LEGISLATIVE COUNCIL

Thursday 13 October 1994

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport (Hon. Diana Laidlaw)—

Reports, 1993-94—
Dental Board of South Australia.
Medical Board of South Australia.
Pharmacy Board of South Australia.

QUESTION TIME

EDUCATION BUDGET

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

Leave granted.

The Hon. CAROLYN PICKLES: The Minister told the Estimates Committee that the three year target budget cut for education of $40 million per annum would be met without reducing the number of teachers by any more than 422. This year the Minister made cuts of $22 million against the target of $40 million. As salaries make up about 80 per cent of the education budget, the $40 million question is: what else will be cut to find the extra $18 million? Of course, one could make a list of possibilities; perhaps support staff in schools will go—and I understand that might be the case; perhaps schools will be required to cut expenditure on maintenance; perhaps school buses will go; perhaps more cuts to school card will be another possibility; or perhaps we will follow the Victorian solution after all, and have a wholesale closure of schools as recommended by the Audit Commission. Has the Minister determined options for the additional reductions of $18 million, and which areas would he prefer to see cut?

The Hon. R.I. LUCAS: I will explain for the benefit of the shadow Minister that the statements I made as Minister at the time of the budget and subsequent to it remain an accurate reflection of what the Government will have to do over the coming three years. Put as simply as possible, the facts are that in 1994—

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: It will be a simple answer. I will put it as simply as possible: the budget changes that the Government has introduced will take effect only from February of next year. The Government took the decision that, although it could have, in effect, introduced the cuts from 1 July, the start of the financial year, it would have caused tremendous disruption to students and to schools by cutting 400 teachers in the middle of the school year.

There would have been massive dislocation of classes and disruption of schooling, so the Government took the considered decision that that was not in the best interests of quality education and that, if there were to be cuts, they should be introduced half-way or seven-twelfths of the way through the financial year at the start of each school year. In simple terms, the decisions that we have introduced will have effect for only five out of the 12 months of this year. When we get to 1995-96, they will be taking effect for the full financial year.

Therefore, no further changes will have to be introduced to meet the $40 million funding target that the Government has outlined for the three years, other than those decisions that have been announced in the budget. The $40 million target is there and the budget savings that are required to achieve that are there and have been announced up front. The long list of examples, speculation or wish list as to possible cuts in support staff and the whole range of other dire consequences suggested by the shadow Minister will not be required to meet the $40 million savings task that the Government has announced.

ECOTOURISM

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Tourism, representing the Minister for the Environment and Natural Resources, a question about ecotourism.

Leave granted.

The Hon. T.G. ROBERTS: In a recently released fold out glossy brochure, 'Ecotourism: A natural strategy for South Australia'—

An honourable member interjecting:

The Hon. T.G. ROBERTS: No, it is not. I must say that the brochure is quite well presented and informative as far as it goes. I have no criticism of the presentation or format, except that it is not on recyclable paper. The format is fine, but I have two criticisms of the presentation and content of the foldout. The areas which are listed for ecotourism and on which the Government can concentrate its efforts and energy are basically in the northern and central regions of the State. Although it mentions the Naracoorte caves and the fact that they have been nominated as a world heritage fossil site of exceptional importance and listing, and has a fine glossy photograph of the caves, I am sure that people in the South-East would be able to list many more areas of ecotourism potential that may have been but are not listed in the brochure.

The other areas listed are the Flinders Ranges; Lake Eyre Basin, including Cooper Creek, Coongie Lakes and Mound Springs; Nullarbor; Gawler Ranges; River Murray and Coorong; the Naracoorte caves, which I have mentioned; Kangaroo Island; the Great Australian Bight whale nursery and proposed marine park; and South Australia's offshore islands and marine fauna.

The opportunities for ecotourism, as spelt out, are excellent. It is a new area of potential growth for the State, and that is recognised by the Opposition, by the Government in this well-prepared brochure, with its limitations, and by the Democrats who have spoken in contributions supporting it. So, the ecotourism idea for the development of regional areas is well supported by all in this Chamber.

The limitations are that it does not list all those areas in the State of which we may be able to take advantage. My worry is that if ecotourism is to be promoted we need to promote with it some guidelines for the protection of those very sensitive areas when developing plans for the broadening out and introduction of a wide range of activities relating to ecotourism. Mention has been made in previous discussions in this Chamber that when we were in government people were sensitive about the Flinders Ranges development projects and the Kangaroo Island development projects, to name but two. The fear that I and others have is that if a

management plan is not put in place with the ecotourism development plan we may be spoiling for ever those sensitive areas that we are about to try to exploit for jobs and regional development. The question is: what management plans are to be put in place to protect the unique environment that is being promoted for ecotourism?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister for the Environment and Natural Resources and bring back a reply as soon as possible.

DEFAMATION LAW

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Attorney-General a question about the defamation law.

Leave granted.

The Hon. L.H. DAVIS: The High Court yesterday brought down by a four to three majority what has been described as a landmark decision with respect to defamation law. The Full Bench of the High Court ruled that there was a constitutional freedom implied in the Commonwealth constitution with respect to published material discussing Government and political matters concerning members of Federal Parliament, which relates to the performance by them of their duties as MPs, and in relation to the suitability of persons for office as MPs. The judges also suggest that the freedom given to the media would not only be limited to the publication of information about politicians; it could well include discussions of political views and public conduct of people who are engaged in public and political debate, such as trade union leaders, Aboriginal political leaders, and political and economic commentators.

Quite clearly, it is a landmark decision since it means that publication of material which comes under that umbrella specified by the court will not be actionable under defamation law if a defendant can establish that they are unaware of the falsity of the material published, that the material was not published recklessly, caring whether the material was true or false and the publication was reasonable in the circumstances. If the publication succeeds on those grounds, then it will have the status of qualified privilege. Of course, it may well mean that if it comes to a case in court the defendants may have to reveal their sources, which is, of course, another matter. But, because it is of such public interest, affecting, as it seems, not only politicians but leaders engaged in political debate who may not be politicians, I am wondering whether the Attorney-General has had an opportunity to peruse this landmark decision of the High Court and whether he has any comments on the case.

The Hon. K.T. GRIFFIN: I knew how interested everybody might be in this subject and so—

The Hon. Carolyn Pickles interjecting:

The Hon. K.T. GRIFFIN: I am not going to make a ministerial statement—come on. I was asked some questions about it by the media yesterday, but had not had a chance to look at it. I have had a cursory look at it and obtained some interim advice, but, in due course, I will make more information available to members. But what the case does indicate is that the High Court is not averse to becoming more and more active judicially in identifying where it thinks rights ought to be expanded or limited and, in fact, it demonstrates a preparedness to adopt a broader interpretation of the Commonwealth constitution, and also indicates a preparedness to really create new legal principles.

There were two cases: one involved a Commonwealth parliamentarian and one a State parliamentarian. The Commonwealth parliamentarian brought an action for defamation in respect of allegations made concerning his public duties. The second one involved a Western Australian parliamentarian. The essence of the allegations made was that an overseas trip taken by the member of Parliament was a junket.

In each case the constitutional issue really concerned freedom of speech in political matters and it went back to the 1992 case in relation to Nationwide News and the other related to Australian Capital Television. It was a four to three decision of the High Court. The Chief Justice and Justices Toohey and Gaudron in the majority were joined by Justice Deane. It would be helpful to identify a couple of the principles or the reasoning of the majority.

On the information that I presently have, they indicated that the implied right of freedom of expression extends to all political matters. It includes criticism of the views, performance and capacity of members of Parliament and public officers and their fitness for public office, but it does not, on the advice that I have, extend to public figures but only to public officers. It is a pretty important distinction there. The freedom is not limited to Commonwealth matters. Under both the Commonwealth and State constitutions it also extends to State matters and to State public officers.

The current law of defamation is unsatisfactory. It imposes too rigid a constraint upon free expression. It is not consistent with the implied freedom. To be consistent with the freedom, a new defence needs to be established. Where a plaintiff sues in respect of an alleged defamation relating to political matters, the defendant will have a defence if the defendant proves:

(a) The defendant did not know the statement was false;

(b) The defendant did not publish the statement recklessly, that is, not caring whether the instrument was true or false; and

(c) In the circumstances that prevailed the defendant acted reasonably either by taking some steps to check the accuracy of the impugned material or by establishing that it was otherwise justified in publishing without taking such steps which were adequate.

This does reflect a significant change in the law. On the face of it, public officers are significantly less protected by the law of defamation than are other members of the community. I do not think it means that it is to be now open slather on politicians. Members of Parliament still enjoy the considerable protection of parliamentary privilege, although if we review that privilege—and the Governor's Speech indicated that we were addressing some aspects of that—it would certainly be sensible to take into account the decision of the High Court. The advice I have received is that, as the new defence goes to the knowledge and reasonableness of the actions of the publisher, it is even more likely than hitherto that newspapers will have to reveal their sources to make out their defence.

That is a change from the perspective of the news media, too. Some people may rejoice in that and others may not. The fact of the matter is that it really does have some significant ramifications not only for public officers, including members of Parliament, but also for the media in establishing the defence. In this State previously truth was a defence. Now, of course, the emphasis of that has changed somewhat. That

is the preliminary advice that I have received and, if there are any significant new matters that I have not drawn to the Council's attention, I will endeavour to do so at some time in the future.

JETTIES

The Hon. DIANA LAIDLAW (Minister for Transport): I seek leave to make a ministerial statement about recreational and fishing jetties.

Leave granted.

The Hon. DIANA LAIDLAW: In June this year I commissioned a survey of South Australia's recreational and fishing jetties to establish the condition of all 74 jetties for which the State Government has primary responsibility. I deemed this work to be urgent following extensive storm damage over recent years to a number of metropolitan jetties, notably, Semaphore, Largs Bay and Brighton. To my surprise, the former Government had not considered that it was important for the Department of Marine and Harbors—now the Marine and Harbors Agency—to develop a comprehensive assessment of the state of our jetty assets.

The survey cost $150 000 and involved an underwater inspection between July and September of a sample of 12 jetties to determine their timber pile deterioration. The jetties selected for inspection were: Milang, Stansbury, Grange, Port Noarlunga, Robe, Cape Jaffa, Victor Harbor causeway, Ardrossan, Port Victoria, Edithburgh, Port Pirie and Port Broughton. The piles inspected in these structures represent a sample group of approximately 23 per cent of the piles in South Australian jetties. By plotting these results against a pile deterioration rate curve, the pile condition of each jetty in South Australia has now been forecast. The good news is that the actual average structural life of a pile is about 10 per cent to 20 per cent greater than the 50 years originally assumed and could be as high as 60 to 65 years in some cases. The bad news is that our jetties generally are in a sorry state and much work and money is required to bring them up to a satisfactory standard.

The standard currently adopted by the Marine and Harbors Agency is to replace structural elements of recreational jetties (of which there are 55) when their cross-section is reduced to 30 per cent of the original area. For fishing structures (of which there are 19) the agency has adopted a 50 per cent standard. The reason for the different standards arises from experience over several decades which has identified that the limits of 30 per cent and 50 per cent provide an acceptable level of risk, particularly as the jetties are now subjected to considerably smaller loads than those for which they were originally designed.

Most jetties were originally built to service the coastal shipping trade and accordingly were designed to accommodate forces exerted by berthing vessels and train loads. Today, wind, wave and light foot traffic are the predominant loads that the jetties must withstand. Therefore, the perceived wisdom is that structural components can deteriorate to a significant extent and still have sufficient strength for recreational use.

In summary, the estimated cost to repair all structures to a 30 per cent standard is $9 million. If the current Marine and Harbors Agency policy is adopted (that is, a 30 per cent standard for recreational facilities and a 50 per cent standard for fishing facilities) then the estimated cost would be $13 million. If all jetties are to be repaired to a higher standard, that is, a 50 per cent standard, the estimated cost will increase to $23 million. If a 70 per cent standard is used, the estimated cost is $51 million. All estimates have been prepared on a plus or minus 20 per cent basis. I should add that, when it is determined which jetties are to be repaired at which time, there will be a much closer assessment of the cost in each instance and it will be brought down to a plus or minus 10 per cent basis. The report suggests there may be some scope to reduce the costs by reducing the number or size of structural elements in some structures. I seek leave to table a copy of the report.

Leave granted.

The Hon. DIANA LAIDLAW: It is my intention to refer this report to a working party which I established in September this year to assess all future management options for our jetties, including the possible transfer of the jetties to local government. The committee comprises a majority of local government representatives and is chaired by the member for Colton, Mr Steve Condous. In the meantime, options will be explored to determine how and where the money can be found to undertake essential repair work on all 74 jetties. These options will include company and community sponsorship. South Australians prize their jetties. So, notwithstanding past practices which have diminished regular inspections and maintenance work, the Government is keen to ensure that the jetties survive for the enjoyment of future generations of South Australians and visitors to our State.

WASTE DISPOSAL

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister for Transport, representing respectively the Minister for Housing, Urban Development and Local Government Relations and the Minister for the Environment and Natural Resources, a question about liquid waste disposal.

Leave granted.

The Hon. M.S. FELEPPA: There has been a proposal to locate a liquid waste treatment plant on the old Tubemakers site on Churchill Road, Kilburn. The site is well within the metropolitan area. This information was first brought to public attention by an article in the *Sunday Mail* of 9 October 1994 headed, 'Residents take on industrial giant'. It was repeated as public information this morning on the ABC news. A 700 strong group of protesters have expressed their alarming concern at having such an objectionable kind of operation located in a place where there is housing close by.

According to what was reported in the *Sunday Mail*, it would be located 400 metres from the Kilburn Primary School and 200 metres from a new nursing home. I am sure that members would agree that such a plant that will be processing liquid waste from grease traps, caustic waste and polluted water from ship's bilges and breweries should be located well away from residential areas. The plant could well become a health hazard and residents should not be exposed to such a health risk. The odour coming from the plant would be quite objectionable, even if it were not a health hazard. The risks and odours could spread far beyond the immediate residential areas.

The concern expressed by the residents is that, as the local council has refused permission for the plant to be built, the Government may override the council's decision by invoking powers that the Government may have. For the information of members, may I add that the Enfield Council has already won a recent Supreme Court challenge when the company

Collex Waste Management withdrew the case, but residents fear the plant may still go ahead if the State Government steps in and rezones the area from a residential to industrial area.

Further, a deputation was to meet yesterday with the Local Government Minister (Mr Oswald) to put their objection to him and seek an assurance that he will not oppose their objection. My questions are:

1. Is the Government contemplating favouring the development of a liquid waste treatment plant on the old site of Tubemakers on Churchill road, Kilburn, overriding the council's objections?

2. Has there been, or will there be, an environmental impact study carried out to determine and oversee the effects the plant would have on the surrounding metropolitan area?

3. Will the Government, and particularly the two Ministers that I have called upon, give an undertaking that a social and human impact study will be made before coming to a decision to allow the development?

4. Finally, what was the outcome of the deputation that was supposed to be meeting with the Minister yesterday, and will the Minister kindly report back to this Council the answer as soon as practically possible?

The Hon. DIANA LAIDLAW: Yes, I will bring back an answer as soon as possible from both the Minister for Housing, Urban Development and Local Government Relations and the Minister for the Environment and Natural Resources.

RURAL ASSISTANCE

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Environment and Natural Resources, a question in relation to the Federal Government's drought assistance package.

Leave granted.

The Hon. M.J. ELLIOTT: On 21 September 1994, the Prime Minister announced a drought assistance package to help drought affected areas. As part of that package, which has already caused concern because of its focus on New South Wales and Queensland, the Government has offered a tax incentive for farm storage and water facilities, to quote the Prime Minister, 'to encourage farmers to better prepare for drought'.

His press release does not make clear what form of farm storage he had in mind: whether or not he was talking about simple rain water tanks or whether he was talking about dams. One must consider that the worst of the drought is in the major catchment areas of rivers leading into the Darling. To give members an idea of what it could mean if the tax incentives go to farmers to put in dams, which are on streams leading to the Darling, the *Financial Review* of 4 October included an article about a farmer and the difficulties he had. This cotton farmer had several dams on his own site because the article said:

> His main dam on his property is near full with 1200 megalitres of water collected from the March rains.

That figure of 1200 megalitres is equivalent to three days' water usage for the whole of Adelaide. The farmer also has access to a further 4 000 megalitres from the public dam nearby. In other words, this one farmer uses water equivalent to 12 days' usage for Adelaide. The concern is that the tax incentives about which the Prime Minister is talking could encourage more of these farm dams, which are really mind blowing by any standard. These dams often operate when there are high flows. Farmers pump from the rivers and the dams can hold three or four years' supply of water for the farms. It has been seen as a major reason why the Murray-Darling system has been getting into trouble and, in particular over the past of couple years, why the Darling has stopped flowing, and why there have been annual outbreaks of blue-green algae.

If one goes back about 10 years or so to a time when I lived in the Riverland, the local farmers always said that when the Darling was flowing you had good, sweet water: it was low in salt, it flushed the system out, and was extraordinarily important for the health of the Murray system. Any move to remove more from the system will stall the water flow even more and increase the threat of poisonous blue-green algae outbreaks. This will cause States, particularly South Australia, enormous problems as the river system is vital for our domestic, industrial and agricultural water supply. Salinity problems will increase as less fresh water is flushed through the system, causing further havoc.

If we have an algal bloom breaking out in the system—and we have not had too many in the Murray itself as yet—it could be a major threat to the cost of our primary sector and also a threat to Adelaide's water supply. Will the Minister intervene with the Prime Minister to ensure that no tax incentives are provided which will increase water storage from the Murray-Darling system itself? In fact, it may be necessary for the Premier himself to pick up this issue.

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply.

TEACHER NUMBERS

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about statements made by the Premier yesterday in relation to cuts in the number of teachers in certain areas of the education system.

Leave granted.

The Hon. T. CROTHERS: Yesterday, the Premier and the Treasurer both indicated that they had received advice with respect to cuts in the number of teachers in schools in their particular electorates. I merely want to ensure that everyone involved is on an even playing field, as it were. Can the Minister for Education and Children's Services say whether he or his department advised any members of Parliament of the extent of cuts to teachers in their electorates, and will he indicate who in particular received this advice?

The Hon. R.I. LUCAS: I would be happy to ask departmental officers and my officers the extent of the provision of that sort of information. It is certainly not confidential. It is available to schools. It was sent to schools on about 30 August, at about the time of the document that was tabled by the Hon. Ms Pickles yesterday. In fact, one point that I should have made in response to the earlier question is that, on the day before that particular document, 29 August, I issued a public statement highlighting the effects of the budget on schools, indicating that the 1995 staffing figures had been sent to all schools that day by the department and, in fact, highlighting the effects on schools as a result of declines or increases in school enrolments.

In fact, the Morphett Vale High School was highlighted by the Hon. Ms Pickles and the Labor Party yesterday and

was featured in the questions and press statements yesterday as losing 14 teachers. I referred to that school but did not identify it because schools are reluctant to be identified publicly, and in that case the principal is predicting that the school will have 176 fewer students in February next year compared to February of this year. So, I identified the school only as 'a southern suburbs high school' which was, in effect, going to have 176 fewer students next year, and I stated that the combined effect was that the budget cut meant that the school might lose between two and three teachers. However, because there was going to be 176 fewer students in the school next year, the normal enrolment effect would be that there would be some 10 or 11 fewer teachers in that school as a part of the staffing process.

That was a press statement issued by me on 29 August, three or four days after the budget, indicating that all this information had been sent to schools. So, it is not confidential information; schools were advised—they were this year; I do not know if they were in previous years—of the budget effects of enrolment changes; and they were advised of the teacher number effects as a result of enrolment changes in their particular schools. That particular school was highlighted and named by the shadow Minister and the Labor Party yesterday and it gained some publicity. As I said, I am not surprised that some people associated with the school would have been very concerned that the Labor Party named their school as being that which was losing 176 students next year and, as a result of losing 176 students, in the normal course of events, was going to lose between 11 and 12 teachers.

So, it is not confidential information; it was sent to all schools; local members have a nominee on the councils of their secondary schools, and any good local member—or indeed any other member for that matter—if they wish to, can contact their schools.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: The nature of the correspondence that I have with and the advice that I provide to my colleagues is a question for me, and I certainly do not intend to provide either to the shadow Minister or indeed the Hon. Mr Crothers the detail of information that I provide to members in my parliamentary Party in relation to issues that I wish to discuss with them. Indeed that was the case with the previous shadow Minister and the discussions that she and he, before her, had with the Hon. Ms Pickles, members of the Education Committee and members of the Government caucus in relation to particular issues.

So, the information was there; it was not confidential; it was provided to everybody; it was available to local members of Parliament if they wanted to contact their local schools; it was not concealed at all; and the nature of discussions that I have with my colleagues, verbal and written, will remain for me and for my colleagues.

The Hon. T. CROTHERS: The Minister for Education and Children's Services has indicated many times in this Parliament his interest in good and open government. He has done it again today in respect to the question which I asked and which he has answered. It is said that good government is made even better by a good opposition.

The PRESIDENT: Order! Could the honourable member put just the question and not debate it.

The Hon. T. CROTHERS: In the interests of good government, is the Minister prepared to release a list of the information to which I referred when asking the question to all members sitting in another place, irrespective of Party affiliation?

The Hon. R.I. LUCAS: I am prepared to release all information in relation to staffing to all members, whether they be Liberal, Labor, Callithumpian or whatever colour and flavour—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: And the Hon. Mr Crothers, whatever variety or flavour he particularly represents at the moment. Any information in relation to the enrolment or budget effects on schools has been available since about 30 August, when it was provided to schools. If colleagues of the Hon. Mr Crothers in another place would prefer not to contact their local schools and find out the budget and enrolment effects on their schools, I would be only too happy to do the research for them and for the Hon. Mr Crothers, and provide them with that information.

IMMUNISATION

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

Leave granted.

The Hon. BERNICE PFITZNER: I am very pleased to note that our State and our Government has now implemented a full immunisation schedule, in particular introducing the HIB vaccine, which is the haemophilus vaccine, and the MMR vaccine, which is the measles, mumps and rubella vaccine, for males as well as for females. The schedule now is: for two, four, six and 18 months, the triple vaccine and HIB; for two, four and six months, polio; for 12 months, MMR; and for preschool, polio and triple, which is a new vaccine instead of just the double vaccine—whooping cough is also included; and at 11 years, MMR, which previously was only for females, but males are now included.

However, I am still concerned regarding the collection of statistics with regard to the uptake of immunisation, which relates to how compliant parents are in having their children immunised. I understand that under the previous Government the collection of these statistics was inadequate, haphazard and fragmented. Further, I understand that there is a push by some pseudo-medical personnel from Melbourne, saying that immunisation is unnecessary and even dangerous. My questions are:

1. What educational programs are in place for the promotion of immunisation?

2. What strategies has the South Australian Health Commission in place to follow up and take valid statistics, so that we might ensure that our coverage is heading towards 95 per cent, which is the figure for total elimination of these diseases?

The Hon. DIANA LAIDLAW: I will refer the question to the Minister and bring back a reply.

RESTRAINING ORDERS

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General a question about the Family Law Act and restraining orders.

Leave granted.

The Hon. ANNE LEVY: An ongoing saga is the interrelationship between family access orders, which are granted by the Family Court, and restraint orders in cases of domestic violence which are granted by a Magistrates Court.

An honourable member interjecting:

The Hon. ANNE LEVY: Have you? That is what I was going to ask you. There can be a conflict where the Family Court has granted access but a magistrate wishes to impose a restraining order in cases of domestic violence, because the access order overrides the restraining order, so the spouse cannot refuse access to the violent partner when there is access to children. Various suggestions have been made as to how these two should interrelate. I understand that the Standing Committee of Attorneys-General has considered this matter on numerous occasions and reached agreement at one time, which was gone back on when drafting of the amendments occurred. I can refer the Minister to a letter of February 1993 from Jan Wade, the Attorney-General in Victoria, which indicated that there had been a change of plan. I have subsequently asked the Attorney-General what was happening in this regard and he said it was complicated and would be looked at at the next meeting of Attorneys-General.

The Hon. K.T. Griffin: We have had some meetings since then.

The Hon. ANNE LEVY: Yes, I know. The Attorney-General indicated that it would be looked at. My question is: has it been looked at; has a satisfactory resolution been arrived at; will amending legislation be introduced into this Parliament to give effect to any solution which has been arrived at; and, if so, when?

The Hon. K.T. GRIFFIN: A solution has been reached. My colleague, the Minister for the Status of Women, reminds me that the issue was recently discussed at a ministerial meeting of Ministers for the Status of Women.

The Hon. Anne Levy: It has been on their agenda for years.

The Hon. K.T. GRIFFIN: Yes, but it has been fixed. The July Standing Committee of Attorneys-General meeting in Brisbane was a meeting of Ministers only, without officers. We reached an agreement there and then and the agreement—

Members interjecting:

The Hon. K.T. GRIFFIN: When you go to these meetings, sometimes you work behind closed doors with Ministers and no officers and you get a lot more done. It happened frequently on the old Ministerial Council for Companies and Securities. We used to have a range of officers around the walls and there were seven Ministers in a goldfish bowl at the middle table and we had officers running backwards and forwards. The best thing we ever did was to have a private meeting of Ministers, and we got more resolved in half a day than we ever got resolved in a year or so.

The Hon. Anne Levy: We all know that.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: I can tell the honourable member that at the July meeting of the Standing Committee of Attorneys-General the Federal Minister agreed that there would be an amendment to the Family Law Act, and State Ministers agreed that if it was legally necessary there would be an amendment to State law but that was probably not necessary because the major constitutional difficulty was the incapacity of the State Magistrates Court to override a Family Court order. The big sticking point has always been that the Federal Government and the Family Court did not want a State jurisdiction overturning or interfering with Family Court orders. The agreement is that there will be an amendment to the Family Law Act which will allow State courts to vary access orders in so far as a variation is necessary to ensure that the restraining order is fully operative, and that the Family Court, when making an access order in the knowledge that there is a domestic violence or other restraining order in place, will be required to explain the interrelationship between the two to the party who applies for the restraining order and the party against whom the order is made.

We took the view that Magistrates Courts in the this State, for example—in other States they are not Magistrates Courts; they are other courts—were better placed to make the decision whether there should be a restraining order in the first place, whether the restraining order should be varied to accommodate an access order or whether an access order should be varied to accommodate the primary object of a restraining order, which is to protect women and children who might have been the subject of threats or actual acts of violence. The matter has been resolved.

There is to be another meeting of the Standing Committee of Attorneys-General in November at which we expect to have a report on the progress of the legislation in the Federal Parliament. There was a suggestion that within a month or two the Federal Attorney-General expected to introduce an appropriate amendment to the Family Law Act in the Federal Parliament, but I am not aware whether that has yet been done. I will make some inquiries. If I cannot get the information before the November meeting, I will do so then and update the honourable member when I have that information.

The Hon. ANNE LEVY: As a supplementary, will there be provision for appeals from the Magistrates Court to the Family Court should the party against whom a restraining order is made object to the variation to the access order?

The Hon. K.T. GRIFFIN: I cannot recollect whether that is the case. I will bring back a reply for the honourable member in respect of that issue. My recollection is that there was not to be a right of appeal to the Family Court. The restraining order—

The Hon. Anne Levy: No, not on the restraining order; on the access.

The Hon. K.T. GRIFFIN: My recollection is that there was not to be that right of appeal. Of course, access orders can be varied in any event by subsequent review, but it was not specifically intended that there should be a right of appeal to the Family Court in respect of variation by a Magistrates Court of an access order in so far as it was necessary to accommodate the domestic violence or other restraining order. I may be incorrect in that recollection. I will have it checked, and if I am incorrect I will bring back a correcting response.

WHEELCHAIR ACCESS

The Hon. SANDRA KANCK: I seek leave to make a brief explanation before asking the Minister for Transport a question about transport for frail aged residents in the Marion City Council area.

Leave granted.

The Hon. SANDRA KANCK: For some years now the Marion City Council has provided transport services to frail aged persons in its municipality in the form of two buses fitted with hydraulic lifts for wheelchair access. The Health Commission has provided funding for this service since 1987, and last year allocated $58 400 for its continuance. However, Marion City Council was recently informed by the Health Commission that this year the funding allocation has been reduced by more than $10 000 to just $48 000. This money has been allocated to the Southern Domiciliary Care and

Marion City Council has to apply to Southern Domiciliary Care for release of these limited funds. However, the Minister for Health has advised that no money will be provided for this service next year. In the Estimates Committee the Minister for Health went on record saying that this is a transport, not a health, matter. In her ministerial statement in this place yesterday the Minister for Transport said that the Government was committed to preparing a transport action plan for the disabled with the close involvement of wheelchair users. My questions to the Minister are:

1. Does the Minister agree with her counterpart that funding local government run transport services for the frail aged is a transport and not a health matter?

2. In the light of her ministerial statement on wheelchair accessible buses, will the Minister investigate the decision to cut funding to the wheelchair accessible buses operated by Marion council with a view to maintaining already limited transport services for disabled people?

The Hon. DIANA LAIDLAW: The issue of community buses, both for people with disability, the frail, aged, and for general purposes, is a matter that is being investigated at the present time as a matter of some priority by the Passenger Transport Board. Similar questions about community transport have been raised with us by the Willunga council and by the councils in northern areas, and, as I indicated, it is a matter that we are looking at as a matter that requires some priority. I am very keen to see more community buses operating in our community, but I do believe that it is wrong to look at them in terms of a transport issue or a health issue, rather that they are a community issue, and I believe that local government should be taking some interest, as well as the private sector.

I recall stating in our passenger transport policy that we would be looking at providing some recurrent funds, rather than necessarily capital funds, which have been the only sources of funds to local government in the past for the provision of community buses. The issue has become more complex since the Federal Government has pulled out of funding urban transport initiatives such as community buses. So, it has fallen to the State to resolve, and the Passenger Transport Board is working diligently on the matter in association with the Local Government Association. The transport action plan for people with disabilities (to be prepared in the near future) will also be discussed at the Transport Ministers' conference tomorrow in Adelaide in the light of a new work program.

One of the difficulties we face in this area at the present time is that there are no standards that have been found to be acceptable to the Disability Commission under the Disability Discrimination Act. So, we have no guidelines for the State, or nationally, in terms of what ramps are acceptable, and what areas within a bus are acceptable, how the chairs should be held down and secured; those matters have yet to be resolved. The working plan envisages that it should take another two years. I will be arguing strenuously tomorrow that that work plan be brought forward to the next six months, so that it can help in the development of our action plan, which will also be useful in working on community buses, as well as buses operated by TransAdelaide and other private companies. I cannot guarantee funding at this stage, but I certainly have the matter under active consideration and I appreciate that there are considerable concerns in the Marion community, and others, about the future viability and availability of these services.

WOMEN'S EMERGENCY SERVICES FORUM

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for the Status of Women a question about the Women's Emergency Services Forum.

Leave granted.

The Hon. BARBARA WIESE: I have recently received correspondence from the Women's Emergency Services Forum of South Australia, which has expressed concerns regarding the future management of community tenancies which are currently administered through the regional and community services sector of the South Australian Housing Trust. The Women's Emergency Services Forum, as the Minister would be aware, covers 14 of the State's women's shelters. They understand that consideration is currently being given to the transfer of community tenancies, which covers women's shelters, to the community housing association sector of the Housing Trust.

The forum strongly opposes this move on a number of grounds. First, they believe that the main focus of women's shelter activities is not housing; it is the provision of support services for survivors of domestic violence—and I am sure we would all agree with that. They also believe that it is essential that they are able to relate to the Housing Trust in a manner which enables them to remain entirely focused on their core business. The current arrangements certainly permit that. Under the current arrangements they are able to establish an effective working relationship with local regional officers, and that then gives them the opportunity to discuss the full range of appropriate housing options that are available in their area. The transfer of community tenancies to another section within the housing portfolio will reduce opportunities for them to develop those links at the local level and, they believe, will also add to the level of bureaucracy.

One of their major concerns is that this discussion about transferring responsibility in this area is taking place without any consultation with the very people who may be affected by this decision, and they are not at all happy about that either. Has the Minister had this matter raised with her in her capacity as the Minister for the Status of Women and, if so, what action she has taken? If not, will she make representations to her colleague, the Minister for Housing, Urban Development and Local Government Relations, with a view to preserving the current management arrangements for women's shelters in South Australia?

The Hon. DIANA LAIDLAW: I am aware of the concern and I have a great deal of respect for the work undertaken by the women's shelter movement, both in providing a shelter accommodation and halfway houses for longer term accommodation. I have asked the Director of the Office for the Status of Women to liaise between the groups concerned and the office for the Minister for Housing to ensure that my concerns are noted and are taken into account and that the groups are represented in discussions on this matter. I have also spoken informally with the Minister, who has agreed with the involvement of the Director of the Office for the Status of Women.

CONTAINER DEPOSITS

In reply to **Hon. M.J. ELLIOTT** (9 August).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information:

1. As yet only very brief discussions have taken place, basically to gauge whether industry should proceed to work further on the con-

cept of a voluntary deposit scheme, and to gain representation from the Government (Environment Protection Authority [EPA] who administer the Act) on their working party.

2. Discussions, as the Minister has stated, have only been very preliminary. He is still waiting for industry to develop a proposition or a series of options, with input from the EPA.

3. Any discussions that are taking place are at the instigation of industry. As far as the industry working party is concerned, the Minister personally would have no objection to some representation from the conservation movement. Once a framework for the group is arrived at, perhaps an invitation could be extended to include a representative. However, there will be opportunity for public comment if a position is arrived at by industry.

4. Formal discussions have not yet taken place. All that has been floated is an idea from some sections of the beverage industry. The Minister is aware of the very strong public support for the Act, and trust that this is taken into account during development of any alternative schemes by industry.

5. The public will not be given a *fait accompli* as the honourable member suggests; appropriate public consultation will occur once a range of options has been developed sufficiently so that they can be canvassed publicly.

PEST PLANTS

In reply to **Hon. M.J. ELLIOTT** (7 September).

The Hon. DIANA LAIDLAW: The Minister for the Environment and Natural Resources has provided the following information.

All three plants—African Rue (botanical name Peganum harmala), Prickly Pear (Opuntia spp) and Carrion Flower (Stapelia variegata) are present in the State's arid rangelands and are capable of being contained. The situation is being watched closely by officers of the Department of Primary Industries in Port Augusta and it is considered that, given the plants low rate of spread in their current situations and their relatively small impact, they are a minor problem.

African Rue occurs in disturbed areas and depressions along the Barrier Highway and along the gas pipeline road, east of the Flinders Ranges. It is also known to be present on four stations adjacent to these routes. Primary infestations of less than one hectare and infestations along roadways and verges are controlled by the Animal and Plant Control Commission. It is considered a minor problem for the pastoral industry.

Prickly Pear is scattered within the Central Flinders Ranges usually in rugged, scrubby areas where control is difficult. The rate of growth and spread is slow and biological control agents help keep these rates down. Coordinated control work in these areas was carried out during the 1974 to 1984 period and then discontinued. Landholders are considering re-commencing control measures and assistance and advice will be given by the Animal and Plant Control Commission.

Carrion Flower is palatable to stock and grazing pressure will limit its spread where stock are present. The absence of domestic stock would favour its presence in the Whyalla Conservation Park. The control measures taken within the Park appear to have controlled the weed without the need for a proclamation under legislation but, as mentioned earlier, the situation is being watched closely.

ENTERPRISE BARGAINING

In reply to **Hon. SANDRA KANCK** (24 August).

The Hon. K.T. GRIFFIN: The Minister for Industrial Affairs has provided the following response:

1. The Government is actively encouraging all public sector agencies to adopt more corporate style management and work practices. The scope for such initiatives outlined in the Audit Commission Report was recognised by the Government in the May Financial Statement and forms part of the overall reform agenda adopted by the Government since the last election.

The new industrial relations system ushered in by the Industrial and Employee Relations Act came into force on 8 August 1994. This system provides the procedural framework for the achievement of improved agency performance through the negotiation of enterprise agreements based on sustainable improvements in productivity and efficiency.

Prior to the introduction of the new Act most Government Departments had embarked on the development of agendas for change as a pre-cursor to the introduction of initiatives which would allow them to satisfy budget demands and to distribute the savings achieved according to agreed gain-sharing arrangements. Such a development is entirely consistent with the arrangements set out in the new legislation.

2. The signing of an enterprise agreement within the Department for Mines and Energy is not contingent on any changes which may occur in relation to the GME Act. The Department's work force is employed under the provisions of a range of awards and not exclusively under the GME Act. Finalisation of enterprise agreements will occur at such time as current negotiations give rise to an acceptance by unions of the nature and scope of arrangements against which departmental proposals will be assessed, particularly in relation to the sustainability of productivity measures proposed.

3. The Government, through the Department for Industrial Affairs and individual agencies, is continually involved in the negotiation of changes to employment conditions. At the moment, the Government is responding to approximately 40 claims made by various unions seeking to vary conditions for a range of public sector employees in both the State and Federal Industrial Relations Commissions. This is an on-going process which involves a considerable investment of time and resources, as it does for any employer.

4. The Government is not delaying enterprise bargaining until the GME Act is changed. The negotiation of enterprise agreements will involve consideration of employment-related matters affecting all public sector employees, not just those appointed under the GME Act. In most agencies, the matters to be discussed will focus on the development of improved work practices and the elimination of processes which inhibit productivity and efficiency. The successful resolution of these issues in not dependent upon the retention of the current GME Act provisions but, rather, the acceptance by all parties (many of which are not covered by GME Act provisions) of the need for fundamental changes to the way agencies are structured and the manner in which work is performed. These aspects are highlighted in the Audit Commission Report and need to be addressed regardless of the form and content of the GME Act.

KANGAROO ISLAND FERRY

In reply to **Hon. SANDRA KANCK** (8 September).

The Hon. DIANA LAIDLAW:

1. The cost of providing the mooring facilities at Glenelg and Kingscote will be $110 000, the majority of this cost being spent on providing an independent mooring facility at Glenelg.

2. Mooring facilities at the Glenelg end of the service are of a temporary nature, pending a review of service by 1 March 1995. On proving the service viable and reliable then, if not before, negotiations on permanent mooring facilities/terminal can be finalised.

3. Construction of the mooring facilities consists of five steel piles on the northern side of the Glenelg jetty and independent of the jetty structure. Passengers will embark/disembark via an adjustable gangway ramp. Upgrading of the jetty at Glenelg is not necessary for this ferry service to operate.

4. Access to the jetty by the general public will not be jeopardised by the ferry operation. During the construction phase (approximately 12 days) the jetty will be closed for safety of the public.

5. The proposal and operation of the new ferry service is independent of any considerations as to the future of the 'Island Seaway'.

6. Glenelg Council has been involved and supportive of the project since it was first initiated by Boat Torque Cruises Pty Ltd in late August 1994.

7. The proposed ferry is of aluminium construction and 44.6 metres in length.

ETHNIC CRIME

In reply to **Hon. SANDRA KANCK** (6 September).

The Hon. K.T. GRIFFIN: The Minister for Emergency Services has provided the following response:

1. The Government is committed to strategies which will increase the number of members from ethnic groups being accepted as trainees in the Police Department.

The standard which supports the department's missions and goals is the Statement of Values which is the set of principles to which all SA Police employees are expected to adhere. One of the Values is: 'Enhancing the quality of community life by working with the community in policing activities.' This principle is exemplified by the performance indicators relative to the achievement of the Human

Resource Management Strategic Plan, which include: an increase in the number of women, Aboriginals, Torres Strait Islanders and people of non-English speaking background in the SA Police Department.

2. The Police Department is undertaking a project to identify appropriate policies and strategies for the recruitment of people from various ethnic groups. The project is expected to be completed by the end of October and will lead to the implementation of recruiting policies aimed at specific ethnic groups who are under-represented in the Police Department.

ABORIGINAL STAFFING

In reply to **Hon. SANDRA KANCK** (11 August).

The Hon. DIANA LAIDLAW: The Minister for Aboriginal Affairs has provided the following information.

1. This assumption is incorrect and the current staffing of the section comprises nine full-time staff, including one manager, three archaeologists, two project officers, two liaison officers and one clerical officer.

2. Discussions with all agencies including the Department of Mines and Energy were instigated some months ago to assess their needs. The purpose of these discussions is to identify their requirements and to ensure the procedures of the Department of State Aboriginal Affairs are effective and meet their needs for providing information on Aboriginal sacred sites. The department is not aware of any recent deterioration in the service available to the Department of Mines and Energy.

3. The Minister and Government have a variety of avenues to obtain advice on Aboriginal heritage including DOSAA, SA Museum and the Aboriginal representative organisations, in particular, the State and local Aboriginal heritage organisations.

4. The Government is addressing the resources available and needed to ensure the effective management of the Aboriginal Heritage Act. This includes the reassignment of staff within the department, the use of consultants for specific advice and projects, the filling of vacancies and the review of procedures and work practices.

ADOPTIONS

In reply to **Hon. SANDRA KANCK** (3 August).

The Hon. DIANA LAIDLAW: The Minister for Family and Community Services has provided the following information.

1. As the Shadow Minister and now as the Minister for Family and Community Services many people have contacted him to ask for a review of the Adoption Act. The people have represented all interested parties in adoption including adopted people, birth parents, adopted parents, relatives of adopted people and step parents.

The focus of the review is not on one interest group such as that of natural parents. The Act deals with all parties in the adoption process. The review will not place the interests of one group before the others.

2. Section 27 of the Adoption Act 1988 is the Provision for open adoption. This deals with restrictions (vetoes) on the provision of information and applications for information in relation to adopted persons and birth parents.

Since the proclamation of the Act, Section 27 in particular, has been considered contentious. In 1988 Parliament considered that the section might require a review. It was considered that the end of the first five year veto period might be an appropriate time.

In general the Act works well. South Australia was one of the leading States in the adoption area at the time the legislation was introduced and the legislation continues, in the majority of situations, to meet the needs of the people involved. Concerns and issues raised by the general public, adoption interest groups and practitioners in the adoption sphere relate to the areas listed in the Terms of Reference for the Review.

Members of the public have particularly lobbied in the areas of the restrictions (vetoes) to information, the access to information, the adoption of adults, the discharge of adoption orders, and the need for a post adoption resource centre. Other legislative changes are required as a result of changes to contingent legislation and international conventions. This includes the Immigration Act, the Family Law Act and the Hague Convention.

3. One of the major factors considered in the selection process for the members of the Review Committee was their ability to consider the interests of all parties in the various stages of the adoption process.

The four people appointed to the Review Committee are able to do this. Three of the members, Ms Dore, the Chairperson, Dr Anne Sved-Williams and Ms Ros Wilson are also members of the South Australian Adoption Panel. The fourth member, Dr Rowan, is the Dean of Humanities and Social Science at the University of South Australia. He was appointed in April after Dr Blake resigned from the Review Committee due to other work pressures. Inquiries were made about each member's interest in adoption. They were not required to provide any statutory declarations.

SAND MINING

In reply to **Hon. R.R. ROBERTS** (7 September).

The Hon. K.T. GRIFFIN: The Minister for Mines and Energy has provided the following response:

· An application for a mining lease for the recovery of Extractive Minerals was processed by the Department of Mines and Energy.

· The application, which was lodged by Midway Estates is located within allotment 2 of section 83 Hundred Port Gawler.

· All the statutory requirements for advertisement, consultation and assessment of the proposal have been followed rigorously by the Department of Mines and Energy.

· Contrary to the advice that the honourable member received, the Extractive Industries Committee did not recommend that the application be refused. Instead the Extractive Industries Committee recommended that:

a) the Minister for Mines and Energy, and the Minister for Housing, Urban Development and Local Government Relations meet to resolve the application or determine whether a Cabinet decision was necessary, and

b) should the Ministers agree to grant the lease the conditions proposed be imposed on the lease.

· The application was addressed by Cabinet when a decision was made that the lease could be granted subject to the proposed conditions.

· The Crown Solicitor's office was asked to assist with the drafting of the proposed conditions in order to be sure that the objectives and proposed ameliorative measures were adequately addressed and the lease conditions enforceable.

· An offer of a lease subject to the approved conditions including an indemnity clause and a Land Management Agreement for the after-use of the land has now been made to the applicant. The Department of Mines and Energy awaits a response from the applicant.

· One special condition of the proposed lease is:

  · Mining and rehabilitation operations must be in accordance with a developmental plan approved in writing by the Chief Inspector of Mines.

1. Hence, if the offer of the lease is accepted and the lease granted, there will be a developmental plan which will be a public document available for inspection at the Department of Mines and Energy by any interested party.

2. No. There is no need for an amendment of the council's supplementary development plan. It is the Government's view that the council's supplementary development plans deal adequately with issues relating to 'Prescribed Mining Operations'.

3. I have been given the assurance that all applications for mining leases are processed and assessed in the manner required by statute, and the outcome of the application is based upon its merit.

4. I am advised that the Mining Act stipulates that no mining operations may be undertaken on land that is 'exempt' by virtue of section 9 of the Act. If unauthorised mining operations are undertaken (i.e operations undertaken on exempt land) the Act provides for the person who has benefit of the exempt land provision of the Act to take action in the Warden's Court.

POLICE SUPERANNUATION

In reply to **Hon. T.G. ROBERTS** (11 August).

The Hon. DIANA LAIDLAW: The Treasurer has provided the following information.

The Government's proposed Triple S Superannuation Scheme will not discriminate against women. The entitlements under the Bill now before the House are the same for new recruits to the police force, irrespective of whether they be male or female.

Existing police officers have different superannuation entitlements under the two contributory schemes already in existence. The differences merely reflect the change in the value of total remuneration over a given period of time.

The fact is that there is also a distinct possibility that in certain circumstances, future police officers who join the Triple S Scheme will retire with larger lump sum benefits than under the 1990 scheme.

RADIOACTIVE MATERIAL

In reply to **Hon T.G. ROBERTS** (10 August).

The Hon. DIANA LAIDLAW: The Minister for Health has provided the following information.

The Health Commission is not currently considering an application for exemption for vehicles carrying radioactive materials from displaying outside signage in this State.

TRAVELLERS' SAFETY

In reply to **Hon. R.R. ROBERTS** (25 August).

The Hon. DIANA LAIDLAW: The Federal Department of Transport and Communications considers the provision of emergency telephones on national highways to improve safety for motorists to be a 'social issue' and therefore the responsibility of the State Government. The Federal Government considers that in relation to roads it is 'only responsible for improving trade and commerce'—and apparently does not regard emergency telephones as a 'fabrication of the road'.

For its part the State Department of Transport installs direction signs to public telephones on main highways where public telephones are not readily visible to motorists. However, an emergency telephone has recently been provided on the Port Wakefield Road near Wild Horse Plains, as there was no public telephone in the area. Other examples include the South East Freeway and the Stuart Highway, where the installation of telephones were included in the project design.

The increasing availability and usage of mobile telephones by the general community, and the increasing range of the network will be taken into account by the SA Department of Transport when developing future strategies.

The main focus of the Office of Road Safety is to develop programs and policies for the Government's consideration aimed at reducing the severity and incidence of motor vehicle crashes within the State of South Australia. Nevertheless, I have asked the Office of Road Safety to liaise with the Police Department and the RAA to assess the feasibility—and the merits—of developing educational programs designed to alert women driving alone to issues of personal safety.

JUSTICE INFORMATION SYSTEM

In reply to Hon. Carolyn Pickles, for **Hon. C.J. SUMNER** (8 September).

The Hon. K.T. GRIFFIN: The Deputy Premier has advised that the situation with privacy protocols and security protocols has not changed with the transfer of JIS from the Attorney-General's Department to OIT.

JIS/OIT is the custodian of the JIS Agencies' data. The systems have been set up in such a way that JIS/OIT staff cannot access the data. The JIS Agencies own the data and they alone grant access rights to that data. In other words, the Police Department controls access to its data which is housed on the JIS computer. Only if the Police Department grants the access can someone from another agency see that data.

It can be said that the JIS Agencies have outsourced the custodianship of their data to JIS but have retained the ownership, management and control of the data.

A similar situation will apply with the outsourcing of other Government IT functions to EDS.

GRANGE COMMUNITY CENTRE

In reply to **Hon. G. WEATHERILL** (25 August).

The Hon. DIANA LAIDLAW: The Minister for Family and Community Services has provided the following information.

Funding to Grange Community Centre is provided by the State Government through the Department of Family and Community Services, and by the City of Henley and Grange.

A reduction in funding has been advised to the centre. This is in line with a policy developed some years ago and since endorsed by the Minister for Family and Community Services. The policy aims to ensure that available resources are allocated to communities in areas of the highest social need.

While not questioning that needs exist in all areas, including Grange, it is important that those in most need, and at highest relative disadvantage, receive services. This is the principle underlying the policy involved in some shifts in funding from areas such as Grange to communities of relatively higher disadvantage and need.

The policy, it should be noted, was developed in close consultation with all major stakeholders, including the non-government community services sector. The reduction in council's contribution is of concern and the Minister for Family and Community Services has requested that this matter be raised with council officers.

THIRD ARTERIAL ROAD

In reply to **Hon. BARBARA WIESE** (4 August).

The Hon. DIANA LAIDLAW: I advise that an examination has been made of the proposal by the Australian Conservation Foundation for an LRT line from the Glenelg tram line to Noarlunga Centre. The capital cost of the project is estimated at $132 million for fixed infrastructure and a further $64 million for rolling stock.

Travel between locations on the LRT line would generally be slower than by existing public transport services. This is because operating speeds would be low along the existing Glenelg tram line and along the sections of the line which are on roads. The LRT line is also more circuitous than existing public transport services. Higher travel speeds could only be achieved if there was considerably higher capital expenditure, for example by adding an additional track along the Glenelg tram line.

The LRT line is parallel to a number of existing public transport services. As it would generally be slower than the existing services, it would not capture a considerable share of passengers from the services, nor would it attract many people from cars. Initial estimate suggest that patronage on the LRT might be about 10 000 to 15 000 people per day, depending on the amount of local travel which might be made on the LRT. Only about 1 000 of these would be users who might transfer from car. This transfer would reduce the volume of traffic on South Road at Darlington by about 2 per cent, that is it would have a negligible effect on the need for the third arterial road. The estimated patronage is about half of the minimum for which LRT might be considered appropriate.

WHYALLA HOSPITAL

In reply to **Hon. SANDRA KANCK** (2 August).

The Hon. DIANA LAIDLAW: The Minister for Health has provided the following information.

1. Flinders Medical Centre has not been used as a benchmark for Whyalla Hospital.

Flinders Medical Centre has not been used as a benchmark for any other hospital in South Australia.

The Benchmark Price in the casemix funding model was devised from the State average. Whyalla Hospital is therefore being compared with the State industry average not any one other hospital.

2. The activity data for Whyalla Hospital in 1993/94, which reflected the hospital's average length of stay, was used in developing the casemix funding allocation.

By comparison with other regional country hospitals in this State Whyalla has been over funded for several years and significant potential savings were identified by the Health Commission prior to the introduction of casemix funding this year. A review of the hospital in 1993 by KPMG Peat Marwick confirmed the commission's view in identifying at that time a potential minimum staffing reduction of 63 positions.

The casemix funding model has identified a total overfunding of Whyalla Hospital of $4.5m. Half of that level of inefficiency is being recouped this year with the other half to be sought over the following two financial years. These savings targets are reasonable and will merely return the Whyalla Hospital to a level of efficiency comparable with other country regional hospitals in this State.

WOMEN'S ADVISER

In reply to **Hon. CAROLYN PICKLES** (11 August).

The Hon. DIANA LAIDLAW: The Minister for Industrial Affairs has provided the following information.

The position of Women's Adviser, Department for Industrial Affairs is being considered in the context of a series of reviews initiated by this Government to ensure the delivery of effective services to the people of the State and taking into account the special needs of women.

Shortly after this Government came to office the Minister for the Status of Women initiated a review of women's policy mechanisms. This review resulted in the transfer of the administration of the Working Women's Centre to the Department for Industrial Affairs. Consequently the department initiated a review of the operation of the centre. This review has not yet been completed although completion is imminent.

In addition, the department has undertaken a review of its own operations. This review has resulted in a decision to incorporate the Women's Adviser's Unit into the Industrial Relations Division so that the work of the unit can be better incorporated into all activities of the division.

At this stage the final structure of the division is being developed. The situation of the Women's Adviser's Unit will be determined in the light of this structure and the arrangements made for the continuing operation of the Working Women's Centre. The continued support of the Working Women's Centre, and the establishment of the Employee Ombudsman demonstrate the commitment of this Government to the workplace interests of women.

In addition, the Department for Industrial Affairs has recognised the need to continue an emphasis on the industrial needs of women by ensuring particular attention to this matter in its corporate plan. At this stage the Minister for Industrial Affairs is not able to say what actions the department will take in pursuit of its objectives as this is still being determined within the department.

CHILD CARE

In reply to **Hon. ANNE LEVY** (23 August).

The Hon. K.T. GRIFFIN: The Minister for Emergency Services has provided the following response:

1. On Thursday, 7 July 1994, police attended an Aberfoyle Park residence with Court Order warrants. The warrants related to parking offences committed in 1992 and 1993 and were for four non payment of fines and outstanding costs totalling $1 101. The warrants instructed the police to obtain payment in full or in default, arrest the person concerned and convey them to a correctional institution. The woman concerned admitted being the person named in the warrants and advised that she did not have the money to cover the outstanding costs.

The woman raised concern about her two children in Day Care and School and was advised that police would arrange for Family and Community Services to take care of the children if she could not arrange friends or family to baby sit.

The woman asked to ring the local office of FACS at Aberfoyle Park to see if they could assist her and was permitted to do so. However, the FACS office advised that they were unable to assist. She then rang her step father who undertook to raise the money and attend at the Darlington Police Station.

The woman was conveyed to Darlington where she was detained from 11.27 am to 2.15 pm when the outstanding amounts were paid.

2. When a parent is arrested and no other alternative child care is able to be arranged, it is the Police department's policy to arrange for children to be placed in the care of the Department for Family and Community Services (FACS).

PRIMARY INDUSTRIES DEPARTMENT

In reply to **Hon. R.R. ROBERTS** (2 August).

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

1. Ninety people have left the Department of Primary Industries on TSPs since the Liberal Government came into power.

2. Thirty-four of these people were from rural locations. They came from various groups in the Department as follows:

GROUP	NUMBER
Forestry	9
Sustainable Resources	7
Field Crops	4
Livestock	5
Fisheries	6
Horticulture	3

3. None of the people who took TSPs has been re-employed on contract since their departure although two such people have performed work in the Department of Primary Industries in their capacity as employees of organisations which have won service contracts following due process.

4. As many of the people who took TSPs were in support roles e.g., administration, and not involved in providing services directly to primary producers in country locations, it is not expected that any priority services will be lost to these primary producers. The department has restructured both it's organisation and it's services to ensure that primary producers continue to receive a high level of service.

MOTOR VEHICLES (CONDITIONAL REGISTRATION) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Motor Vehicles Act 1959. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill amends the Motor Vehicles Act 1959 to allow for the conditional registration of left-hand drive vehicles that were manufactured before 1 January 1974 and are owned by financial members of recognised classic car clubs. Left-hand drive vehicles manufactured on or after 1 January 1966 do not comply with Australian Design Rules and, under existing legislation, are not eligible for registration unless converted to right-hand drive.

In view of the classic nature of these vehicles, conversion to right-hand drive is not an option for members of classic car clubs. As only limited access to the road network is required by these club members, they must obtain a short term unregistered vehicle permit for each club event. The issue of these permits is time consuming for both the applicant and the Department of Transport.

This Bill will enable owners of such vehicles to be granted registration which will be subject to a condition that the owner must be a financial member of a recognised left-hand drive car club, and the use of the vehicle restricted to events organised by the car club. The Registrar of Motor Vehicles will also be able to impose additional conditions if necessary. Vehicles registered under the conditional registration provisions will be issued with a standard numberplate and registration label. The registration label will indicate that conditions apply to the use of the vehicle. This will assist the police in the enforcement of road laws.

The Bill also provides for an administration fee for the issue of conditional registration to be prescribed by regulation. A consequential amendment to the Stamp Duties Act 1923 will provide for vehicles registered conditionally to be exempt from the payment of stamp duty on the value of the vehicle and the policy of insurance. This approach is in line with the National Road Transport Commission's recommendations on the registration of vehicles that require limited access to the road network. 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: Commencement

This clause provides for commencement of the measure on a day fixed by proclamation.

Clause 3: Amendment of s.20—Application for registration

Clause 4: Amendment of s.21—Power of Registrar to return application

These clauses amend sections 20 and 21 of the principal Act to include reference to administration fees. The amendments are consequential on the insertion of section 25 by clause 5 of the measure.

Clause 5: Insertion of s. 25

This clause inserts new section 25 into the principal Act.

S. 25—Conditional registration of certain classes of vehicles

Proposed subsection (1) empowers the Registrar to register a motor vehicle of a prescribed class on payment of an administration fee if the owner of the vehicle satisfies the Registrar that the vehicle is to be driven on roads in circumstances in which, in the opinion of the Registrar, it is unreasonable or inexpedient to require the vehicle to be registered at the prescribed registration fee.

Proposed subsection (2) provides that where a motor vehicle is registered under section 25—

- the period of registration will be the period specified in the regulations;
- the registration is subject to the conditions imposed by the regulations and any conditions that the Registrar may think fit to impose;
- there is no refund of the administration fee on cancellation of the registration;
- the registration is not transferable.

Proposed subsection (3) provides that a person must not contravene or fail to comply with a condition of a registration under section 25. The maximum penalty is a division 9 fine ($500).

Clause 6: Amendment of s. 32—Vehicles owned by the Crown

This clause amends section 32 of the principal Act to include reference to administration fees. The amendment is consequential on the insertion of section 25 by clause 5 of the measure.

Clause 7: Amendment of Stamp Duties Act 1923

This clause amends the second schedule of the Stamp Duties Act 1923 to exempt from stamp duty—

- applications for registration of motor vehicles under the proposed section 25 of the Motor Vehicles Act;
- premiums on insurance under Part 4 of that Act (compulsory third party insurance) payable on registrations under that proposed section.

The Hon. BARBARA WIESE secured the adjournment of the debate.

ROAD TRAFFIC (MISCELLANEOUS) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

This Bill deals with two separate issues:

- Hook right turns for buses at certain intersections.
- Shared zones for pedestrians and vehicles.

Section 70 of the Road Traffic Act requires vehicles turning right to commence their turn from a position as close as practicable to the centre of the carriageway. The placement of bus stops or the use of bus lanes makes it difficult for buses to comply with this requirement at certain intersections and junctions. There are currently four locations where it would be necessary for buses to cross several lanes of traffic to enable them to make a right turn at a signal controlled intersection in the prescribed manner. These are the intersections of King William Street and North Terrace; Rundle Street and Dequetteville Terrace; Tea Tree Plaza Access Road and North East Road; and Panalatinga Road and Old South Road.

Police currently direct traffic at the intersection of King William Street and North Terrace, Adelaide, during peak times when 'No Right Turn' signs are displayed. This restriction prevents designated buses from following their assigned route. The problem is overcome by police on duty using their powers under section 41 of the Road Traffic Act to direct buses to turn right into North Terrace, notwithstanding the display of the 'No Right Turn' sign or their position on the intersection. Buses are held at the left boundary of the intersection and undertake their turn at a suitable break in the traffic or change of lights. Police arrangements are to be varied from a control function to a monitoring one. Buses will no longer have the protection of police directions for their turn and will not be able to turn into North Terrace from the left boundary of the intersection.

Doubt has been expressed as to the legality of the turning manoeuvre at the Rundle Street intersection and the Tea Tree Plaza Access Road intersection. As well, the provision of a bus lane and the location of the bus stop near the intersection of Panalatinga Road and Old South Road will necessitate buses commencing their turn from the left boundary of the carriageway in order to follow their assigned route. Their legal position would also be subject to the same reservations as that applicable to the Rundle Street and Tea Tree Plaza Access Road. The proposed amendment will remove that doubt.

'Shared zones' are a type of traffic management treatment not previously used in this State. They are a defined length of roadway for the joint use by pedestrians and vehicles at the same time and have been described as a mall with vehicles. There are no separate footpaths and vehicle speeds are constrained by the meandering nature of the vehicle path. Vehicle paths are defined by the placement of street furniture such as planter boxes, pergolas, landscaping, bollards and other ornamental devices, rather than the traditional bitumen strip. The objective of a shared zone is to improve the general amenity of the area by creating an environment which discourages unnecessary motorised traffic and inappropriate speeds.

Access to a shared zone will be by a gateway treatment which normally includes a raised section of carriageway which will serve, together with appropriate signage, to remind drivers that they are entering a shared zone. A speed limit of 10 kilometres per hour will apply. While vehicles will be required to give way to pedestrians, pedestrians must not unnecessarily hinder the free movement of vehicles. Safety issues are to be a specific priority in the development of the performance criteria for shared zones, and in this regard I have given a commitment that the Minister for Health or the Health Commission will be consulted before a shared zone is implemented. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

Clauses 1 and 2 are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause inserts two new definitions into the principal Act which are required for the amendments contained in the measure. The first definition provides that a 'hook right turn' is a right turn at an intersection or junction made by a vehicle of a prescribed class in accordance with new section 70b. The second definition provides that a 'shared zone' is a road or part of a road (established as a shared zone in accordance with new section 32a) for the use of both vehicles and pedestrians at the same time. This clause also amends the definition of 'carriageway' to make it clear that 'carriageway' includes a shared zone.

Clause 4: Insertion of heading and s. 32a—Establishment of shared zones

This clause inserts section 32a into the principal Act. Section 32a provides for the establishment of shared zones. The Minister is empowered to designate a road or part of a road as a shared zone by notice in the *Gazette* (and can subsequently vary or revoke such a notice by further notice in the *Gazette*). Signs indicating the

existence of the shared zone must be erected at or near the boundary of the zone on or adjacent to each road (or section of road) providing an entrance to or exit from the zone for vehicular traffic.

Clause 5: Amendment of s. 49—Special speed limits

This clause amends section 49 of the principal Act to establish a special speed limit of 10 kilometres an hour for vehicles in a shared zone.

Clause 6: Insertion of s. 68a—Giving way to pedestrians in shared zone

This clause inserts section 68a into the principal Act. Section 68a requires the driver of a vehicle to give way to a pedestrian who is in, or is about to enter, a shared zone.

Clause 7: Insertion of s. 70b—Hook right turns by drivers of prescribed vehicles

This clause inserts section 70b into the principal Act. It provides that despite section 70 and any prohibition on right turns, the driver of a vehicle of a class prescribed by regulation may, when authorised by regulation to do so, execute a hook right turn in the following manner:

1. the vehicle must approach the intersection or junction to the right of, parallel to, and as near as practicable to the left boundary of the carriageway of the road from which the turn is to be made;
2. the vehicle must continue into the intersection or junction as near as practicable to the prolongation of that left boundary and make the right turn so as to enter the road into which the turn is to be made as near as practicable to the left boundary of its carriageway;
3. the vehicle may only make the right turn when a steady white 'B' light is exhibited with traffic lights facing the vehicle.

The driver of a vehicle of a prescribed class must not, when authorised to execute a hook right turn, execute a right turn in any other way.

Clause 8: Amendment of s. 88—Walking on footpath, bikeway or right of road

This clause amends section 88 of the principal Act. Subsection (1) of section 88 makes it an offence for a person to walk along the carriageway of a road if there is a footpath or bikeway on that road. It also specifies that where a person does walk along the carriageway, he or she must keep to the right hand side and, in the case of a one-way carriageway, walk against the direction of the traffic. This amendment makes it clear that these requirements do not apply to a person walking in a shared zone.

Clause 9: Insertion of s. 90a—Duty of pedestrians in shared zone

This clause inserts section 90a into the principal Act. Section 90a provides that a pedestrian must not unreasonably get in the way of a vehicle that is in, or is about to enter, a shared zone.

Clause 10: Amendment of s. 175—Evidence

This clause amends section 175 of the principal Act, which is an evidentiary provision. This amendment provides that in proceedings for an offence against the Road Traffic Act 1961, an allegation in a complaint that a road or part of a road was within a shared zone is proof of that matter in the absence of proof to the contrary.

Clause 11: Amendment of s. 176—Regulations

This clause amends section 176 of the principal Act, the regulation-making power, to allow regulations to be made regulating or prohibiting the use of shared zones by pedestrians and drivers of vehicles.

The Hon. BARBARA WIESE secured the adjournment of the debate.

CONVEYANCERS BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The CHAIRMAN: Some of the amendments have just arrived and it is very difficult at the table to sort them out, because some of them are replacing others.

The Hon. ANNE LEVY: It is very difficult for the Minister and the spokesperson for the Opposition also to sort them out.

The Hon. K.T. GRIFFIN: I am sorry that these amendments have come in late.

The CHAIRMAN: Both Parties have done it; it is not just one Party.

The Hon. K.T. GRIFFIN: The fact of the matter is that most of them are already on file, anyway. There are a couple of minor matters which have been drafted, for example on the Land Agents Bill. In what I think was clause 22 we made a change from 'Auditor's report' to 'audit statement' and I made a couple of consequential amendments on the run. They have now been picked up in these other amendments which have just been circulated. In respect of the Hon. Anne Levy's amendments, as far as I can see most of them are already on file. From my point of view I cannot understand why they are only being circulated now when they seem to be dated yesterday; but the fact of the matter is that most of them are already on file. I suggest that we continue to deal with them, if that is convenient, on a steady basis giving each other time to accommodate the difficulties which might arise from the insertion of an additional amendment or two.

I make one other point. Many of the amendments from all Parties have already been the subject of extensive debate about the bases for amendment or no amendment, and many of these merely reflect the amendments already agreed by the majority of the Council. There will be one or two issues on which I will certainly want to say some more, because I have some more information and, hopefully, some more persuasive argument, but there are only one or two of those. I think we can move through fairly efficiently. I will indicate that I oppose some of the key issues but, because they have already been resolved in relation to the Land Agents Bill, I do not intend to explore the arguments for and against. The arguments for and against are those which have already been expressed in respect of the Land Agents Bill. I hope that the way we deal with it will ensure that ultimately the Bills that go to the Assembly will be compatible and consistent.

The CHAIRMAN: Is there any chance of our just highlighting the new amendments? We seem to have two sheets of amendments. The second sheet has further amendments on it. We have filed and set up here the first sheet of amendments, and some of them cut across.

The Hon. K.T. GRIFFIN: Some are additional.

The Hon. ANNE LEVY: I move:

Page 1, line 18—Leave out the definition of 'Court'.

I appreciate the remarks made by the Attorney-General that most of these are very similar to those which were made to the Land Agents Bill, this Bill dealing with conveyancers. It would seem to me that, as he says, most of the arguments have been carefully gone through in dealing with an earlier matter. It seems to me that we should certainly get all four Bills leaving this Chamber compatible with one another to be considered as a package in the other place, regardless of what might happen subsequent to that. I have a whole series of amendments which relate to putting back the Commercial Tribunal, rather than the District Court, as the appropriate body to consider a whole lot of matters. We debated it at great length last time, so I certainly will not go through the arguments again. I merely move the amendments standing in my name, as with all the subsequent ones relating to restoring the Commercial Tribunal for conveyancers as for land agents.

The Hon. K.T. GRIFFIN: I agree with what has happened previously. I indicate that we are opposed to the tribunal.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 2, after line 13—Insert:

'Tribunal' means the Commercial Tribunal established under the Commercial Tribunal Act 1982.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 4 to 20 passed.

Clause 21—'Term of appointment of administrator or temporary manager.'

The Hon. ANNE LEVY: I move:

Page 10, line 12—Leave out 'Court' and insert 'Tribunal'.

This is the one that has come on the second sheet today. This is consistent with what we did in the Land Agents Bill. It is consequential.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 10, line 13—Leave out 'Court' and insert 'Tribunal'.

Amendment carried; clause as amended passed.

Clause 22—'Appeal against appointment of administrator or temporary manager.'

The Hon. ANNE LEVY: I move:

Page 10, lines 17 and 18—Leave out 'Court', wherever occurring and insert, in each case, 'Tribunal'.

This is consequential.

Amendment carried; clause as amended passed.

Clause 23 passed.

Clause 24—'Audit of trust accounts.'

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

Page 11, line 9—Leave out paragraph (b) and insert:

(b) lodge with the Commissioner a statement relating to the audit that sets out the information specified by regulation.

This amendment relates to a statement regarding the audit rather than the auditor's report. It is consistent with what was carried in relation to the Land Agents Bill.

Amendment carried.

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

Page 11, line 15—Leave out 'auditor's report' and insert 'audit statement'.

This is consequential.

Amendment carried.

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

Page 11, line 19—Leave out 'auditor's report' and insert 'audit statement'.

This, too, is consequential.

Amendment carried; clause as amended passed.

Clauses 25 to 30 passed.

Clause 31—'Indemnity Fund.'

The Hon. ANNE LEVY: I move:

Page 14, line 14—Insert 'prescribed' before 'educational'.

This is identical to an amendment agreed with respect to the Land Agents Bill.

Amendment carried; clause as amended passed.

Clause 32 passed.

Clause 33—'Limitation of claims.'

The Hon. ANNE LEVY: I move:

Page 15, line 6—Leave out 'Court' and insert 'Tribunal'.

This is consequential.

Amendment carried; clause as amended passed.

Clauses 34 to 36 passed.

Clause 37—'Appeal against Commissioner's determination.'

The Hon. ANNE LEVY: I move:

Page 16, lines 1 to 12—Leave out this clause and insert:

Procedure for review of Commissioner's determination of claim.

37. (1) The claimant or the conveyancer or former conveyancer by whom the fiduciary default was committed or to whom the fiduciary default relates may, within three months after receiving notice of the Commissioner's determination, apply to the Tribunal for a review of the determination.

(2) Where an application for review is not made within the time allowed, the claimant's entitlement to compensation is finally determined for the purposes of this Division.

(3) On a review, the Tribunal must, by order, determine the amount of compensation to which the claimant is entitled.

(4) The Tribunal must give notice in writing of the determination to the Commissioner, the claimant and the conveyancer or former conveyancer.

(5) The claimant or the conveyancer or former conveyancer may appeal to the Supreme Court against the determination of the Tribunal.

(6) An appeal against a determination of the Tribunal under this section must be instituted within three months after the determination but the Supreme Court may, if satisfied that proper cause to do so exists, dispense with the requirement that the appeal be so instituted.

(7) On an appeal, the Supreme Court may—

(a) affirm or quash the determination reviewed or substitute a determination that the Court thinks appropriate; and

(b) make an order as to any other matter that the case requires (including an order for costs).

I think this is a consequential amendment on having the tribunal involved instead of the court. It is more or less going back to what is in the existing legislation, which deals with the tribunal rather than the court. It is consequential.

New clause inserted.

Clauses 38 to 44 passed.

Clause 45—'Cause for disciplinary action.'

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

Page 18, lines 19 to 28—Leave out paragraphs (d) and (g) and insert:

(d) events have occurred such that—

(i) the conveyancer would not be entitled to be registered as a conveyancer if he or she were to apply for registration; or

(ii) the conveyancer is not a fit and proper person to be registered as a conveyancer; or

(iii) in the case of a conveyancer that is a company, a director is not a fit and proper person to be the director of a company that is registered as a conveyancer.

The amendment is identical with an amendment moved in the Land Agents Bill.

Amendment carried; clause as amended passed.

Clause 46—'Complaints.'

The Hon. ANNE LEVY: I move:

Page 19, line 2—Leave out 'Court' and insert 'Tribunal'.

It is consequential.

Amendment carried; clause as amended passed.

Clause 47—'Hearing by Court.'

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

Page 19, line 5—Leave out 'must' and insert 'may'.

This makes the jurisdiction discretionary rather than mandatory.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 19, lines 5, 8 and 13—Leave out 'Court' wherever occurring and insert, in each case, 'Tribunal'.

This is consequential.

Amendment carried; clause as amended passed.

Clause 48—'Disciplinary action.'

The Hon. ANNE LEVY: I move:

Page 19, lines 15 and 31—Leave out 'Court' wherever occurring and insert, in each case, 'Tribunal'.

This is consequential.

Amendment carried; clause as amended passed.

Clause 49—'Contravention of orders.'

The Hon. ANNE LEVY: I move:

Page 20, lines 14 and 20—Leave out 'Court' wherever occurring and insert, in each case, 'Tribunal'.

This, too, is consequential.

Amendment carried; clause as amended passed.

Clause 50—'Delegations.'

The Hon. ANNE LEVY: I move:

Page 21, line 8—Leave out paragraph (c) and insert:

(c) to any other person under an agreement under this Act between the Commissioner and an organisation representing the interests of conveyancers.

I know the Attorney is not very keen on this amendment, but it was passed by this Chamber for the Land Agents Bill, and it seems to me that the two will obviously go together, as will the others.

The Hon. K.T. GRIFFIN: This is the issue on which I have some more information, and it is appropriate now that I raise it. It also relates to the amendment in clause 51 that seeks to provide that an agreement entered into is not valid until after a disallowance period is referred to. I thought it might be helpful to members to have this information. I hope it might change their mind but, if it does not, it will give them something to think about in the interim period when quite obviously this Bill—

The Hon. Anne Levy: Until they all come back.

The Hon. K.T. GRIFFIN: That is correct. I had some research undertaken to try to gain a flavour for delegations: whether the delegations were allowed in a limited fashion or more extensively, and what the consequences of the delegations might be. I draw several examples to the attention of members, and I realise that within our statutes there are a variety of provisions relating to delegations. In some instances we have limited the power of delegations and in other instances we have not. But, if we look at the Environment Protection (Sea Dumping) Act 1984 we see that section 29(1) provides:

The Minister may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person all or any of his powers under this Act, other than this power of delegation.

Section 29(2) provides:

Where a power delegated under this section by the Minister is exercised by the delegate, the power shall, for the purposes of this Act, be deemed to be an exercise by the Minister.

Section 29(3) provides:

A delegation under this section may be expressed as a delegation to the person from time to time holding, or performing the duties of, a specified office in the Public Service of the State.

Section 29(4) provides:

A delegate under this section is, in the exercise of his delegated powers, subject to the directions of the Minister.The Minister, under the Environment Protection (Sea Dumping) Act 1984, continues to remain responsible to the Minister for the exercise of the powers which have been delegated.

In subsection (5), a delegation under this section does not prevent the exercise of a power by the Minister. There is nothing in that Act which requires the Minister to exercise only limited powers of delegation or, when the powers are exercised, for them to be the subject of any scrutiny at all. Section 10(1) of the Fair Trading Act 1987 (and remember that this is an area where we are presently dealing with consumer-type legislation), which was passed by the previous Labor Government, provides:

The Commissioner may delegate to a person employed in the Public Service of the State or, with the Minister's consent, to a person not so employed any of the Commissioner's powers under this Act or a related Act.

The essence of it is that the powers of delegation are not limited. So, if the amendment is not carried and, if there was no provision in the Bill which sought to specify the agreements in respect of which powers might be exercised, then the delegations could occur without any constraint at all. But the framework which we have sought to include in this package of Bills—and it will be in other Bills—is that we have specifically come out and said, 'The powers may be delegated pursuant to an agreement reached and, in those circumstances, if there is an agreement relating to delegation, they must be on the public record so that they are subject to scrutiny.

It is true that they are not subject to amendment but at least it is out in the open as to the agreements which are in effect delegations that have been negotiated. Under the Fair Trading Act there is this power, with the approval of the Minister, to delegate any of the Commissioner's powers under the Act to any person. Section 51 of the Conveyancers Bill provides:

The Commissioner may, with the approval of the Minister, make an agreement with an organisation representing the interests of conveyancers under which the organisation undertakes a specified role in the administration or enforcement of this Act.

That really is a delegation. It is an amplification of what is in clause 50. Of course, under the Fair Trading Act there is no other scrutiny of the delegation. If one looks at a variety of other legislation (such as the Historic Shipwrecks Act) one sees that the Minister can delegate any powers to any person. The Petroleum (Submerged Land) Act provides that the Minister may delegate powers to any person; the Petroleum Products Subsidy Act 1965 provides for a delegation by the Minister to any person; and the Fisheries Act enables delegation by the Minister or the Director to any Public Service employee or a fishery management committee—that is a committee established under the Act but having diverse representation.

So, there is ample precedent for a delegation to any person. We have included in section 51 a provision up front for delegation with the approval of the Minister, and for the agreement which reflects the delegations to be on the public record. In those circumstances, I would ask that in relation to this Bill—notwithstanding that it then may be inconsistent with the Land Agents Bill—members reconsider this particular amendment and I urge them not to support it, and I will not be supporting it either.

The Hon. ANNE LEVY: I thank the Attorney-General for the information he has provided, but I certainly wish to persist with the amendment. It seems to me that the four Bills that form part of this package should leave this place in a consistent form and that arguments relating to this matter can best be undertaken at a later stage, involving all the occupations covered and not differentiating between them. With regard to the comments made by the Attorney-General, it seems to me that, while he has quoted examples of delegation, one would really need to look at the Acts he has mentioned to see just what powers are in the Act which can be delegated.

In this package of legislation, it seems to me that there are powers allocated to the Commissioner which are very much greater than the Commissioner for the Consumer Affairs has had previously. The whole question of the registration and

registration procedures has been taken away from the tribunal and given to the Commissioner. I do not argue that; it seems to me appropriate, but I feel that there are powers which the Commissioner has and which should not be delegated to a third party outside the Public Service. That is why I have moved the amendment to clause 50(c) and also why I will move an amendment to clause 51 regarding the agreements. As the Minister introduced the legislation, it will be perfectly possible for the Commissioner to delegate to, in this case, the Institute of Conveyancers, and in the last case the REI, the power to register these particular individuals. I am not sure that it would be appropriate for the institute to be the body that registers the individual. I think that should be something done by the State, and that is why I am particularly concerned—this perhaps applies more to clause 51 than to clause 50—that what is going to be in the agreement, and the delegations which are occurring under that agreement, should come under the scrutiny of Parliament, because many new powers are being given to the Commissioner which he did not have before and which, it seems to me, would be totally inappropriate to delegate, and I believe that they should be retained.

It may be that, in relation to the examples mentioned by the Attorney-General relating to other Acts, one would need to see what are the powers and functions that could be delegated. However, it seems to me that some things should not be delegated, and that is why I also have the amendment to cut out the words 'or enforcement'. It seems to me that enforcement is an act of the State and is not something to be done by a third party organisation, which is not part of the apparatus of the State; hence, my moving initially the amendments. Given the nature of the Act and the powers of the Commissioner, what is being delegated to a professional organisation needs to have the agreement of Parliament before it is delegated. I would certainly want to look at the Acts that were mentioned by the Attorney-General to see just what are the powers that can be delegated within those Acts. In any case, I think it better that these Bills leave this Chamber in a consistent form, even if subsequently some sort of compromise is found on this matter.

The Hon. K.T. GRIFFIN: I do not know whether the Hon. Sandra Kanck adopts the same view, but she can express that in a moment. If one looks only at the Fair Trading Act, which of course is the umbrella Act in respect of consumer affairs, the power of delegation in this instance is the Commissioner's power, and the Commissioner may delegate to a person employed in the public service of the State or, with the Minister's consent, to a person not so employed, any of the Commissioner's powers under this Act or a related Act. And the Land Agents, Brokers and Valuers Act—the present Act—as I understand it, refers to the power of delegation in the Fair Trading Act so, under the existing legislation, there is the power to delegate widely.

The Hon. Anne Levy: But under the existing legislation, the Commissioner cannot register, so that cannot be delegated.

The Hon. K.T. GRIFFIN: That is right; and it may be that, if the registration is one of the main areas of concern, I would suggest that we can accommodate that in some later discussions. The fact is that presently there is a power to delegate widely and, if it is outside the Public Service, it is with the Minister's consent, and basically that is the scheme of clauses 50 and 51 of the Bill. What encourages me from the honourable member's remarks is that, as a result at least of my reference to these matters now, it is suggested that it may be possible to reach some accommodation between the Parties.

The Hon. Anne Levy: In terms of what can be delegated.

The Hon. K.T. GRIFFIN: In terms of what can be delegated; and I am comfortable in at least exploring those matters at a later stage. But, at least it is important to have on the record for all members to consider, what is the present scope of the power of delegation in various pieces of legislation. I know you have to look at each piece of legislation and what are the powers and functions, but you need go no further, I would suggest, than the Fair Trading Act, which of course has very wide powers vested in the Commissioner in relation to enforcement and in relation to gathering information, and so on, to see that there is already a very wide power of delegation. I am encouraged by the fact that the honourable member is open to further argument on this issue with a view to some accommodation hopefully being achieved in the future.

The Hon. SANDRA KANCK: For the time being I will be supporting the amendment. I found what the Attorney had to say interesting but I see that there are needs for control. I do not see that there needs to be an unfettered right to be able to just dispense those powers willy-nilly. There have to be some sorts of controls and what those controls are I guess we can look at at a later time.

Amendment carried; clause as amended passed.

Clause 51—'Agreement with professional organisation.'

The Hon. ANNE LEVY: I move:

Page 21, line 18-Leave out 'or enforcement.'

I know the Attorney does not agree with these amendments but they were passed for the Land Agents Bill. I think they should be considered as a whole, consistent package.

The Hon. K.T. GRIFFIN: The word 'enforcement' was not deleted.

The Hon. Anne Levy: I thought we deleted that yesterday.

The Hon. K.T. GRIFFIN: Not according to my record. I oppose the amendment. It was not carried in consideration of the Land Agents Bill. As we are all agreeing that there should be consistency in the package I suggest that we not support that amendment to leave out 'or enforcement.'

The Hon. ANNE LEVY: I am quite happy not to move it if the Attorney will give the same undertaking he gave yesterday for the Land Agents Bill that he would look again at this question of enforcement. I am sure he agrees with me that there are aspects of enforcement which are not desirable to be delegated away from the authority of the State. It may well be that the words 'or enforcement' should not be removed but altered in some way.

The Hon. K.T. GRIFFIN: I am quite happy to give that undertaking. In the context of all of these Bills issues which relate to one and which flow through to others and where I have given an undertaking to further examine the matters I will do that.

The ACTING CHAIRMAN: The Hon. Anne Levy's first amendment has therefore been withdrawn.

The Hon. ANNE LEVY: I move:

Page 22, lines 1 and 2—Leave out subclause (4) and insert:

(4) An agreement under this section must be laid before each House of Parliament and does not have effect—

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

(b) if, within those 14 sitting days, a motion for disallowance of the agreement is moved in either House of Parliament—

unless and until that motion is defeated or withdrawn or lapses.

Amendment carried; clause as amended passed.

Clauses 52 and 53 passed.

Clause 54—'Commissioner and proceedings before court.'

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

Page 22, line 18—Insert 'entitled to be joined as' after 'is.'

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 22, line 18—Leave out 'court' and insert 'tribunal.'

Amendment carried; clause as amended passed.

Clauses 55 to 58 passed.

Clause 59—'Liability for act or default of officer, employee or agent.'

The Hon. ANNE LEVY: I move:

Page 23, line 9—Leave out 'person could not be reasonably expected to have prevented the act or default' and insert 'officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority'.

Amendment carried; clause as amended passed.

Remaining clauses (60 to 66), schedule and title passed.

Bill read a third time and passed.

LAND AGENTS BILL

Read a third time and passed.

LAND VALUERS BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. ANNE LEVY: I move:

Page 1, line 16—Leave out the definition of 'Court'.

We do not need to go through all this again.

The Hon. K.T. GRIFFIN: It is desirable that this package of Bills should be consistent. Whilst I object to some of the proposed amendments, I do not propose to register that opposition. I will deal with the matter when we consider the whole package of Bills at a later stage.

The Hon. R.D. LAWSON: Has the Australian Institute of Valuers and Land Economists indicated any view as to whether there should be a court or tribunal with jurisdiction over registration and disciplinary matters?

The Hon. K.T. GRIFFIN: The information received from the Australian Institute of Valuers and Land Economists reflected upon complaint handling and said:

We reiterate our comments that referral of complaints and disciplinary matters to the District Court should be a last resort. We recommend the establishment of a professional standards tribunal of suitably qualified and experienced practitioners.

They are not arguing against the District Court.

The Hon. Anne Levy: They are arguing for it.

The Hon. K.T. GRIFFIN: They have accepted that it should be the District Court. The professional standards tribunal, one has to recognise, is not the commercial tribunal. The Real Estate Institute was proposing the establishment of a professional standards tribunal that would look at competency on a continuing basis, and it was not just a matter of getting a registration as an agent, or in this instance a valuer, but a matter of renewing the registration and, on a progressive basis, satisfying the professional standards tribunal that a certain level of competency had been maintained through the intervening period. So, it had much more of an ongoing monitoring responsibility with respect to ethical and educational standards and other qualifications more akin to the fit and proper person connotation, but with a professional standards overlay, than we are proposing in this Bill. That is my understanding of the way in which the institute preferred to deal with this matter.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 2, after line 3—Insert—'Tribunal' means the Commercial Tribunal established under the Commercial Tribunal Act 1982.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clauses 4 to 7 passed.

Clause 8—'Complaints.'

The Hon. ANNE LEVY: I move:

Page 3, line 2—Leave out 'Court' and insert 'Tribunal'.

The amendment is consequential.

Amendment carried; clause as amended passed.

Clause 9—'Hearing by court.'

The Hon. ANNE LEVY: I move:

Page 3, lines 5, 8 and 13—Leave out 'Court' wherever occurring and insert, in each case, 'Tribunal'.

Amendment carried.

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

Page 3, line 5—Leave out 'must' and insert 'may'.

Amendment carried; clause as amended passed.

Clause 10—'Disciplinary action.'

The Hon. ANNE LEVY: I move:

Page 3, lines 15 and 24—Leave out 'Court' wherever occurring and insert, in each case, 'Tribunal'.

The amendment is consequential.

Amendment carried.

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

Page 3, line 25—Leave out 'disqualification or'.

This has not been in the other Bills because this relates to a drafting error. Under the negative licensing system proposed in this Bill there are, of course, no licences to disqualify. The only orders which can be made by a court—now the tribunal—against valuers are in the form of prohibitions. Reference to disqualification is, therefore, proposed to be removed from the Bill.

Amendment carried; clause as amended passed.

Clauses 11 and 12 passed.

Clause 13—'Commissioner and proceedings before Court.'

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

Page 4, line 22—Insert 'entitled to be joined as' after 'is'.

This is to ensure consistency of approach in respect of the other Bills.

Amendment carried.

The Hon. ANNE LEVY: I move:

Page 4, line 22—Leave out 'Court' and insert 'Tribunal'.

The amendment is consequential.

Amendment carried; clause as amended passed.

Clause 14 passed.

Clause 15—'Delegation by Commissioner.'

The Hon. ANNE LEVY: I move:

Page 4, line 34—Leave out paragraph (c) and insert—

(c) to any other person under agreement under this Act between the Commissioner and an organisation representing the interests of land valuers.

This is for the purpose of consistency with the others.

Amendment carried; clause as amended passed.

New clause 15a—'Agreement with professional organisation.'

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

After clause 15—Insert:

15A.(1) The Commissioner may, with the approval of the Minister, make an agreement with an organisation representing the interests of land valuers under which the organisation undertakes a specified role in the administration or enforcement of this Act.

(2) The agreement—

(a) must be in writing and executed by the Commissioner and the organisation; and

(b) may contain delegations by the Commissioner of functions or powers under this Act or the Fair Trading Act 1987; and

(c) must set out any conditions governing the performance or exercise of functions or powers conferred on the organisation; and

(d) must make provision for the variation and termination of the agreement by the Commissioner with the approval of the Minister or the organisation.

(3) A delegation by the Commissioner for the purposes of the agreement—

(a) has effect subject to the conditions specified in the agreement; and

(b) may be varied or revoked by the Commissioner in accordance with the terms of the agreement; and

(c) does not prevent the Commissioner from acting in any matter.

(4) The Minister must, within six sitting days after the making of an agreement, cause a copy of the agreement to be laid before both Houses of Parliament.

The question was raised during the second reading reply as to why there was not in this Bill a provision enabling the Commissioner, with the approval of the Minister, to make an agreement with an organisation representing the interests of valuers to undertake certain roles.

In consequence of that I indicated that I would consider it further. I think I indicated on 8 September that it was an oversight that this Bill did not contain such a provision, although there is little scope for entering into an agreement because there is no registration or licensing. It may be only in relation to informal complaint resolutions or some other limited areas. To ensure again that aspect of consistency, in the event that we may need to have something like this in the legislation, I have moved to insert the new clause.

The Hon. ANNE LEVY: I move:

New clause 15A(4)—Leave out subclause (4) and insert:

(4) An agreement under this section must be laid before each House of Parliament and does not have effect—

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

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

Although the Attorney does not like the amendment, it provides consistency in respect of agreements for all three professions.

The Hon. K.T. GRIFFIN: I do not agree with the principle but I agree with the form.

New clause inserted; amendment carried; new clause as amended passed.

Clause 16 passed.

Clause 17—'Liability for act or default of officer, employee or agent.'

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

Page 5, line 15—Leave out 'person could not be reasonably expected to have prevented the act or default' and insert 'officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority'.

The Hon. ANNE LEVY: I support the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (18 to 22) passed.

Schedule.

The Hon. ANNE LEVY: I move:

Page 7, line 7—Leave out 'court' and insert 'tribunal'.

The amendment is consequential.

Amendment carried; schedule as amended passed.

Title passed.

Bill read a third time and passed.

LAND AND BUSINESS (SALE AND CONVEYANCING) BILL

In Committee.

Clauses 1 and 2 passed.

Clause 3—'Interpretation.'

The Hon. ANNE LEVY: I move:

Page 1, line 21—Leave out 'public holiday' and insert 'Sunday or other public holiday'.

This amendment is something that we discussed during the second reading debate in terms of the definition of a business day. Clause 3 provides:

'business day' means any day except a Saturday or a public holiday;

That appears anomalous, although I realise it is not. If one goes to the Holidays Act, one finds that a Sunday is classed as a public holiday, although that is not the general perception of members of the population. A public holiday to them is one of those precious Mondays that occur throughout the year, when they actually get a holiday. They do not regard Sunday as a public holiday: they just take it for granted that they do not work on a Sunday. My amendment makes it clearer to someone who reads the legislation that a business day will mean any day except a Saturday, Sunday or public holiday. It is quite clear from that that a Sunday is a public holiday, but it also will make it clearer to the uninitiated person who happens to read this piece of legislation and who may not be aware of the definitions that occur in the Holidays Act. Anyway, I do not think that cross referencing is a good idea: a Bill should be understandable in its entirety, if possible.

The Hon. K.T. GRIFFIN: It is not a big issue to go to the wall on. As the Hon. Ms Levy indicates, Sunday is already defined as a public holiday under the Holidays Act 1910, so it has a statutory meaning already for the purposes of the Holidays Act and any other Act in which the expression 'public holiday' may appear. I understand the Hon. Ms Levy's argument that it makes it a bit easier to comprehend in the sense that people will not rush off to look at the Holidays Act to find out what is and what is not a holiday. As it is drafted there is no difficulty with it, in terms of the cooling off period. I formally oppose it but, as I say, it is not an issue to go to the wall over.

Amendment carried; clause as amended passed.

Clauses 4 to 29 passed.

New clause 29A—'Conveyancer not to act for both parties except as authorised by regulation.'

The Hon. ANNE LEVY:I move:

Page 16, after line 12—Insert:

29A. A conveyancer must not act for both the vendor of land or a business and the purchaser of that land or business except as authorised by the regulations.
Penalty: Division 7 fine.

The Hon. K.T. GRIFFIN: Ultimately we will get a chance to debate all the amendments. The Hon. Ms Kanck's and the Hon. Ms Levy's amendments are identical. They adopt a different approach from mine. There was a big difficulty with dual representation and the issue which was before the previous Government since the early 1990s, in fact from 1988 from memory. There were various discussions over the past six or seven years between the former Attorney-General, the Law Society and the Institute of Conveyancers, and there was a variety of views as to the way in which the issue of dual representation should be approached.

Within the conveyancing profession there is a view that dual representation should be outlawed. In the legal profession, again there is basically a view that dual representation should be outlawed, but both accept that there are circumstances in which representation of more than one party where there is potentially a conflict might be appropriate, for example, in a transaction between members of a family, between members of a family and a company in which they have an interest and in similar circumstances.

Within the legal profession, however, there is a differing point of view. There are legal practitioners in country areas who strenuously oppose any ban on dual representation. There are also legal practitioners in the country who support dual representation very strongly. Only recently I had a representation from a legal practitioner who suggested that the outlawing of dual representation will be in the interests of vendors and purchasers—the consumers, in whatever context they are consumers—because it will mean that there is not the cosy arrangement which they allege presently exists between some land agents and some brokers, particularly with land agents.

I have a view that the mere fact that a person acts for more than one party does not necessarily mean that it is either unethical or that there is in fact a conflict or potential conflict. I tend to the view that the fact that a practitioner, whether conveyancer or legal practitioner, is acting for more than one party to a conveyancing transaction should in fact be known, and made known in clear terms to both parties. But, there ought also be a recognition on the part of the practitioner that, at the first hint of a potential conflict of interest, the practitioner should withdraw and should not represent either party in those circumstances. In my experience, legal practitioners have generally been fairly good at identifying where there is a potential conflict and dispute between the parties, and in those circumstances ethically are required to withdraw.

There have been differing opinions to the way in which the issue of dual representation should be approached. The Victorian legal profession has an approach which provides much more flexibility than that in, say, South Australia. The interesting thing is that since the previous Government and previous Attorney-General examined this issue there was a case in the Privy Council in October 1993, and I think it would be helpful for members, whichever way they will vote, to have this information before them, if not to consider now, then certainly to consider later.

The Hon. Anne Levy: I do not use Privy Council judgments as my bedtime reading!

The Hon. K.T. GRIFFIN: No, I realise that. If she did the honourable member may go to sleep more quickly than she may do at the present time. In hearing an appeal from the New Zealand Court of Appeal in October 1993 in the matter of *Clark Boyce v. Mouat*, as reported in 1993 4 *All England Reports* at page 268, the Privy Council found as follows:

> There was no general rule of law that a solicitor should never act for both parties in a transaction where their interests might conflict. Instead, a solicitor was entitled to act for both parties in a transaction even where their interests might conflict provided [he] obtained the informed consent of both parties to his acting.
>
> Informed consent in that context meant consent given in the knowledge that there was a conflict between the parties and that, as a result, the solicitor might be disabled from disclosing to each party the full knowledge which he possessed as to the transaction or might be disabled from giving advice to one party which conflicted with the interests of the other, and if the parties were content to proceed on that basis the solicitor could properly act for both parties.
>
> In determining whether a solicitor had obtained informed consent to acting for parties with conflicting interests, it was essential to determine precisely what services were required of him by the parties since, if a client in full command of his faculties and apparently aware of what he was doing, sought the assistance of a solicitor in the carrying out of a particular transaction, the solicitor was under no duty, whether before or after accepting instructions, to go beyond those instructions by proffering unsought advice on the wisdom of the transaction.
>
> On the facts, the respondent had required of the appellants no more than that they should carry out the necessary conveyancing on her behalf and explain to her the legal implications of the transaction since she was already aware of the consequences if her son defaulted and was not concerned about the wisdom of the transaction. In those circumstances, the appellants had, by advising her to obtain and offering to arrange independent advice, done all that was reasonably required of them before accepting her instructions and had therefore not acted in breach of contract or of a fiduciary duty.

I think that puts into a much better context the issue of conflict in acting for more than one party in a conveyancing transaction than all the material that has been written and developed over the past six or eight years, at least in the dockets I have seen relating to this matter in the Attorney-General's portfolio. I must confess, as I indicated at the time of my second reading reply, that I was of two minds as to how to handle this matter but, having seen that judgment and having read the various practice directions in other States and some of the correspondence and papers in the Government dockets on this subject, I take the view that we should not absolutely outlaw dual representation. We should set the framework within which that should occur very much along the lines of those which are contained in the Hon. Ms Levy's amendment and the Hon. Sandra Kanck's amendment but perhaps with more flexibility.

What I will suggest to the Committee—although I cannot give anything more than a general position in relation to this matter—is that the amendment which I propose allows the regulations to authorise the way in which a conveyancer must act in respect of vendors and purchasers of land or businesses, remembering that this Bill will deal only with conveyancers and not with legal practitioners. I think it is important to try to get a consistency of approach between the two.

The regulations would be the subject of disallowance, and what I could do in the course of developing the regulations, if my amendment is preferred by the Committee, is to undertake that, before the regulations are promulgated, I would be prepared to allow members who have an interest (the Hon. Anne Levy and the Hon. Sandra Kanck) to give consideration to them as I would also to the Institute of Conveyancers and the Law Society, with a view to resolving once and for all what is a particularly contentious issue, certainly in the legal profession and among conveyancers. So the offer I make is that, if my amendment, which I think gives more opportunity for flexibility of approach in the development of the draft regulations, is accepted, I would ensure that

those two members in particular as well as organisations which have an interest in them are properly consulted.

The Hon. ANNE LEVY: It was interesting to hear the judgment of the Privy Council which, of course, is no longer an appeal court for Australia. However, what it says is of interest although it is not necessarily a precedent which in any way must be followed by an Australian court.

The Hon. K.T. Griffin interjecting:

The Hon. ANNE LEVY: I appreciate that. It has enunciated a principle as it sees it. It may well be that our Supreme Court or High Court could see the principle differently, but it seems to me that the amendment which both the Hon. Ms Kanck and I have put forward covers virtually the essence of the judgment of the Privy Council. The Privy Council agrees that a conveyancer can act for both parties provided he does so with their informed consent. That is virtually what our amendment says. It puts it in a negative form, saying that they cannot act for both parties unless certain things, rather than putting it in a positive form, but it amounts to the same thing. It means that a conveyancer can act for both parties provided the two parties have given informed consent—that they are aware he is acting for both. The fact that the Privy Council reckoned that, if there were a conflict, he was not necessarily under a duty to disclose it, would not be antagonistic to our amendment. It seems to me that this is the first time that such legislation has been enacted in this State.

Until now, the law has been silent on the question of whether a conveyancer can act for both parties. So this is something new. The conditions under which a conveyancer can act for both parties are important, and there is merit in their being in the Act rather than tucked away in the regulations. In effect that is what it is saying, that is, that he can act for both parties provided they have given informed consent. Obviously, in cases such as conveyancing within a family or in country areas where only one person in the town might be qualified to be a conveyancer, it will obviously be of advantage. Not only that, it seems to me there will be other occasions when it is a perfectly straightforward transaction and it will obviously be cheaper for the parties—even if they are not in anyway related—if they use the same land broker. The fees will be lower. I am sure the general consumers would not look kindly upon us if we suddenly brought in something which meant that on average conveyancing fees would increase. Of course, conveyancers might like it; it would mean more business for them. But the general consumer would not look kindly at what would be regarded as an unnecessary increase in fees which they have to pay—not to the Government but to private conveyancers.

It would seem to me that what both Ms Kanck and I are proposing—and obviously we discussed it with the same lawyer—is that there need be no prohibition, provided that the two parties are aware of the fact that the conveyancer is acting for both parties and have agreed that they are happy for him or her to do so. In this way, where there will not be any question of conflict of interest or any difficulties, even with quite unrelated people, they can save money by doing this, and there is nothing wrong with their doing so, provided there is informed consent. It is a principle which is often used in consumer protection. Sometimes we have prohibitions but very often we take it that normal market activity can take place provided there is informed consent: provided people are aware of the consequences of their undertaking a particular course of action, it should be permitted. That is the consumer protection element we bring in.

The Hon. K.T. GRIFFIN: I would suggest to the Hon. Anne Levy that what she and the Hon. Sandra Kanck are proposing is too bland and does not allow for the imposition of any conditions. I agree that informed consent is important, but it is also important to have information upon which you can make that informed consent. The honourable member's amendment provides:

> The conveyancer must not act for both the vendor of land or a business and the purchaser of that land or business, unless the conveyancer—
>
> (a) has first disclosed that fact in writing. . .

What do they disclose? They disclose only that they act for both the vendor and purchaser, and that they have been authorised so to act. It does not require the conveyancer to disclose any other information that might give rise to a conflict of interest. All they have to disclose is—

The Hon. Anne Levy: That is what the Privy Council says.

The Hon. K.T. GRIFFIN: No, the decision goes further than that. What I have in mind is that—consistently with what the Privy Council says—the regulations would contain in effect a code. It is not enough just to be informed that the conveyancer is acting for both parties and there is an instrument of consent. There ought to be a code, which puts the question of consent and the information provided by the conveyancer into a broader context, so that the person who is giving the consent knows that it is not just a matter of one person acting for both but, if that person is acting for both, there might be some feature of the transaction that either might be contentious or, more particularly, might develop a conflict of interest, and that the potential conflict or the conflict ought to be disclosed.

If you put that in the Act, as it is here, there is no flexibility to require a code, so that the consent is within a broader context. I would agree that it is desirable, wherever possible, to have matters in the principal statute but, where one is talking about a code of practice or a code within which consent may be given, it is easier to put that into regulations which can be the subject of disallowance. Of course, there should be examination by the Legislative Review Committee, and also the provision of some fine-tuning changes if some unforeseen issue has arisen which needs to be addressed. That is the context in which I would suggest that my amendment is to be preferred, because it gives that flexibility; it enables more than just a black and white issue to be addressed but rather the context in which that issue is to be addressed.

The Hon. ANNE LEVY: I understand what the Attorney is saying. I am concerned that clause 40 of the Bill, which relates to regulations, in no way suggests a code and that, if the Attorney wishes to have a code set out in regulations, there should be provision in the regulation making power for such a code. In my experience, whenever a code of ethics is proposed for a particular profession to be in regulations that regulation clause contains reference to codes which will be obligatory. That certainly applied in relation to the Retirement Villages Act amendments and in relation to numerous other Bills with which we have dealt in this Chamber.

The Hon. K.T. GRIFFIN: I was alluding to a code or something in the nature of a code, but my advice is that, if my amendment is carried, a conveyancer must not act for both the vendor of land or business and the purchaser of that land or business, except as authorised by the regulations. You do not need to go to the regulation-making power to gain the authority for a regulation. This amendment is the authority for the regulations, and the words 'except as authorised by the

regulations' would, on my advice, enable what is something akin to a code or a context in which consent is given, to actually be accommodated. So, there is no need to make a specific provision relating to a code or the adoption of a code when we approach this particular question in the context of the new clause 29A.

The Hon. ANNE LEVY: I feel that this is somewhat elusive and keeps slipping away. Earlier the Attorney-General definitely spoke of having a code of ethics and, in my experience, whenever a code of ethics is to occur in regulations, the regulation-making clause has made provision for a code. Now the Attorney-General is not talking about having a code; he is just talking about having regulations.

The Hon. K.T. Griffin: When you adopt a code, the code is a regulation, and you do not need it specifically.

The Hon. ANNE LEVY: If we do not need it specifically mentioned I do not know why, in a whole lot of legislation we have passed, the regulation-making clause has included reference to codes. That has certainly occurred in a number of pieces of legislation, and if this is not going to be a code, but like a code and just like a regulation, it seems to me that it is slipping away a bit. If my amendment and that of the Hon. Ms Kanck became the substantive clause, I presume the regulations could still contain a code of ethics if reference to a code was made in the regulation-making clause, which is clause 40.

The Hon. K.T. GRIFFIN: It is not slipping away. What we are talking about here is, in relation to an actual conveyance, in what circumstances can one conveyancer act for more than one party. I was equating it to a code, but it does not matter what you call it; what I am saying is that, by the provisions of my new clause, the regulations can contain the conditions which attach to the conveyancer acting for more than one party, and that could include material akin to what we described as a code; that is, you have to fully explain the circumstances; you have to indicate any potential conflict or existing conflict of interest; and you have to withdraw from acting if there is a conflict, which is incapable of resolution.

Those sorts of things you can do here. I was saying that you can develop it as though it were a code: it does not matter what you call it. The fact of the matter is that it sets the framework within which a vendor and a purchaser are fully informed about all the relevant circumstances before they give their consent to a conveyancer acting. That is the context of it.

The Hon. ANNE LEVY: Would the regulations to which the Attorney is referring include obtaining the written consent of the people concerned?

The Hon. K.T. GRIFFIN: Yes.

The Hon. ANNE LEVY: Would the regulations allow for exceptional cases, such as within a family, and so on, but in general prevent a conveyancer acting for both parties in the average run-of-the-mill house sale, of which there are thousands every week? I think that is important. Parliament can disallow regulations but not alter them. If Parliament expresses a strong opinion then the Government, if it is sensible, will alter the regulations to conform with what has been stated in parliamentary debates. I am concerned—if there are attempts, using high sounding language about conflict of interest to justify this principle when it is merely to the pecuniary advantage of conveyancers—that the regulations might prevent the ordinary run-of-the-mill conveyance being done by the one conveyancer where there is no potential for conflict of interest.

The Hon. K.T. GRIFFIN: I do not have any difficulty with that. However, there may even be, within families, circumstances in which it would be undesirable for one person to do the conveyancing for both parties. They may be at odds and there may be problems of independence. When I acted for families, for example in relation to deeds settlement following the winding up of an estate where a widow may have relinquished her life interest in return for cash, I would always advise her to get separate independent advice, and I would arrange it. I think it proper that business be conducted in that way. There may be circumstances in which that would occur. Whatever we develop has to be flexible enough to identify the principles to be taken into consideration in determining whether it is proper for a conveyancer to act for more than one party. I do not see that those regulations would preclude a conveyancer from acting for more than one party in what the honourable member has described as a run-of-the-mill case.

The honourable member alluded to the question of costs. From the point of view of a conveyancer acting for both parties, while the parties might get it a bit cheaper, the conveyancer makes a lot more than if only acting for one party. The parties may get it cheaper but my experience has been that, apart from the family situation where you have parties who are at arm's length, it is generally preferable to have someone who is looking after only your interests and not the interests of the other party as well.

The Hon. Anne Levy interjecting:

The Hon. K.T. GRIFFIN: That is fine. The important thing is to ensure that there is a set of principles which apply. That is the context in which I would be looking to develop those principles.

The Hon. SANDRA KANCK: The Attorney-General said that the amendment the Hon. Ms Levy and I were proposing was bland, so I have been listening to ascertain what is lacking in it. The Attorney talked about the context. The context surely is when a conveyancer is acting for both the vendor and the purchaser, and that is spelt out. The circumstances are that the conveyancer has to write to the vendor and purchaser and in turn get something back in writing from them that it is okay. I do not see anything lacking. Nothing the Attorney has said has filled any gaps, so I do not see that the regulatory framework he is suggesting will achieve anything.

The Hon. K.T. GRIFFIN: I was not being offensive by my use of the description 'bland'. It is all very well for the conveyancer to disclose, 'I act for the vendor and for the purchaser', but in acting for the vendor the conveyancer may have an interest in the vendor. It may be a company or there may be something behind the scenes which, if disclosed, would put the other party on notice that it may not be such a good idea to have that conveyancer acting for both parties. I am seeking to allow us to develop a set of regulations which require that the rather bald statement of acting for both parties must be disclosed in writing and put into a context where one party or the other, in the circumstances which have been disclosed—not the fact of acting for both, but the relationship between the conveyancer and the parties, and so on—is in a better position to make an informed consent. That is where I see one of the deficiencies in the amendment proposed by the Hon. Anne Levy and the Hon. Sandra Kanck.

The CHAIRMAN: Does the Hon. Anne Levy wish to move her amendment?

The Hon. ANNE LEVY: No. We have been discussing the pros and cons. I am convinced that the Attorney's clause

allows for more flexibility in that the regulations have not yet been drawn up. It could be that the regulations, when they appear, are nowhere near as tight as the amendment that the Hon. Ms Kanck and I had prepared. In that case, I guess we can make sure that the Parliament disallows those regulations and the Attorney can keep trying with regulations until we get a good one.

The Hon. K.T. GRIFFIN: I have undertaken to let you have drafts as they develop. I will do them in consultation with a range of people, and hopefully we can reach some accommodation on it. I cannot give any more undertaking than that.

The Hon. ANNE LEVY: I appreciate that. In the light of that and of information that I have just received about the strong probability of the identity of a new member of the Legislative Review Committee, I will not move my amendment and will support that of the Attorney-General.

New clause inserted.

Clauses 30 to 36 passed.

Clause 37—'Liability for act or default of officer, employee or agent.'

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

Page 17, lines 32 to 33—Leave out 'person could not be reasonably expected to have prevented the act or default' and insert 'officer, employee or agent acted outside the scope of his or her actual, usual and ostensible authority'.

This amendment is identical to that proposed by the Hon. Anne Levy.

Amendment carried; clause as amended passed.

Remaining clauses (38 to 40), schedule and title passed.

Bill read a third time and passed.

CORRECTIONAL SERVICES (PRIVATE MANAGEMENT AGREEMENTS) AMENDMENT BILL

Second reading.

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

That this Bill be now read a second time.

In view of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The operation and infrastructure management of correctional services cost the community approximately $89 million in 1993-94. The cost of provision of correctional services in South Australia is, per prisoner, the highest in the country, a fact referred to by the Commonwealth Grants Commission and the recent Audit Commission Report.

In order to reduce costs, the Audit Commission recommended the outsourcing of selected services provided by the Correctional Services Department, for example, the operation and management of prisons, prison industries, catering, maintenance of buildings, administration of Community Correction Orders, prisoner transport, hospital watches and the dog squad.

The Audit Commission also recommended that a new prison be constructed and managed by the private sector. The Government is committed to increasing the cost effectiveness of correctional services, and there is much Australian and international evidence to suggest that competition in correctional services stimulates dramatic improvement in the quality and cost effectiveness of service provision. Outsourcing and private management of prisons also provides a benchmark against which to measure the delivery of Government services.

The Government believes that increased competition through the outsourcing of selected correctional services will direct attention to the real costs of providing services through the public sector (including the costs of capital, legal advice, insurance, transport and administration overheads) and expose subsidies and restrictive work practices.

Savings arising out of this competitive system will be applied to accommodating increased prisoner numbers, expanding existing services, creating new Government services and/or returning funds to reduce Government debt.

The Government also believes that increased involvement of the private sector in provision of Government services will lead to the transfer of technology and ideas between the public and private sectors of the economy and will introduce positive changes in public sector management culture.

The prison population is likely to increase by approximately 40% by the Year 2000. The private sector can inject the capital funds necessary to build new prisons and experience has shown that they can also provide new cells faster than the public sector and provide creditable management in correctional functions.

The outsourcing of correctional services is not a new phenomena. Prison services have been contracted out to the private sector in the Eastern States for a number of years. Currently Queensland has two private prisons, New South Wales has one, and Victoria recently announced the calling of tenders for the financing, design, construction and management of a new private prison. Two other private prisons are also planned in Victoria. Private prisons also operate successfully in the United States and Great Britain.

Prisoner services have also been outsourced in Australia. Victoria has recently awarded contracts for the management of prisoner transport, St Augustine's Security Ward, (St Vincent's Hospital), prisoner security at the Melbourne Supreme and County Courts and prisoner court transport services.

Private sector management has been introduced in Australia by a variety of political parties, including National, Labor and Liberal Governments. Australia's first private prison at Borallon was contracted by the Queensland National Party Government. The second, the Arthur Gorrie Remand Centre, was contracted by the Queensland Labor Government and the third, Junee Prison, by the New South Wales Liberal Government.

This Bill is necessary to give the Government the ability to contract out correctional services in a manner that both protects the Government and Offenders. The Bill details conditions to which contractors must adhere. It enables employees of private management bodies to perform the functions of prison officers within the scope of a contract, makes private managers accountable to the Minister and allows the Minister to supervise the operation of private prisons.

Contracts between the Government and private sector management bodies must deal with the following matters:

- minimum performance standards for management bodies and their employees.
- approval by the Chief Executive Officer of all employees of the management bodies who are to come in contact with prisoners.
- compliance by the management body and employees with directions given by the Chief Executive Officer.
- periodic submission to the Minister of reports and audited accounts.
- indemnity of the Crown by the management body.
- prohibition of devolution of responsibilities by the management body, or of changes to the control of a management body that is a body corporate, without the approval of the Minister.
- immediate access by the Chief Executive Officer to all prison premises and records.

The Bill reserves the right of the Chief Executive Officer to remove a prisoner from a privately managed prison and allows the Minister to enter and staff a private prison should that become necessary.

The Minister has power under the Bill to scrutinise proposed management bodies prior to contracting out services to them. The management body must be able to demonstrate that it is a reputable and credit worthy organisation and can meet the obligations detailed in the management agreement.

The provisions of the Part VII of the Criminal Law Consolidation Act 1935 are extended to management bodies and their employees to provide the same disincentives to corruption that apply to public officers. The operation of the Ombudsman Act 1972 is also extended to administrative actions undertaken in private prisons.

A key feature of the legislation is the appointment of monitors by the Chief Executive Officer to ensure that all aspects of the Act and the management agreement are being complied with by the management body. Particulars of the work undertaken by monitors must be included in the Department's annual report. The function of monitors is similar to that of inspectors who are currently appointed under the Act to ensure that standards and instructions are being complied with in the existing prison system. Monitors will have free

and unrestricted access to offender records and premises of institutions.

Another key feature of the Bill is that the Minister will have the power to order a management body out of a prison and provide emergency staff in the event of the management body failing to carry out its responsibilities.

This Bill, while preceding the handing down of the State Budget, is essential to the Budget process as savings through outsourcing and private sector management have been assumed when formulating the 1994-95 Correctional Services Budget.

The Correctional Services (Private Management Agreements) Amendment Bill 1994 makes a significant contribution toward ensuring a high standard of administration of, and cost effective management of, correctional services.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Amendment of s. 4—Interpretation

This clause inserts definitions of 'management body', 'management agreement' and 'monitor'.

Proposed section 4(2) provides that certain employees of management bodies (e.g., prison staff) will, for the purposes of the Act, be taken to be employees of the Department for Correctional Services. One effect of this will be to extend to employees of management bodies the right to use reasonable force under section 86 of the Act.

Proposed section 4(3) provides that a reference to an employee of a management body includes an agent of the management body and the employee of an agent when acting within the authority granted by the management body.

Proposed section 4(4) defines which persons are persons in 'positions of authority' in relation to a corporation for the purposes of the Act. This is relevant to the extension under proposed section 9C of the operation of the Criminal Law Consolidation Act 1935 and to proposed sections 9A and 9B which provide for scrutiny of persons in positions of authority in a management body prior to the execution of a management agreement.

Clause 3: Amendment of s. 7—Delegation by Minister and Chief Executive Officer

This clause amends the delegation clause to provide that the Chief Executive Officer may, with the approval of the Minister, delegate his or her powers to an employee of a management body employed in a position of a prescribed class. Such delegations may be conditional.

Clause 4: Insertion of s. 7A—Commercial ventures

This clause gives the Minister the power to enter into commercial arrangements in relation to prison industries and products.

Clause 5: Amendment of s. 9—Annual report of Chief Executive Officer

This clause provides that the annual report of the Department must include particulars of the monitoring of management agreements.

Clause 6: Insertion of Divisions 1A and 1B of Part 2

Proposed section 9A(1) provides that the Minister may enter into agreements for the management of prisons and for the carrying out of any other of the Department's functions.

Subsection (2) sets out the matters that must be dealt with in a management agreement.

Subsection (4) provides that the Minister must be satisfied that a proposed management body or its directors are fit and proper persons to be parties to a management agreement.

Proposed section 9B provides powers by which the Minister, Chief Executive Officer or Commissioner of Police may investigate proposed management bodies and their employees for the purpose of deciding if they are fit and proper persons, or whether to approve of them as employees.

Proposed section 9C gives the Chief Executive Officer the power to revoke approvals. Examples of the grounds for revocation are given, in particular, an approval may be revoked if the person is convicted of an offence punishable by imprisonment or commits an offence against the Act.

Proposed section 9D provides that the offences relating to public officers in the Criminal Law Consolidation Act 1935 (for example the offence of bribery or corruption of public officers) will apply to employees of management bodies as if they were public employees. The section also provides for the provisions of the Ombudsman Act 1972 to apply to management bodies. Were it not for this section, prisoners in privately managed prisons would not be able to complain to the Ombudsman whereas their counterparts in public prisons could. Currently, prisoners may complain to the Ombudsman in relation to any administrative (as opposed to judicial) act.

Proposed section 9E provides ensures that the Chief Executive Officer retains the right to remove a prisoner from the custody of a management body at any time.

Proposed section 9F provides that, in a situation where a management body has, in the Minister's opinion, failed or is likely to fail to carry out its responsibilities, the Minister may order the management body's employees to leave the prison and may staff the prison with employees of the Department (including employees of another private management body). The Minister may also send in supplementary staff in the event of other emergencies, e.g. a riot, if of the opinion that the management body is not handling the situation properly. The Department's costs in taking action under this section may be recovered from the management body.

Proposed section 9G provides for the appointment and duties of Departmental monitors. Monitors will directly supervise the undertaking of management agreements and must report to the Chief Executive Officer. Particulars of the monitoring of management agreements must be included in the Department's annual report. Monitors have unfettered access to prison premises and documents, and may question prisoners and staff.

Proposed section 9H sets out the powers of monitors and authorised employees in exercising their functions or powers. A person hindering the activities of, or falsely representing themselves to be, an authorised employee or monitor is guilty of an offence and liable to a division 5 fine ($8 000).

Clause 7: Substitution of section 85b

This clause provides that all persons operating under the Act (current clause 85B applies only to officers of the Department) must not disclose information relating to prisoners or their families or to victims of offences. The clause also increases the penalty for the offence of disclosure of information from a Division 7 fine ($2 000) to a Division 5 fine ($8 000).

Clause 8: Substitution of s. 86a

This clause provides that employees of the Department and of management bodies are to be indemnified from civil liability for their actions and that their employer is liable in their stead.

Clause 9: Amendment of s. 88B—Evidentiary provision

This clause makes provision for evidentiary matters arising out of these amendments.

Clause 10: Statutes revision amendments

This clause allows for the schedule which makes several statute revision amendments of a non-substantive nature to the Act.

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

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

Adjourned debate on second reading.

(Continued from 23 August. Page 176.)

The Hon. M.S. FELEPPA: I wish to make a few comments in relation to this Bill. I support it because it tried to strengthen the intention of the parent Bill in some of its provisions. I have no particular criticism to make of any clauses of the Bill as they seem to cover the necessary measures that they intended to cover. Profit sharing in some of its forms is undesirable. Cross-holdings may give indirect ownership to a person or company that is not a fit holder of a gaming machine licence. These arrangements could lay the gaming machine licence holder open to influences which could threaten the ultimate control of the hotel or club, or the licensed gaming machines installed there.

By this legislation the possible abuses are being anticipated and checks put in place in keeping with the original intention of the Parliament when it was preparing, debating and passing the parent legislation a few years ago. We did cover as many such problems as could be anticipated at that time of the passing of the original legislation, as I already

mentioned. It seems to me, however, that we failed to find some of the loopholes in that Act. We can expect, however, that there will be more loopholes in the future to be closed, although they may not be apparent at this very moment. There is no need for me to say that the gambling industry is such an attractive and lucrative business that we must expect in the future that there will always be someone not approved by the Licensing Commission who will be trying to infiltrate the industry.

I believe that if you close one loophole they will find certainly another one—like rats gnawing through the skirting boards. We can expect, therefore, that there will be an ongoing contest between the legislation, the legislators and the infiltrators. We, as legislators, certainly will be seeking to keep the unlicensed outsiders and the possible criminal influence from gaining control over the gaming machine industry, which has concerned me ever since this Parliament dealt with the legislation years ago.

The infiltrators will certainly be trying to secure for themselves, by one means or another—make no mistake about it, legal or illegal—control over the industry. They will be seeking power to control the industry and, then, the means of increasing their share of the profits from the gaming machines. Evidence from overseas, particularly from America, is abundantly clear. That evidence supports the fact that infiltration is a real possibility. We can expect, therefore, legislation after legislation to come before this Parliament to stem or stop the infiltration.

Gambling is such a part of the Australian culture that these problems are not reasons why the original legislation should not have been passed. The coming of the gaming machines, as I said years ago and still maintain that view, was inevitable, but now that they are here, we most certainly need to be vigilant and to keep the industry under control. There seems to be a whole range of other problems connected with the industry. There may be administrative problems. The Hon. Mr Baker, the Treasurer, indicated them in a speech that he made on 23 August this year, where he said of the legislation yet to be brought before Parliament:

> It will be introduced and it will address many issues which are causing enormous frustration for the Liquor Licensing Commission, State Supply, State Services, the police, the Casino Supervisory Authority and the Independent Gaming Corporation.

I put it to members, and particularly to Mr Baker, the Treasurer, that he should make known to the Parliament something of these problems so the members of this Parliament individually can have an opportunity, in reflecting upon them, of offering some contribution to the situation and to finding a solution to the problems.

Of course, I can well imagine that some of the problems may need to be kept under wraps as they could reveal that there are possible loopholes, again, that could open the industry to undesirable infiltration. In conclusion, I believe that some other problems may be better solved by the cooperation of the members, as many of us have a keen interest, as has been manifested in the past, in this move and the successful operation of the gaming machine industry in our State. I commend the Bill.

The Hon. T. CROTHERS: I rise to indicate my support for the Bill. The parliamentary wing of the Australian Labor Party has made this issue a conscience vote. Without speaking for any of my colleagues, I believe that a majority of them accept the necessity for its passage. The Bill seeks to do two things: first, to stop the business of profit sharing in the gaming machine industry by a whole series of technical subterfuges, such as the prohibition of certain profit sharing arrangements and the prohibition of holders of gaming machine dealers' licences or their associates from holding gaming machine licences in this State; and, secondly, to restrict the eligibility of the holders of general facility licences to hold gaming machine licences.

I will deal with the second point first. This question came to the fore when a restaurant that had held a general facility licence was granted a gaming machine licence. Clearly, this was contrary to the intention of the original Act of Parliament. That Act held that the issuing of gaming machine licences should be to the holders of hotel, club and general facility liquor licences. Of the latter category of liquor licence holders, 17 made application for gaming machine licences. Of those, 15 applicants formally held hotel licences and thus complied with the original intentions outlined by Parliament when the original Bill was passed.

The sixteenth applicant was Football Park which, even though it held a general facility licence, was by any definition a club. In fact, the word 'club' is normally defined, both in and out of the industrial arena, as 'a gathering or grouping together of people with a like interest'. Again, in its application this club was not running contrary to the expressed will of Parliament. So, the seventeenth applicant gained a gaming machine licence when in reality it physically did not fit into the hotel and club concept, which was the expressed will of the then State Parliament.

However, having said that, the gaming licence has been issued and, even with the passage of this Bill, the premises in question will continue to hold a gaming machine licence. In my view that is how it should be. To do other than that would be to penalise the seventeenth applicant previously referred to. The passage of this Bill will no longer allow that to happen. So, the initial views of Parliament will be upheld, and I am pleased to be able to support the Government's endeavours in that respect. It is fair to say that members on both sides of the last Parliament believed that the broadening of activities within the hotel and club industry was necessary to ensure the economic survival of the hotel and club industry, a position with which I agreed then and with which I absolutely concur now.

Some of my colleagues and I have some considerable differences about aspects of the Bill. I place on record my belief, which is based on having served in the industry for 20 years of my working life, that the Treasurer in another place got it pretty right with most if not all of what he said during the second reading debate. Like him, I believe that, if the gaming machine industry is to continue to operate successfully in South Australia with regard to the original intention of this Parliament, tight control of necessity will have to be maintained over the industry's suppliers and operators.

The track record and history of gambling in general and of the gaming machine industry worldwide in particular shows a great propensity to be interfered with by organised crime so that the industry can be used as a monetary laundromat. Certainly, anyone with a contrary belief to this, in my view, clearly has not done the degree of research necessary to draw what I can only term as the proper conclusion. I draw that conclusion from actual history. I refer to the Liquor Trades Employees' Union of which I was formerly the Secretary, because it is the industrial organisation that covers 95 per cent of the industries where gambling exists. As such, we did much research into international gambling and the ties that bind.

I recall that my then research officer rebuked me for some of my public utterances about the connection between gambling and organised crime. Members can imagine his surprise when about four weeks after his rebuke of me he saw a book on organised gambling. He bought that book, which was written by a US citizen on gambling in his own country and in many other countries. The author named names and events concerning corruption reaching into the New Jersey State Senate, and going even so far as the United States Federal Senate in Washington. He named prominent officials in US Government service at both State and Federal levels, and he named many prominent American citizens as being part of ongoing corruption cartels involved in legal gambling. He referred to activities in New Jersey and elsewhere.

Some six years after the book had been printed no punitive or defamatory action had been taken by any of the named groups or individuals dealt with in such a public manner by the book's author. Therefore, I can only draw the one conclusion, that is, that the author had printed the truth and that corruption in the area of gambling both in the US and elsewhere is alive and well. One of the obvious reasons why organised crime wants to involve itself in gambling is the vast monetary turnover. Therefore, the laundering of ill-gotten monetary gains is much easier to achieve. I refer to the volumes of money required to achieve that laundering by organised crime cartels. Certainly, members should not make the mistaken assumption that gambling industries in respect of the laundering of currencies can be compared to other industries.

That, in my view, is not and could never be said to be comparing an apple with an apple. Those of us who within the past week or so watched the television program on money laundering on what I think was *Four Corners* would never subscribe to the idea that anything was out of the reach of organised crime in respect of the laundering of criminal proceeds. It would appear that such is not the case here, and I hope that that is so. However, the best way of ensuring the continuance of that is to nip in the bud any scheme that shows any likelihood of paving the way for corruption.

I support the actions of the Treasurer in doing just that by introducing the amendment now before us and am happy to do so. But in concluding this contribution I inform the Government that, whilst the Opposition on this occasion has supported some retrospectivity—and I believe it did that with some justification with respect to this Bill—that might not always be the case. However, having said that, I support the Bill at this its second reading stage, commend it to the House and commend the actions of the Treasurer in bringing it before us for consideration.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank members for their contributions to the debate and for their indications of support. I must say that that was indeed a very clever speech delivered by the Hon. Mr Crothers, and one must read through the code that is implicit throughout that speech as it was very subtle, and indicated a very clear difference of opinion with one of his senior colleagues in another place.

One has only to look at the contributions made on this Bill in another place, as I have in preparation for the second reading debate, to decode the speech of the Hon. Mr Crothers. The honourable member talked, on the Labor side of politics, about some differences between colleagues in relation to attitudes to the legislation. He said that from his viewpoint the Treasurer got it right; from his viewpoint he supported the actions of the Treasurer and gave his *bona fides* in relation to this Bill in that he comes from a union background, which represents some 95 per cent of the industry and is therefore well placed to be able to speak, as he put it, with some authority on the views of his former members in relation to their attitudes to the legislation.

It is interesting to try to decode the speech and also interesting, in decoding, to note that in recent times there has been a little bit of infighting between some sections of the Centre Left with TC the senior linking himself with Mr Ralph Clarke and Mr Ron Roberts in recent ballots for deputy leadership positions and TC the junior and John Quirke linking themselves—

The Hon. M.S. Feleppa: That has nothing to do with this Bill.

The Hon. R.I. LUCAS: I think it does when looking at decoding this speech. But as members would know—

The Hon. T. Crothers: You would never make a geneticist.

The Hon. R.I. LUCAS: I am not striving to be a geneticist; the only geneticist I know is the Hon. Anne Levy. In particular, in relation to the recent aborted attempt, I suppose is the best way to put it, made by the Hon. Terry Cameron for the deputy leadership of the Labor Party in this Chamber, sadly from his viewpoint the honourable member came up a little short in numbers in the contest with the Hon. Ron Roberts. When one looks at those linkages and goes back then to looking at the contribution of Mr Quirke in another place on 23 August, when he gave his attitude to that aspect of the Bill about which the Hon. Mr Crothers was speaking, one finds that Mr Quirke said:

> I find the present arrangement absolutely intolerable and I give notice that, at some stage next year when things have settled down, I will be moving to break up the service monopoly for these machines.

That was about a related issue in regard to servicing matters tied up with the legislation. However, he also indicated earlier in his contribution his significant disagreement with one of the key elements of the legislation before the House which sought to break the linkages between the gaming machine manufacturers and those who might be able to finance the arrangements of people who purchased the gaming machines.

Mr Quirke indicated that he was certainly an opponent of that aspect of the legislation, but in his clever but subtle speech this evening the Hon. Mr Crothers has indicated on this issue (as I obliquely referred to earlier on a number of other issues) his strong difference of opinion with Mr Quirke's attitude to this Bill.

On behalf of the Government, I thank the Hon. Mr Crothers and the Hon. Mr Feleppa, who is not associated with the internecine warfare with the Centre Left at the moment: he has his own dilemmas within the Left in relation to the good Left and the bad Left and whatever other versions one wants to talk about. I thank both members and other members for their intended support for the Government legislation and look forward to its speedy passage at this late hour on Thursday afternoon.

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

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

Adjourned debate on second reading.

(Continued from 8 September. Page 317.)

The Hon. SANDRA KANCK: I will be very brief, as I know that many members are eager to get out and do their Thursday night shopping. The Democrats will be supporting this Bill. We see it as a positive step forward. The Minister, in her second reading speech, said that part of what the Bill attempts to achieve will be to reduce the discharge rate from cargo spaces of oil tankers from 60 litres per nautical mile to 30 litres per nautical mile. That is a halving of that discharge and can only be for the better. There is within that a certain mind set that, if you cannot see it, it is not happening, because this discharge is allowed to occur provided it is more than 50 miles from the nearest land. That sort of attitude does seem to suggest that, as long as we cannot see it on the shore, it is okay, but be assured it will still be having an impact on marine life, even though it is at half the previous rate.

This Bill cannot address the issue of our thirst for oil in the industrial economies that we run, but as more and more we are forced to address this issue as oil becomes much more of a scarce resource in the future, obviously this problem will be reduced anyhow, because there simply will not be as much oil being plied around the seas in oil tankers. We are also pleased to see that the requirement that tankers with a gross tonnage of less than 400 tonnes but not less than 150 tonnes will have to keep on board a shipboard oil pollution emergency plan. It is surprising that such a plan has not been mandatory in the past but it is very pleasing to see that it will be there in the future. The Democrats support the second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): On behalf of my colleague the Minister for Transport, I thank the Hon. Ms Kanck for an excellent, incisive and precise speech. I welcome it on behalf of the Government and thank her for her support.

Bill read a second time.

SOUTHERN STATE SUPERANNUATION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

STATUTES AMENDMENT (CLOSURE OF SUPERANNUATION SCHEMES) AMENDMENT BILL

The House of Assembly intimated that it had agreed to the Legislative Council's amendments.

ADJOURNMENT

At 6 p.m. the Council adjourned until Tuesday 18 October at 2.15 p.m.