFIN: Yes, but from 1 July 1987 through to 30 June 1992, according to the figures that I have in front of me, nearly $15.5 million was paid out. Looking at the Auditor-General's Reports and the reports of the old Department of Public and Consumer Affairs over the years, it is clear that there were occasions, as I said earlier, where claims exceeded the amount of funds available. So, the provision which is there is similar to that which exists in the current Act.

As the Hon. Anne Levy quite rightly states, there has never been a situation where consumers have not eventually been paid in full. I would envisage that this state of affairs will not change. However, I reiterate that it is my intention to retain the provision to cover partial payments in special and unusual circumstances.

The Hon. Anne Levy queried the disparity between the provisions relating to the application of indemnity fund moneys for land agents and conveyancers, the difference being that the Land Agents Bill refers in clause 29(4)(a) to payment of the costs of administering the fund whereas this does not appear in the Conveyancers Bill 1994. This is because the Land Agents Bill is the Bill which provides for the indemnity fund which applies to both land agents and conveyancers. It is this Bill in which provision is made to administer the fund, and it only has to be said once. The Conveyancers Bill only makes provision for the application of moneys required under the Bill.

The next question is the issue of dual representation. The Hon. Anne Levy has noted that the Government has not tackled the issue of dual representation, and that is quite correct. Representations have been made to me by the Institute of Conveyancers and the Law Society on the matter of dual representation. Also, I have received representations from others, particularly in country areas, about the issue. It is a very complex matter. I am still considering it. I hope that I may well be in a position to make the position clearer for the Council when we resume. As soon as I am able to do so I will let the Council know what the final decision may be.

The Hon. Anne Levy has raised concerns about the non-regulation of sales representatives. We have, as the honourable member has identified, amended the Bill to include the

requirement for sales representatives to hold minimum educational qualifications. That arose from representations made during the consultation process. This provision will prohibit a person from holding themselves out, acting as or remaining in the service of any person as a sales representative unless he or she holds the qualifications prescribed by regulation.

In addition, clause 11 also prohibits the employment of a person as sales representative unless that person either holds the qualifications prescribed by regulation or has been employed as a sales representative, manager or licensed agent under current Act. Penalties have been prescribed for both the registered agents and the sales representatives for breach of these provisions. It is intended that these provisions will ensure a minimum standard of entry without the need for undue regulatory intervention. I have received advice from the Commissioner for Consumer Affairs that there have been relatively few incidents of misconduct by sales representatives to now warrant regulation.

I think I need to make one general comment about what we had envisaged with this framework: that is, that we would place the responsibility for ensuring compliance with the Act and running of the business with the registered land agent.

So, the registered land agent would have more to lose than anyone else if, for example, the sales representative did not act in accordance with the law. We sought to ensure that that was where the responsibility for licensing those people rested, not with the Government or a Government agency. We accept that registration of a land agent provides satisfaction of the minimum criteria for a person to be a registered land agent, but we think that protection for the community will still be assured by placing the responsibility essentially upon the agent. We recognise that there are some misgivings about sales representatives not being required in any way to have qualifications, and for that reason we have made this amendment to the Bill.

The Hon. Anne Levy referred to the definition of 'money' and the reference in that definition to banks. She queries whether this should read 'financial institutions'. I make the point that only banks can negotiate a cheque or other instrument, and this is the reason for the reference to banks only.

In relation to the acts of employees, the Hon. Anne Levy questioned the difference in drafting between clause 57 and existing section 99 and spoke of a weakening of consumer protection. I have noted this comment, and I intend to move an amendment to this provision. I have been advised that the current drafting of the clause was a mistake in the context in which it was used, and for that reason, and as it has been drawn to our attention, an amendment will be moved in due course.

The Land Valuers Bill makes reference to the tribunal, and the Hon. Anne Levy referred particularly to clause 11, noting that reference. It is a typographical error and an amendment will be moved to deal with that. According to the Hon. Anne Levy, there is also no mention or recognition of a professional association in the Land Valuers Bill. The honourable member asked whether this was intended. She was referring to the lack of provision concerning the ability to enter into agreements with professional organisations. Again, this was an oversight, and consideration will be given to moving an amendment to permit the Commissioner to enter into agreements with professional associations in this Bill also.

I make the general point about all these Bills that it is intended that codes of conduct will be negotiated with the various professional or business organisations, and that, too, will be the framework under which consumer protection may be ensured.

The Hon. Anne Levy questioned whether the definition of 'business day' should read 'Sunday' instead of 'Saturday'. I point out that the term 'business day' is utilised in the Bill only in the context of the cooling off provisions and refers to the period that is fixed by reference to business days. Saturday is the correct reference to use in the Bill and appears in the current Act. Under the Holidays Act, Sunday is a public holiday and, if one applies the definition of 'business day' to Sunday as a public holiday, it would mean that for the purpose of cooling off Saturdays, Sundays and public holidays are not included. The term 'business day' is not used in any other context under the Bill; that is, it does not relate to the question of auctions.

The Hon. Anne Levy raised the question of why the Land and Business (Sale and Conveyancing) Bill prohibits auctions on Sundays. I note the honourable member's suggestion. The legislative review team held no strong opinions on this matter. I have a personal view about Sunday in terms of auctions. Notwithstanding that, if there was a move to change to the present law, there would need to be consultation with not only the real estate industry and those engaged in it but also others who might have an interest in the question about the extent to which auctions should be permitted on Sundays. There may not be any advantage or disadvantage, but it is an issue to which, if it is raised in Committee, I will give further consideration.

In relation to educational qualifications, both the Hon. Anne Levy and the Hon. Sandra Kanck have raised questions about the Government's intentions in respect of all three occupations. No changes are anticipated to the educational standards at this time, but they will continue to be reviewed periodically in consultation with the key industry associations. I make a general observation in relation to this: there does seem to be a tendency to, what I would call, ratchet up qualifications within various areas of occupation. There is a mood to do that in the legal profession—and I have resisted that—and there may be a mood in other areas.

All I could say is that we would want to ensure that the educational qualifications, if they were to be reviewed from time to time, were reviewed in conjunction with those who have an interest in those areas and also in the context of ensuring that the practitioners do not become over qualified and therefore price themselves out of the consumers' market place.

I have a very real concern about that issue. I am sensitive to it, and certainly it is not my or the Government's intention to allow that to occur. One can see that interstate there is a fairly limited qualification required for those who undertake conveyancing of domestic premises. When it involves, of course, very large amounts of money, maybe different issues apply.

The Hon. Anne Levy: It could be very large to the individuals, though.

The Hon. K.T. GRIFFIN: I agree. I am not seeking to downplay that significance; all I am saying is that I would want to ensure that in respect of conveyancers there was not a move toward such high qualifications that it moved away from the necessary qualifications that are required to enable conveyancing work to be done. I think mutual recognition will have a significant part to play in this because, in respect of comparable occupations, lower qualifications in another State may well result in a lesser qualification becoming the

norm in yet another State. However, that is something which all organisations and Governments are seeking to work through. For the moment, we intend to retain the existing educational standards and periodically review them.

I have a couple of other general comments before I deal with the Hon. Sandra Kanck's questions. I point out that, in relation to access and costs of justice and the tribunal versus the courts issue, whilst in Government the Opposition moved to abolish many small regulatory and appeal tribunals and transfer their jurisdiction to the Administrative Appeals Division of the District Court. So, there was a mood within the previous Government to make that change to the District Court. I certainly would want to see that rationalisation of tribunals because I think the system is inefficient and that it does not do justice to the consumer or to the parties who appear before the tribunals if they are comprised of people who are specialists and who do not sit very often and who are not familiar with other cross-jurisdictional issues which might arise and which might affect the issue of justice before that tribunal. In relation to the question of Sunday trading, the review team did not receive any submissions calling for a lifting of the restriction prohibiting auctions being conducted on a Sunday.

Let me turn to the questions raised by the Hon. Sandra Kanck to which I do not think I have yet responded. If I miss any, I hope she will understand that I am doing this on the run, but if I do miss anything and if she wants to raise those matters with me privately or in Committee I will endeavour to provide the answers.

The Hon. Ms Kanck asked a question concerning clause 22 of the Bill relating to audits. My understanding is that this provision is similar to the provisions in the current Act. If I am wrong we will point them out at the Committee stage, but the intention is to maintain the present practice of annual audits and, of course, provide for periodic random audits and spot audits, which is the practice in the respective legal practitioners' trust accounts. I think that anything more than an annual audit is likely to be unproductive and would not identify the issues that need to be addressed under the legislation. In relation to clause 23, the appointment of an examiner, it is generally intended that the examiner will be either a qualified accountant or auditor, though there may have to be a legal practitioner appointed if the accounts and records raise particular legal issues rather than accounting or auditing issues. Therefore, as we may need to have some flexibility, it is not specifically referred to as an auditor or an accountant.

In relation to clause 33, claims by agents, I draw attention to the fact that in section 76D of the principal Act there is a provision for an agent to be paid compensation in similar terms to what is here. Whilst I acknowledge that the agent should be vigilant, it does not seem unreasonable that, if the agent suffers in consequence of the fraudulent activity of an employee and is, in a sense, an innocent person, and there are funds available and the criteria have been met, the agent should be entitled to some form of compensation. I note the observations of the Hon. Ms Kanck. I draw attention to the existing provisions in the principal Act and also to the criteria which have to be satisfied.

The Commissioner has to be satisfied that all legal and equitable claims in respect of the fiduciary default have been fully satisfied (that is, all the members of the public) and that the claimant has acted honestly and reasonably in all the circumstances of the case. Then the commissioner will determine the amount of compensation. I have dealt with the issue raised under clause 49—in agreement with a professional organisation—which relates to the issue of delegation. In clause 51, why should there be a payment of a fee for scrutiny of the register? Fees are presently payable to access the register at the Australian Securities Commission under the Corporations Law to search a company or a business name—they are public registers. Fees are payable to the Registrar of Births, Deaths and Marriages in relation to accessing information on public registers. There are a variety of other registers for which fees are charged for accessing the register.

Remembering that the register contains not just the name and address but any information that might be relevant to the agent, it seems not unreasonable that there should be a fee fixed for searching. Whilst I have noted the honourable member's observation, I do not agree with it and draw attention to the other areas where fees are charged. I am sure that I could find many others as well. I think that deals with all the honourable member's questions. As I said earlier, if there are others, I would be happy to deal with them during the break and make my officers available if members wish to take particular matters further. After a rather long response, I hope that helps members and will facilitate the consideration of the Bills in the Committee stage when we resume.

Bill read a second time.

CONVEYANCERS BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 221.)

The Hon. SANDRA KANCK: I will probably speak more briefly than I intended to, as a number of the things I was intending to raise have now been covered in the Attorney-General's response just completed. However, one of the things that he did say in the second reading explanation of the Conveyancers Bill was that among the reasons the legislative review team was asked to give priority to this Bill was because the institute made representations to him for it to play a more significant part in the regulation of the profession. I have noted the comments and concern expressed by the Opposition about the same aspect, and while we know, as with the other Bills in this package, that the appropriate industry bodies will have greater involvement in the regulatory aspects, their involvement is not spelt out. I mentioned that in regard to the Land Agents Bill and my concern still has not really been ameliorated there.

In my response to the Land Agents Bill I also mentioned the inconsistency between this Bill and the Land Agents Bill. Despite what the Attorney-General has said, I fail to see why professional indemnity insurance is to be required for conveyancers and not land agents. We are told by their professional body that this is what conveyancers wanted, but a professional body has also asked for it in regard to land agents. The REI already has this in place for its land agents. Surely, it is in the business and it knows what operates and what is needed. I find the inconsistency very strange.

Turning to particular clauses, I have a similar concern with clause 32(3)(b) as with the Land Agents Bill. It comes down to under what circumstances a person would be expected to know if they were not dealing with a licensed or registered conveyancer, and the only way they are going to get to know is if they look at the register. Again, we are dealing with this question of their having to pay a fee. I believe it is a different thing from having access to the Companies and Securities

Register, because in that case there is not necessarily some legal action hanging on whether or not you know that information. This is actually saying that you have to know or are expected to know whether or not you are dealing with a licensed register or conveyancer, but clause 53(3) provides that you have to pay for the privilege of finding out. Again, I express my concern and indicate that I will be looking at amending this so that it is at no charge.

In relation to clause 66(2)(d) regarding regulations, will the Attorney-General indicate what or who he has in mind who would be requiring exemptions, or is this just a general, vague drafting thing that provides something in case it is needed some time in the future? The Hon. Anne Levy in her speech on Tuesday indicated her concerns about the ethics of a conveyancer acting for both parties in a sale. Obviously, there are both time savings and cost savings available by being able to do this, but the issue arises of what happens if the two parties are not aware that they have a common conveyancer. The Hon. Ms Levy asked some questions about that but did not actually indicate what action she required. I am still looking at this and indicate that I might—and I only say 'might' at this stage—bring in an amendment in this regard. Other than that, I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for her contribution and the Hon. Anne Levy for her contribution on the Land Agents Bill relating to this Bill. I can deal with several issues now. On the question of professional indemnity insurance, I did indicate in my reply on the previous Bill that it is not just a matter of a professional body requesting that there be compulsion. The Government and the Parliament have an obligation to assess whether that request is reasonably based and whether the benefits of compulsion outweigh the disadvantages. What I said in relation to real estate agents is that there was not any persuasive argument that would demonstrate to the Government why we should make it compulsory for all real estate agents to have professional indemnity insurance. If they wished to do so, fine; if they did not, that was a matter for them, because compulsion will necessarily add costs within the industry.

The Hon. Sandra Kanck: So, you think the Real Estate Institute has it wrong when it has already got that set up for its land agents?

The Hon. K.T. GRIFFIN: I think it has. It has it for its agents, but not every real estate agent is a member of the REI.

The Hon. Anne Levy: A lot are not.

The Hon. K.T. GRIFFIN: A lot are not; that is right. That is one of the difficulties. Certainly, the Australian Institute of Conveyancers has asked for compulsory professional indemnity insurance. There are some land brokers who are not members of that body and there are some who are still members of the REI; some hold dual membership. But again we have regarded the request in relation to conveyancers to be not the determining factor but the stimulus for consideration of that issue. I tried to identify earlier in my reply on the previous Bill that conveyancers do handle large amounts of clients' money. It is because of that that we felt there was a compelling reason why we should not distinguish between the legal profession that was undertaking conveyancing and conveyancers who were undertaking conveyancing.

The other point is that conveyancers felt that if they could demonstrate, among other things, that they were required to have professional indemnity insurance, it would certainly enhance their own standing *vis-a-vis* lawyers. Whether you make the judgment as a correct judgment or not, that was one of the issues on which I remember some representations being made. We took the view that, as a matter of protecting the consumer, it was important in relation to conveyancers handling large sums of money, depending on who you are, but even for a person buying a small house in a local metropolitan community, it was big for them, so the conveyancers ought to be covered by professional indemnity insurance, even though they were also covered by the agents' indemnity fund, because there is an issue of negligence involved as well as defalcation. That was the reason. If I still cannot satisfy the honourable member I will try again during Committee.

The Hon. Sandra Kanck: Do you know how much extra it is likely to add to the cost burden?

The Hon. K.T. GRIFFIN: No, but I will ascertain that figure if at all possible. I have indicated that, for the legal profession this year, the master policy, which is the basis for a compulsory legal practitioner's professional indemnity insurance, is about $3 300 or thereabouts. Last year it was about $2 500 per partner, and it was less for employees, and so on. But in New South Wales, it is a huge amount compared with what we pay here. I will endeavour to ascertain figures so we can deal with that issue.

The Hon. Anne Levy: It will probably be less for conveyancers, because their responsibilities are nowhere near as wide.

The Hon. K.T. GRIFFIN: Well, that's right; they are dealing in a very narrow area. But I will ascertain that information and, if I can get it before we resume, I will let the honourable member have that. In relation to claims on the indemnity fund involving clause 32(3)(b), I have already addressed that in relation to the Land Agents Bill. Clause 53(3) relates to the register and I have already dealt with that issue. As to clause 66(2)(d), which relates to the question of exemption, my recollection is that this is contained in the principal Act, the Land Agents, Valuers and Brokers Act, the present Act. Sometimes one does have to give an exemption. I gave one the other day—and I think it was in the *Government Gazette*—where the Land Agents, Brokers and Valuers Act did not allow an employee of an agent to buy a property handled by the agent from a customer of the agent. So, we tried to avoid conflict. I gave approval on that occasion because it was clear that there was no detriment to the vendor in those circumstances—where a purchaser was a relative, as I recollect, of the salesperson. It was properly identified as being very largely at arm's length. So, there are those occasions where exemptions are necessary. There are probably many others, but that is the only one I can remember having given in the past nine months.

In relation to conveyancers acting for both parties, I understand the point which the honourable member and the Hon. Anne Levy have made. It is a difficult issue, because there are some occasions where it adds an unnecessary cost to the parties. For example, in my professional practice, on occasions I would form a company for members of a family, and the company would then be the purchaser of farming property. It was during the days of death and gift duties. You could then give away amounts of that consideration to members of the family, and you would benefit the descendants. In those circumstances, the company as the purchaser was one entity, the member for the family who was transferring was another party. In those circumstances, it would be quite unreasonable to acquire dual representation. There are even transactions between members of a family, whether it

is in relation to suburban, domestic or even rural property, where all the parties are quite happy that property be transferred from father to children, or mother to children, or father and mother to children, and it would be quite an unnecessary cost burden to require them to be separately represented.

They are some of the issues with which I am still trying to wrestle. It may be that it can be resolved by requiring the conveyancer or the solicitor to give notice of the potential conflict. I am looking at that as a possible way out of making it a blanket provision, which will create some additional cost burdens unnecessarily. I recognise the general principle, and I have no difficulty with that. I have always practised it as a legal practitioner. You do not have a conflict of interest: if you have, you get rid of both of your clients—not in that dramatic way—but you have an ethical obligation not to act for more than one party. I understand the issue, and I am trying to deal with that in the context of a broad State-wide application of the principle.

There is one matter which I did not make clear in the reply on the Land Agents Bill and that related to the Commercial Tribunal. There were some more figures which I can now put into the record. With respect to the Land Agents, Brokers and Valuers Act only 26 matters arose where the tribunal sat as a panel, that is, it did not sit as judge alone in the past 12 months. If there is other information which members require they can let me know, and I will endeavour to get it. I thank honourable members for their consideration of this Bill.

Bill read a second time.

LAND VALUERS BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 223.)

The Hon. SANDRA KANCK: In relation to land valuers, one person in the industry has told me that valuation is an area in real estate where quite a lot of complaints arise. That seems to be somewhat different from what the Attorney-General has said, and I am not really in a position to be able to assess whether or not that is correct. But, certainly as the Bill reads, a valuer's skill level is not drawn into question at all until something goes wrong and a complaint is lodged, by which time it will be too late. If a valuer has given an incorrect valuation, and someone has undercharged on the sale of their property or if a consumer has been overcharged as a result, it would appear, from what the Attorney said in answer to another question, that the only redress in the past—and this will also apply in future—has been to have the matter resolved in the courts. I just want clarification on that aspect.

I was grateful to see the additions that were made to clause 5, compared to the form in which it came in in May, because there is now some mention of qualifications. It is still a little too vague, and depending on regulations that we have not yet seen. One valuer told me that legislation regarding valuers has recently been passed in Victoria with similar sorts of promises as we have had here that things will all be put into place afterwards with regulations and other such things. They were told, 'Trust us,' but that has not occurred. I just mention my disquiet more than anything else; I do not think the Attorney will actually be able to say anything in this regard.

Clause 12(2) again addresses this issue of knowledge of what is in a register, and the Attorney and I have a different point of view on this. Again, I will be introducing an amendment to make access to the register available without cost. Clauses 16 and 22 provide for exemptions from compliance for some persons. Can the Attorney give some examples, as he did with the previous Bill, of the sorts of exemptions? What sort of people might be involved and what parts of the Act might they be exempted from? With those comments, I support the second reading of the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member and the Hon. Anne Levy for their support of the four Bills. I do not have at my fingertips details of any particular exemption that might be considered under this Bill or even under the present Act, but I will endeavour to obtain some information and let the honourable member have it. Again, it is there out of an excess of caution. I suppose it is likely to be less relevant here than in the others, where we still have a registration process. I will bring back some information on that.

In terms of the resolution of complaints, with this Bill in particular one will notice that, in the regulation making power, there is a provision to require land valuers to comply with a code of conduct. It has always been our intention that there be a form of negative licensing by reason of the fact that a code of conduct will be negotiated, and that that will provide a basis upon which complaints may be raised and addressed.

As I said in my second reading reply on the Land Agents Bill, it is envisaged that we will negotiate with the various professional and business organisations the structures for the early resolution of disputes so that the court is only there as a last resort. It may be that they will have to go at an earlier stage, but we are trying to avoid that by introducing mediation, conciliation and dispute resolution as an alternative, thereby leaving the court with the least number of cases. I will get information about how many complaints there have been about valuers, although I do not think there have been many.

The Hon. A.J. Redford interjecting:

The Hon. K.T. GRIFFIN: As my colleague interjects, negligence rather than criminal action is generally the basis upon which claims are made. But still, there may be some information about complaints which I can address when we resume.

Bill read a second time.

LAND AND BUSINESS (SALE AND CONVEYANCING) BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 226.)

The Hon. SANDRA KANCK: This is the last of this package of Bills. The issue of a code of conduct arose in the last answer the Minister gave. In the second reading explanation the Attorney stated that provisions relating to the conduct of rental accommodation referral businesses will be incorporated into a code of conduct which is to be administered under the Fair Trading Act. In what timeframe will that occur? As this package of legislation involves professional bodies, which of those bodies will be involved in the preparation of that code of conduct?

I recognise that 'deposit' is defined in clause 6(3), but I wonder whether the wording of clause 5(5)(b) places a limit on a deposit? I do not have the legal mind to determine whether or not that is what it is doing. If it does, I wonder why that is necessary. I have only a few questions to ask here because I ran out of time in the briefing.

The Hon. Anne Levy: They are limited, so they cannot be asked for 90 per cent of the cost as a deposit; a deposit is a deposit.

The Hon. SANDRA KANCK: That is what I am asking, whether it does impose a limit: that does not appear to be in the definitions. Why does clause 5(7)(a) not apply if the purchaser is a body corporate? What laws cover bodies corporate? I assume that it must be the Associations Incorporation Act, but I am asking for clarification on that. What laws cover auction sales (paragraphs (c) and (d) of clause 5(7))? In summing up the package, generally I have some concerns about it, because it seems to me that we are moving more towards a court-based system. The Opposition has raised similar concerns. Because many of its concerns are similar to mine, although I do not intend to introduce great numbers of amendments I will very carefully listen to and look at what it has to say. In making my decisions, I will be looking first and foremost at what will provide protection for the consumers. I will support any measures that stop us moving towards a greater use of lawyers. I support the second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for her contribution and the Hon. Anne Levy for her contribution in relation to the Land Agents Bill. Several issues need to be addressed, and I will endeavour to do that quickly. Clause 5 deals with cooling-off periods. This embodies the present law. There is a limit on deposit, certainly before the cooling-off period has expired, because it was felt at the time that the limit was put into the Bill, which must have been 10 or so years ago (maybe longer), that it was necessary to ensure that a purchaser was not held to ransom by the fact that the vendor or vendor's agent held a substantial deposit during that cooling-off period; and also to deal with the issues of notice relating to prescribed encumbrances and so on. There is the limit for the good reasons of protecting consumers.

I refer to clause 5(7), the question of the body corporate. It was felt—and this again is a reflection of the present Act—that bodies corporate could look after themselves. What I said when I introduced this Bill was that we have endeavoured to keep this as much like the present law as is possible because we are reviewing a number of areas in relation to the substantive law, and it was premature to bring those amendments into the substantive law now. We prefer to do that later. I referred to the fact that the present section 90 and 91 statements and forms 18 and 19 under the regulations are all issues which are currently being examined, but time has not allowed us to deal with it here.

No laws cover auctions except this Bill and the present Act, which provides that certain notices have to be given in relation to the sale of real estate. Auctioneers, I recollect, were deregulated some time in the late 1980s or early 1990s and no longer have to be licensed. In terms of the sale of land or business by auction, it is regulated under this Bill and under the present Act; and the provisions are much the same, if not identical. I think that is all that I have to answer.

The Hon. Sandra Kanck: What about the preparation of a code of conduct?

The Hon. K.T. GRIFFIN: In relation to boarding houses: I am sorry, I missed that. The Commissioner for Consumer Affairs is meeting with bodies that represent lodgers, lodging houses and those sorts of accommodation houses, and there will be some consultation also with those who may represent the tenants or lodgers. I cannot say off the top of my head who those bodies are, but I will endeavour to obtain the information and let the honourable member have it either before or at the time of the Committee consideration of this Bill.

Bill read a second time.

STATUTES AMENDMENT (CLOSURE OF SUPERANNUATION SCHEMES) (EXTENSION OF TIME) AMENDMENT BILL

Returned from the House of Assembly without amendment.

THE FLINDERS UNIVERSITY OF SOUTH AUSTRALIA (CONVOCATION) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I move:

That this Bill be now read a second time.

As the second reading explanation has been given in another place, I seek leave to have it inserted in *Hansard* without my reading it.

Leave granted.

During 1992 and 1993, the Convocation of Flinders University debated proposals on the future role, membership and operation of the Convocation.

These debates culminated in the release of a discussion paper entitled *The Future of Convocation* in June 1993. The paper was given a wide distribution to ensure that members of the Convocation and other interested parties were given ample opportunity to comment on the proposals. In addition, the Convocation surveyed its members in a further attempt to ensure that people to be affected by proposed changes were given the chance to present their views for consideration.

The large majority of responses expressed support for the proposed changes to the Convocation's role. The Executive of the Convocation met with senior management of the University and ultimately sought and was given approval by the University Council for the changes which this Bill is intended to implement. Indeed, the initial request to the responsible Minister for amendments to the University's Act came from the University Council.

In summary, the proposals have the strong support of the University community.

There are six substantive changes proposed in this Bill. The first amendment is to section 5(3)*(h)*. It requires that the four persons elected to the University Council by the Convocation must be members of the Convocation but must not be employees or students of the University. The policy behind this change is to prevent these four Council places being taken by staff or students of the University who already are well represented on the Council under other categories of membership.

The second amendment substitutes a redrafted section 17. The Convocation is given the discretion to advise the Council on matters to do with the management of the University and on the policies and future strategies of the University. This advisory role extends to the making of statutes and regulations similar to that currently granted to the Convocation by the current section 20(2). In view of this, it is proposed to repeal section 20(2).

Plainly, the graduates of Flinders University have an interest in maintaining and enhancing the University's standing in the community and many will, for more personal reasons, have a continuing interest in the development of an institution which will have played an important part in their lives by the time of their graduation. The proposed amendments allow graduates (through the

Convocation) to take an active and constructive role in the development of the University by advising the University Council, while leaving the responsibility for deciding on the action to be taken, where it belongs, with the Council. The proposed new section 17 also provides for a two year term for the Convocation President as it is felt that the current one year term does not provide for sufficient continuity.

At present, the Council may appoint graduates of other universities to the Convocation. Given the new role which the Council and the Convocation are seeking to define for the Convocation, both bodies believe it is desirable to restrict the membership of the Convocation to Flinders' graduates, and so it is proposed that the Convocation will consist of all graduates of Flinders University. Consequential on this change is the transitional arrangement which will allow one of the existing members of the Council elected by the Convocation to complete her term of office. Without the transitional arrangement, that member would be removed from office by the passage of this Bill.

Finally, the new section 17 simplifies the drafting of the Act by bringing together into one section other references to the Convocation that currently occur elsewhere in the Act. Consequential changes are made to the sections in which those references to the Convocation previously occurred.

The only other substantive change which the Government proposes to bring about by the Bill, is to make a slight change to voting procedures at meetings of the Convocation. There is currently an inconsistency between the Act, which provides for the person chairing a special or annual general meeting of the Convocation to have a casting vote in the event of a tie and the Flinders University's internal Statute that provides the rules for the conduct of the Convocation's proceedings. The University Statute provides that a motion is lost in the event of a tie. That Statute is, however, subordinate to the Act and the Act prevails where there is an inconsistency between them. Both the University Council and the Executive of the Convocation prefer the provision contained in the University's Statute and this position is achieved by the substituted section 17 and the consequential amendments to section 18.

Finally, Members will observe that the Bill contains a statute law revision schedule. This has been included because the Commissioner of Statute Revision has taken the opportunity presented by this Bill to update the drafting of the Act to make it consistent with plain English principles and with modern drafting, including the removal of gender specific references and of redundant subsections. This is clearly a desirable occurrence so that members of the University community can determine more easily what are their rights and obligations under the Act. However, the amendments proposed in the schedule make no substantive changes to the Act's operation.

I commend the Bill to Honourable Members.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 5—Council

This amendment provides that the 4 people elected to the Council by the Convocation must be members of the Convocation who are not employees or students of the University.

Clause 3: Substitution of s. 17

17. Convocation

Proposed section 17 provides that the Convocation consists of all graduates of the University. The Convocation—

- may, as it thinks fit, advise the Council in respect of the management of the University and the policies and future strategies of the University;
- must carry out any other function assigned to it by the principal Act or a statute or regulation of the University.

The rest of the proposed section provides for the proceedings of the Convocation. The Convocation must elect a President (who, when present, will preside at meetings) from its members every two years or whenever a vacancy occurs. A quorum of the Convocation consists of 20 members and no business may be transacted at a meeting of the Convocation unless a quorum is present. Each member present at a meeting of the Convocation has one vote on any question arising for decision and a decision carried by a majority of the votes cast by members at a meeting is a decision of the Convocation.

Clause 4: Amendment of s. 18—Conduct of business in Council

The amendments in this clause are consequential on the passage of clause 3.

Clause 5: Amendment of s. 20—Power of Council to make statutes, regulations and by-laws

This amendment strikes out the requirement that the Council must submit to the Convocation any statute or regulation before submitting it to the Governor for allowance.

Clause 6: Statute law revision amendments

This clause provides that the principal Act is further amended by the schedule.

Clause 7: Transitional provision—Council membership

This clause provides that on the commencement of this amending Act, a person appointed to the Convocation under section 17(1)*(b)* (as in force immediately before that commencement *ie* before section 17 was repealed and substituted) ceases to be a member of the Convocation. There is a proviso that the current term of office of a member of the Council who was elected to office by the Convocation before 1 January 1994 is not affected.

SCHEDULE—Statute Law Revision

The schedule contains amendments of a statute law revision nature under the direction of the Commissioner of Statute Revision. The schedule does not contain any amendments of a substantive nature.

The Hon. ANNE LEVY: On behalf of the Opposition, I indicate support for this legislation. It is a matter that is internal to the Flinders University, has been thoroughly debated there and is supported by all members and all sections of the university community there. The urgency of dealing with all stages of the Bill today comes from the fact that this Chamber will not be sitting for another four weeks.

The matters in the legislation affect the conducting of elections for the convocation of Flinders University, and the process for conducting the elections will begin before this Council meets gain. Obviously Flinders would prefer to conduct the elections for convocation under the new procedures set down in the legislation rather than in the existing legislation. So, the Opposition supports the principles in the Bill and supports dealing with it as a matter of urgency.

The Hon. M.J. ELLIOTT: I rise to support the Bill. Having done so, I note that I was told about two and a half hours ago that the Government was keen to get it through today.

The Hon. Anne Levy: I was told five minutes ago.

The Hon. M.J. ELLIOTT: At least your Party had agreed to it in the other place. There had been no consultation from either the Government or the university in relation to the matter. The advantage that the other two Parties have is that they both have representatives on the Flinders University Council, so at least they should have had some warning that it was coming. I had no warning whatsoever.

Having said that, I must say that I have had an opportunity to read through the Bill, which is not a lengthy piece of legislation, other than the schedule, which tackles issues such as gender that need to be reviewed, and obviously there are no real issues within that. Having taken that opportunity, I refer to the questions as to the role of convocation.

I had a discussions some 18 months ago with somebody from the university who had raised the issues in general terms, and I was aware that there were some concerns about what role convocation should play. In general, having read through the legislation, I had no difficulties except in relation to one clause, namely, clause 5, which amends section 20 of the principal Act.

I took the opportunity to make a phone call to the university and speak to some people there, and I was assured that it is in conformity with what was requested by convocation in council itself. I understood the problems that had existed in the past where convocation was simply obstructing council. I must say that I was a little surprised that convocation did not want council to bring back the statutes to look at them as distinct from the power to reject them or to suggest

that they be changed, with this backwards and forwards process that used to happen. I was surprised, but was told that it was what they wanted.

If elections were not imminent and what that entails, I would have said, 'Give me another four weeks.' I will not do that, but will take the assurances given by the two Parties and the university itself.

I again put on the record my concern that it has come through so quickly. Only yesterday I had a blazing row with another Minister who does not seem to understand that the Upper House does take its role seriously and likes to look at legislation and, depending on the complexity of it, have sufficient time. Although this is not a highly complex Bill, a few hours is not a lot of time.

The Hon. Anne Levy: Such is life.

The Hon. M.J. ELLIOTT: Yes. I hope the new Government sorts itself out. The explanation I tried to give to a Minister yesterday did not seem to sink in, not by some reports I heard later, but perhaps over time—

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: No, a different Minister. Perhaps over time his education will be completed. That is something of a distraction from the legislation that we have in hand, and I indicate that the Democrats support the second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their support of the legislation and indicate to the Hon. Mr Elliott, certainly on behalf of the Minister (Hon. Dr Bob Such), thanks for his support of the Bill. I understand the difficult position he has been placed in. As I indicated to the honourable member, if he did decide to have further consultation and leave it for when we came back in the second week of October, that would have been entirely understandable. I was certainly prepared to accept that on behalf of the Government and put that position back to the Minister concerned. Nevertheless, on behalf of Dr Such, I am grateful for the honourable member's consideration and support for the legislation.

I conclude by saying that I think we would all agree that we are much misunderstood here in the Legislative Council by some of our Lower House colleagues—both Labor and Liberal—and it is an ongoing task for all of us to educate our Lower House colleagues about the true value and worth of and need for the Legislative Council and Legislative councillors. I again thank honourable members for their support.

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

MINING (ROYALTIES) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

The object of this small Bill is to have a portion of the royalty, currently payable on extractive minerals, paid into Government revenue.

Under the present *Mining Act 1971* 100% of the royalty on extractive minerals is paid into the Extractive Areas Rehabilitation Fund (EARF) which is available to the mining companies for subsequent rehabilitation work.

This proposal will split the royalty evenly such that 50 per cent will go into the Fund and 50 per cent will go into Government revenue.

In its review of the *Mining Act*, the MESA Review Committee determined that a common royalty rate of 2.5 per cent of the assessed value should apply to all minerals and that the different rate (5%) for extractive minerals should no longer apply.

The Review Committee also considered that the present arrangement with regard to royalties on extractive minerals could be perceived as inequitable, in that the extractives industry was not contributing directly to Government revenue by way of royalty as a result of mining the Crown's minerals.

It was further agreed by the Committee that the currently assessed value for extractive minerals of $2.00 per tonne was far too low and that there was a need to raise this in line with other mineral assessments and those prevailing for similar commodities interstate.

In discussions with industry generally and with the Extractive Industry Association in particular it was agreed that a more realistic assessed value (on an ex mine gate basis) for most extractive minerals would be $8.00 per tonne.

At 2.5% royalty, the proposed common rate, this would yield a royalty of 20¢ per tonne which is considered fair and reasonable at this time.

The effect of this Bill will be to split the 20¢, such that 10¢ is payable into the EARF (as is now the case) and 10¢ is paid into State revenue.

This will mean that in a full year, with annual production of extractives of about 10 million tonnes, approximately $1.0 million will be paid into the EARF (as is now the case) with a further $1.0 million paid into revenue.

As part of this proposal it is intended to review the assessed value of extractive minerals throughout the State and determine a more realistic assessed value of $8.00 per tonne to be effective from the date of operation of this Bill.

Explanation of Clauses

Clause 1: Short title

Clause 1 is formal.

Clause 2: Commencement

This clause provides for commencement by proclamation.

Clause 3: Amendment of s. 17—Royalty

This clause has the effect of fixing the level of royalties paid on all minerals (whether extractive or otherwise) at 2.5 percent of their assessed value.

Clause 4: Amendment of s. 63—Extractive Areas Rehabilitation Fund

This clause provides that 50 percent of royalties received by the Treasurer from extractive minerals (instead of the whole amount) is to be paid into the Extractive Areas Rehabilitation Fund.

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

EASTER (REPEAL) BILL

Received from the House of Assembly and read a first time.

The Hon. R.I. LUCAS (Minister of Education and Children's Services): Mr Acting President, I draw your attention to the state of the Council.

A quorum having been formed:

POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES (CONSISTENCY WITH COMMONWEALTH) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 August. Page 227.)

The Hon. BARBARA WIESE: This is an important environmental measure and the Opposition supports it. The substance of the Bill, which seeks to make control measures relating to pollution of the sea by ships more stringent emerges from the International Convention for the Prevention of Pollution from Ships or MARPOL, as it has become known. This is an international treaty of the International

Maritime Organisation, and Australia has incorporated certain aspects of the treaty in legislation at the Commonwealth, State and Territory levels.

Australia has a vast coastline and spread of territorial waters. It is critical that we demonstrate to ourselves and also to the international community that we take seriously responsibility for this national and global resource and that we are committed to its protection. In recent years we have all been appalled by environmental disasters such as the *Exxon Valdez* oil spill in Alaska and, closer to home, the disintegration of an oil tanker off the coast of Western Australia a few years ago.

At least out of disasters of this kind sometimes comes some good, because in the case of the disaster in Alaska I understand that, at least in the United States, there has now been the development of new design and construction standards for vessels in that country. Further, with the production of such excellent studies as the Ships of Shame Report, which was commissioned by the Federal Government, we have all become more aware of the international shipping scandal which has allowed shipping registration and maintenance standards to be thwarted and/or ignored, thereby leading to a rapid increase in the number of ships plying the seas of our globe which are good for nothing but scrap.

What is more, too many ships have been carrying and continue to carry highly polluting and noxious cargoes. The Federal Government is to be congratulated on the important contribution it has made to the international debate on these matters, for the action that it has initiated in international forums to address the existing inadequacies and also for the more stringent measures that it has introduced in Australia to deal with shipping companies which operate substandard ships within Australian ports and waters. However, the Australian Government alone cannot solve the world's shipping problems, and there is much to be done within international maritime organisations and by Governments of other nations before we will see a significant improvement in standards and before we can be assured that our marine environment is safe from pollution emanating from ships.

The measure before us, which among other things reduces the allowable instantaneous rate of discharge from the cargo space of an oil tanker, reduces the oil content of effluent from the machinery space of ships and requires that ships be fitted with 15 parts per million of filtering equipment is a step in the right direction. I must say that, to me, it is somewhat astonishing that the requirement for Australian ships to have on board an oil pollution emergency plan is only now being incorporated in legislation. Nevertheless, it is a welcome step forward. One can only hope that those ships which do not have such a plan now are in a minority.

I understand that currently under consideration in national forums are further amendments which no doubt will come before the Parliament relating to the reception of rubbish and sewage in ports around Australia. These amendments, too, will emanate from MARPOL and the international maritime forums. My understanding is that this legislation mirrors amendments which have been made already by the Commonwealth Parliament and which have been or will be incorporated in the legislation of other States and territories.

There are two issues which I would like the Minister to address in her reply. Her second reading explanation indicated that the Commonwealth measure was brought into operation on 6 July 1993. This raises the question of why there has been such a delay in introducing mirror legislation into the South Australian Parliament in accordance with the national agreement. In addition to making some comment about that, will the Minister also indicate whether any other State or Territory has yet to fulfil its obligation with respect to the introduction of this legislation?

Finally, I seek clarification of a related issue, and that is the current arrangements that exist concerning management within South Australia of the national plan to combat pollution of the sea by oil. Under the national plan a State committee exists to preside over oil spill issues and oversee emergency and clean-up operations in the event of an oil spill occurring in waters which surround this State. I am aware that the Chairman of the State committee, Captain John Page, who was an officer of the marine and harbors agency until recently, has now left, so I ask the Minister whether his departure has led to the appointment of a new chairperson and whether there have been any other changes in the management of oil spill issues in this State as a result of that change and the structural changes that have been occurring within the Transport Department and related agencies since this Government assumed office. I will be interested to hear the replies to these questions. I support the Bill.

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

REAL PROPERTY (VARIATION AND EXTINGUISHMENT OF EASEMENTS) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 6.6 p.m. the Council adjourned until Tuesday 11 October at 2.15 p.m.