LEGISLATIVE COUNCIL

Thursday 26 March 1998

The PRESIDENT (Hon. J.C. Irwin) took the Chair at 11 a.m. and read prayers.

LEGAL PRACTITIONERS (MISCELLANEOUS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Legal Practitioners Act 1981. Read a first time.

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

That this Bill be now read a second time.

In view of the fact that the Bill will not be dealt with in this part of the session, I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

This Bill amends the *Legal Practitioners Act 1981* in two major areas. It also contains miscellaneous amendments designed to improve the operation of the Act.

The COAG Legal Profession Reform Working Party in its report to Heads of Government in June 1995 recommended that the Standing Committee of Attorneys-General should identify the legislative changes necessary to establish a national practising certificate. In October 1996 the majority of the members of the Standing Committee agreed to proceed with legislation in accordance with the provisions of a draft *Lawyers (Interstate Practice) Bill*. Officers of the Standing Committee developed the bill in consultation with the Law Council of Australia.

The principles contained in the draft *Lawyers (Interstate Practice) Bill* are incorporated in these amendments. The provisions are not to be found in one part of the amendments. Each provision in the *Legal Practitioners Act* had to be examined to see if it should apply to an interstate practitioner practising in South Australia.

For those States and Territories which agree to participate in the national practising certificate regime, a practitioner issued with a practising certificate in the State or Territory will be able, without any further action, to practise in each participating State and Territory. However, an interstate practitioner who establishes an office here must notify the Supreme Court that he or she has done so (new section 23D).

Interstate practitioners who establish an office here must have "approved professional indemnity insurance" (new section 52AA). There are variations in the insurance cover in each State and Territory and to require identical insurance is not possible. Interstate practitioners who do not establish an office here and who do not have approved professional indemnity insurance must disclose that fact to clients (new section 52AAB). It may be, of course that an interstate practitioner will have insurance in excess of South Australian requirements.

Interstate practitioners who establish an office here must comply with trust account obligations (new section 30A).

A supervisor or manager may be appointed to the practice of an interstate practitioner who establishes an office here (new section 43A).

A claim can only be made on the Guarantee Fund in relation to a fiduciary or professional default by an interstate practitioner in circumstances provided for by an agreement or arrangement made by the Law Society with the approval of the Attorney-General (Clause 30, amending section 60 of the principal Act). It has been difficult to arrive at a satisfactory solution as to when claims may be made on the Fund as a result of the default of an interstate practitioner.

The two States which have legislated so far, New South Wales and Victoria, have different provisions. It may be that the Standing Committee of Attorneys-General will have to revisit this area. In the meantime the solution adopted in this Bill will ensure that persons who have suffered as a result of a fiduciary or professional default by an interstate practitioner are not disadvantaged by the national practising certificate scheme.

New section 23A provides that an interstate practitioner who practises in the State is an officer of the Supreme Court. This means that such practitioners are subject to the same control and direction of the Supreme Court as practitioners who are admitted to practise by the Court. An interstate practitioner when practising in this State must observe any limitations on the practitioner's entitlement to practise under the law of a State in which the practitioner is admitted as a legal practitioner. Thus if a person is, in his or her home jurisdiction, only entitled to practise as a barrister, he or she will only be entitled to practise as a barrister in South Australia. An interstate practitioner must also observe any conditions imposed on his or her practise by a regulatory authority in this State or in any participating jurisdiction. These provisions are to be found in new sections 23B and 23C.

Clause 50 inserts provisions for dealing with complaints about legal practitioners who may be subject to disciplinary proceedings in two participating jurisdictions. The provisions provide for a co-operative scheme and ensure that a practitioner will not be subject to disciplinary proceedings in one State when he or she has been dealt with in another state.

Complaints can be brought against an interstate practitioner in the same way as against local practitioners. Any restriction or condition placed on practice or any suspension or removal from a roll of practitioners will have effect in each participating State and Territory.

Where a person has a claim on the Guarantee Fund because of the actions of an interstate practitioner in South Australia, the claim will be dealt with according to the terms of an agreement with the regulatory authority of participating states or territories. These agreements will need to address the various circumstances that may arise. It may be, for example, that a claim arises that is covered partly by an interstate fund and partly by the South Australian fund. Sometimes it may not be clear against which fund the claim should be made. In any case, a prescribed portion of the fees paid by interstate practitioners on giving notice of the establishment of an office here will be paid into the Guarantee Fund. (Clause 29, amending section 57 of the principal Act, new subsection (3)*(ca)*).

The second substantial category of amendments contained in the bill strengthen the disciplinary provisions. Over the last few years the legal profession has been the subject of a number of reports and reviews at both the state and national level. In particular, the Law Council has recommended a model disciplinary process that incorporates a three tiered structure (at the pinnacle of which is the Supreme Court), the preservation of self-regulation and accountability which is achieved by the inclusion of significant lay involvement in a statutory disciplinary body.

As part of the review of the disciplinary procedures in South Australia, comments were sought from the Legal Practitioners Conduct Board, the Legal Practitioners Disciplinary Tribunal, the Law Society of South Australia and the Director of Public Prosecutions.

The South Australian disciplinary structure essentially incorporates all the elements recommended by the Law Council and I do not propose any changes to the existing structure. However, there is a need to ensure that the disciplinary bodies have a wide range of sanctions and powers in order that they may address concerns of unprofessional conduct in the most appropriate manner for both the practitioner and complainant.

The Legal Practitioners Conduct Board has noted that there is a public and professional desire for more constructive resolution of complaints and increased flexibility of sanctions to address unsatisfactory conduct, with particular emphasis on the resolution of client concerns. The Legal Practitioners Conduct Board notes that the fraudulent use of trust funds and dishonesty by a small number of practitioners continues to be a problem which requires pro-active measures to ensure ongoing public protection and efficient use of resources.

It is apparent from the submissions received in the course of the review that the disciplinary system for legal practitioners must cover a wider range of conduct to include conduct that is not of sufficient gravity to fall within the concept of "unprofessional conduct", but is still of an unsatisfactory nature. Accordingly, a new category of undesirable conduct, described as "unsatisfactory conduct", has been introduced. This is defined in clause 3 as conduct which is less serious than unprofessional conduct but involves a failure to meet the standard of conduct observed by competent practitioners of good repute. Complaints of unsatisfactory conduct may be made to the Legal Practitioners Conduct Board.

The definition of unprofessional conduct has been amended to incorporate the common law notion of conduct which involves substantial or recurrent failure to meet the standard of conduct observed by competent practitioners of good repute.

The powers of the Board following an investigation have been expanded. If the Board determines that there is evidence of unprofessional or unsatisfactory conduct but the conduct is relatively minor, the Board can deal with the misconduct under new section 77AB. Under this provision the Board may determine not to lay charges before the Tribunal but instead reprimand the practitioner, make an order imposing conditions on the legal practitioners practising certificate, make an order that the legal practitioner make a specific payment or refrain from doing a specified act in connection with legal practice. Because the Board is primarily an investigative body, rather than a disciplinary body, these powers can only be exercised with the consent of the practitioner concerned. If the practitioner does not consent to the conduct being dealt with by the Board, charges will be laid before the Tribunal.

Where a charge of unsatisfactory conduct is brought before the Tribunal, it may be constituted by only one member. This provides a simpler and more cost effective method for dealing with these more minor matters.

Section 74 of the Act provides that if the Board is of the opinion that the subject matter of a complaint is capable of resolution by conciliation it may attempt to resolve the matter by conciliation. Conciliation has been given a higher profile by making it the subject of a separate provision (new section 77B). The confidentiality of the conciliation proceedings is also protected.

Concerns have been raised about legal practitioners who continue to practice pending the outcome of outstanding criminal charges or disciplinary proceedings. The Supreme Court (new section 89(2)*(c)*) is given clear power to impose an interim suspension on such a practitioner, where appropriate.

The review of the disciplinary provisions highlighted the need for greater co-operation and communication between all bodies concerned with the disciplinary process. New section 14B requires the Law Society to report matters to the Board which suggest that there may be grounds for disciplinary action. New section 73A provides for an agreement to be entered into between the Board and the Law Society for the exchange of information. The Board has suggested that it should be able to pass information to the Society where it appears that a practitioner may be experiencing psychological or personal problems which may lead to professional difficulties. Where the Law Society is alerted to the fact that a practitioner needs help the Law Society will be able to take steps to assist the practitioner before he or she gets into real difficulties.

On rare occasions the Board becomes aware that a client of a practitioner it is investigating for unprofessional conduct has suffered a loss of which the client is unaware. Because of the confidentiality provisions in section 73 the Board is unable to alert the client. New section 77AA enables the Board to notify persons of a suspected loss.

An amendment to section 73 will eliminate a lot of frustration experienced by persons who are assisting persons who have made a compliant to the Board. The confidentiality provisions are such that the Board is unable to inform, for example, a Member of Parliament inquiring on a constituent's behalf about the progress of an investigation. Under the new provision the Board will now be able to answer Member's inquiries on behalf of their constituents.

Amendments are also made to the provisions relating to inquiries by the Legal Practitioners Disciplinary Tribunal. It is made clear that a charge may be laid before the Tribunal despite the fact the criminal proceedings have been commenced in relation to a matter to which the charge relates. There has been reluctance to lay charges before the Tribunal when criminal proceedings are pending or have commenced. This amendment allows a limitation on the time in which proceedings before the Tribunal may be laid. New section 82(2a) provides that charges must be laid within five years of the conduct the subject of the complaint. It is unsatisfactory for charges not to be laid promptly, both from the practitioner's point of view and for the satisfactory completion of the inquiry. People cannot be expected to remember what happened long ago. Provision is made for the time to be extended if the charge is laid by the Attorney-General or with the consent of the Attorney-General. It is necessary to have some mechanism to extend the time where the misdeeds of a practitioner only come to light at a later date.

The Tribunal has requested that there should be a mechanism to deal with the taxing of bills of costs when allegations of gross overcharging are alleged. This has been done by an amendment to section 42 which will enable the Board to institute proceedings for taxation of costs when ordered to do so by the Tribunal.

At present only the Attorney-General or the Law Society can institute disciplinary proceedings in the Supreme Court. New section 74(1)*(e)* provides that the Board may, on the recommendation of the Tribunal, commence disciplinary proceedings in the Supreme Court. A consequential amendment to section 51 gives the Board a right of audience in the Supreme Court.

I would like to draw Honourable Members attention to new section 21(3a). For some time there has been pressure from the legal profession in the eastern States to regulate the practise of foreign law in Australia. This is seen as somehow providing a peg on which Australian legal practitioners will be given the right to practise in foreign countries. The South Australian Government does not believe that there is the capacity to regulate the practise of foreign law in Australia. Nor does the Government believe that it is necessary. New section 21(3a) makes it clear that a person who only practises foreign law does not have to comply with the provisions of the *Legal Practitioners Act.*

Apart from the two major areas of amendments the bill contains various miscellaneous amendments designed to improve the operation of the Act.

The definition of bank is brought into line with the definition in the *Statutes Amendment (Reference to Banks) Act 1997.*

Section 5(4) and (5) expands on what is trust money. This is similar to the provision in the New South Wales legislation. Another new provision dealing with trust money is new section 33A. The Act at present does not recognise the reality of how firms of solicitors handle trust money. This new section reflects what happens in practice.

Amendments to sections 8, 9 12 and 14 acknowledge a change to the Law Society's Rules. Under the rules there is now a position of President Elect and the President Elect is a member of the Council of the Law Society.

New section 20A is designed to avoid a problem which has arisen in Victoria. There are now several bodies which can impose conditions on practising certificates: the newly created Legal Practitioners Education and Admission Council, the Board, the Tribunal, the Supreme Court and interstate regulatory bodies. There needs to be one central body that can keep track of all the conditions imposed on practising certificates. As the Supreme Court is the body that issues practising certificates it is appropriate that it be designated as that body. Under the *Legal Practitioners (Qualifications) Amendment Bill*, considered earlier in this session, the Supreme Court will be able to delegate this function to the Law Society if it considers that to be appropriate.

Amendments to sections 44, 45 and 48 are designed to provide statutory authority for supervisors and managers to dispose of funds at the conclusion of an appointment.

Finally, clause 30 makes several amendments to section 60. I have already referred to the amendments relating to claims arising out of the fiduciary or professional default of an interstate practitioner. Subsection (4)*(ab)*(i) is amended. This subsection currently provides that a claim can be made on the Fund in relation to a default occurring outside the State in the course of legal work arising from instructions given in South Australia. On reflection this seems to have the wrong emphasis. The more important point seems to be that the instructions were taken (not given) in this State. If instructions are taken in this State it is more likely that the work will be done in this State and should be covered by the Guarantee Fund. Another amendment to the section provides that interest that would have been received by a claimant but for the professional or fiduciary default of a practitioner is included in the amount that can be claimed.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 5—Interpretation

This clause amends various definitions in the principal Act and inserts new definitions and interpretative provisions for the purposes of the proposed national legal practise scheme and the introduction of a second category of conduct against which disciplinary action may be taken under the Act, to be known as "unsatisfactory conduct".

Clause 4: Amendment of s. 8—Officers and employees of the Society

Clause 5: Amendment of s. 9—Council of Society

Clause 6: Amendment of s. 12—Minutes of proceedings

These clauses amend sections 8, 9 and 12 of the principal Act to reflect changes to the Law Society's rules by inserting references to the "President-Elect" of the Society.

Clause 7: Amendment of s. 13—Society's right of audience

This clause is consequential to the proposed introduction of "unsatisfactory conduct" as a second category of conduct liable to disciplinary action under the Act.

Clause 8: Amendment of s. 14—Rules of Society

This clause inserts a reference to the "President-Elect" of the Law Society for the reasons outlined above.

Clause 9: Insertion of Division

This clause inserts a new provision ensuring that the Law Society provides certain information to the Board.

Clause 10: Amendment of s. 16—Issue of practising certificate

This clause is consequential to the proposed national legal practise scheme.

Clause 11: Insertion of s. 20AA

This clause inserts a new section 20AA into the principal Act dealing with endorsement of conditions on practising certificates. Under various proposed amendments different bodies are given authority to impose conditions on a legal practitioner's practising certificate (eg. for disciplinary reasons). This proposed provision then provides a mechanism for recording of these by a single authority (the Supreme Court).

Clause 12: Amendment of s. 21—Entitlement to practise

This clause makes a number of amendments to section 21 of the principal Act, which deals with the entitlement to practise law. Proposed subsection (3a) provides that the practise of foreign law is not (in itself) "practising the profession of the law" within the meaning of the Act. This means that a person may provide advice on foreign law in South Australia without being admitted here and without having a South Australian practising certificate. The remaining amendments proposed clarify what acts will constitute "practising the profession of the law" and make provision for the national legal practise scheme.

Clause 13: Amendment of s. 22—Practising while under suspension, etc.

This clause amends section 22 of the principal Act—

- to make it clear that holding yourself out as a person who is entitled to practice the profession of the law when you in fact have no such entitlement is an offence; and
- to make the wording of paragraph *(b)* consistent with other changes proposed to the disciplinary provisions of the principal Act.

Clause 14: Insertion of Division

This clause inserts a new Division into Part 3 of the principal Act as follows:

DIVISION 3A—PROVISIONS RELATING TO INTERSTATE LEGAL PRACTICE

23A. Interstate legal practitioners to be officers of Court

This clause makes those practitioners practising law here as part of the national legal practise scheme ("interstate legal practitioners") officers of the Supreme Court. South Australian practitioners are officers of the Court by virtue of their admission and enrolment, but a feature of the scheme is that interstate practitioners will not be required to become admitted and enrolled here.

23B. Limitations or conditions on practise under laws of participating States

This clause provides for the application, in this State, of conditions and limitations applying to an interstate legal practitioner under the law of a State in which the practitioner is admitted and under the law of other States participating in the national legal practise scheme ("participating States"). Failure to comply with the section is unprofessional conduct and may therefore be the subject of disciplinary action. If conflicting conditions apply to such a practitioner, the most onerous will prevail.

23C. Additional conditions on practise of interstate legal practitioners

This clause provides for the imposition of conditions, by South Australian authorities, on interstate legal practitioners.

23D. Notification of establishment of office required

This clause provides for the giving of notice by interstate legal practitioners who establish an office in the State. If a practitioner fails to lodge a notice as required, it is an offence, punishable by a fine of $10 000, and the practitioner' entitlement to practise may be suspended until the provision is complied with. The Supreme Court will keep a register of practitioners who have given notice under this provision and this may be inspected by the public.

Clause 15: Insertion of s. 30A

This clause provides that the Division dealing with trust accounts will apply to local legal practitioners, interstate legal practitioners who have established an office here, and persons who would fall into one of those categories but for their failure to renew their practising certificate. The provisions will also apply to local legal practitioners who are practising interstate in some circumstances.

Clause 16: Amendment of s. 31—Disposition of trust money

This clause corrects a minor error in current section 31 and clarifies the wording of subsection (5) of that section.

Clause 17: Insertion of s. 33A

This clause inserts a new provision clarifying the requirements of the Act as they relate to trust money received by firms.

Clause 18: Substitution of ss. 34 and 35

This clause substitutes new sections 34 and 35 into the principal Act which make the wording of those sections consistent with the rest of the Division (as proposed to be amended by the measure) and clarify the meaning of those provisions.

Clause 19: Amendment of s. 37—Confidentiality

A minor amendment is made in this clause to section 37(1) to make the wording consistent with other provisions in the Division. The remaining proposed amendments in this clause are consequential to the national legal practise scheme.

Clause 20: Amendment of s. 38—Regulations

This clause amends the regulation making power that relates to the trust account requirements of the Act so that the wording of that provision includes reference to the keeping of "records" by legal practitioners and therefore matches the wording used in the rest of the Division.

Clause 21: Amendment of s. 42—Costs

This clause amends section 42 to provide that the Board will institute proceedings for the taxation of legal costs if ordered to do so by the Tribunal.

Clause 22: Insertion of s. 43A

This clause provides that Division 9 of Part 3 of the principal Act applies to local legal practitioners and interstate legal practitioners who have established an office in the State.

Clause 23: Amendment of s. 44—Control over trust accounts of legal practitioners

This clause amends section 44 of the principal Act to clarify the powers of a supervisor appointed under that section, to make minor corrections to the section and to make subsection (3) (which specifies who must be given notice of a resolution to appoint a supervisor) match up better with section 45(2) (which deals with the giving of notice where an inspector is appointed).

Clause 24: Amendment of s. 45—Appointment of manager

This clause amends section 45 of the principal Act to make subsection (2) match up better with section 44(3) (as discussed above), to clarify the powers of a manager appointed under that section and to make it clear that the Society may revoke an appointment at any time.

Clause 25: Amendment of s. 48—Remuneration, etc., of persons appointed to exercise powers conferred by this Division

Under section 48 certain amounts may be payable to the Society where a supervisor or manager is appointed under the Division. This clause provides that where a manager is appointed, the manager must give priority to paying those amounts to the Society.

Clause 26: Amendment of s. 51—Right of audience

This clause provides a right of audience before any court or tribunal in the State for a legal practitioner employed by the Board.

Clause 27: Insertion of ss. 52AA and 52AAB

This clause inserts new provisions setting out the requirements in relation to professional indemnity insurance for interstate legal practitioners practising in this State. Non-compliance with these provisions is an offence punishable by a fine of $10 000.

Clause 28: Amendment of s. 53—Duty to deposit trust money in combined trust account

This clause is consequential to the amendment proposed in clause 55.

Clause 29: Amendment of s. 57—Guarantee fund

This clause provides for—

- the payment into the Guarantee fund of a prescribed proportion of the fees paid by interstate practitioners on giving notice of the establishment of an office in this State;
- the payment out of the Guarantee Fund of the Society's costs in appointing a legal practitioner to appear on its behalf in an

application for admission and the costs of proceedings for the taxation of legal costs instituted by the Board.

Clause 30: Amendment of s. 60—Claims

This clause makes some minor consequential amendments to section 60 of the principal Act and provides that—

- a claim against the Guarantee fund can only be made in relation to conduct by an interstate legal practitioner in circumstances provided for by an agreement or arrangement under approved by the Attorney-General under proposed section 95AA;
- a claimant's "actual pecuniary loss" will include interest that the claimant would otherwise have received at a rate not exceeding the prescribed rate.

Clause 31: Insertion of s. 60A

This clause inserts a new section 60A into the principal Act providing that a person's personal representative is entitled to make a claim under this Part on behalf of the person or the person's estate.

Clause 32: Amendment of s. 62—Power to require evidence

Clause 33: Amendment of s. 63—Establishment of validity of claims

These clauses are consequential to the amendment proposed in clause 55.

Clause 34: Amendment of s. 73—Confidentiality

This clause amends section 73 of the principal Act (which sets out the confidentiality requirements in relation to the Board) to allow disclosure in for the purposes of the national legal practise scheme and to make it clear that the confidentiality requirements do not prevent disclosure to a complainant or person acting on behalf of a complainant.

Clause 35: Insertion of s. 73A

This clause provides for the Board and the Council of the Law Society to enter into agreements regarding the exchange of information relating to legal practitioners. Such an agreement must be in writing and approved by the Attorney-General.

Clause 36: Insertion of heading

This clause inserts a new heading into Part 6 of the principal Act.

Clause 37: Amendment of s. 74—Functions of Board

This clause substitutes a new subsection (1) into section 74 of the principal Act to ensure that section reflects other proposed amendments relating to the functions of the Board.

Proposed new subsection (3) would make it clear that the Board may exercise any of its functions in relation to a former legal practitioner.

Clause 38: Amendment of s. 75—Power of delegation

This clause amends section 75 of the principal Act to clarify what functions of the Board cannot be delegated.

Clause 39: Substitution of heading

This clause substitutes a new heading in Part 6 of the principal Act.

Clause 40: Amendment of s. 76—Investigations by Board

This clause amends section 76 of the principal Act to include references to "former" legal practitioners and to the new category of "unsatisfactory conduct".

Clause 41: Insertion of heading

This clause inserts a new heading in Part 6 of the principal Act.

Clause 42: Amendment of s. 77—Report on investigation

Section 77 is amended as follows:

- Subsection (1) is replaced to include a reference to a "former legal practitioner" and to improve the wording of that subsection.
- Subsection (2), which currently provides that where a matter is successfully resolved by conciliation the Board need not report on the matter under subsection (1), is deleted to reflect the public interest involved in disciplinary proceedings under the Act. Successful conciliation of a matter (ie. the resolution of a particular dispute between a legal practitioner and a complainant) does not prevent disciplinary action being taken against a practitioner in the public interest.
- Subsection (4) is amended to include a reference to a "former legal practitioner".

Clause 43: Insertion of ss. 77AA and 77AB

Proposed section 77AA provides that if, in the course or in consequence of an investigation, the Board has reason to believe that a person has suffered loss as a result of unprofessional or unsatisfactory conduct, the Board may notify the person.

Proposed section 77AB provides that if, after conducting an investigation, the Board is satisfied that there is evidence of unprofessional or unsatisfactory conduct by a legal practitioner but the misconduct in question was relatively minor and can be adequately dealt with by the exercise of a power under this provision, the Board may, with the consent of the practitioner, decline to lay charges before the Tribunal and instead exercise such a power. The powers available under this proposed provision are—

- reprimand of the practitioner;
- endorsement of conditions on the practitioner's practising certificate relating to the practitioner's legal practice or requiring the completion of further education or training, or the receipt of counselling, of a specified type;
- the making of an order that the legal practitioner make a specified payment or do or refrain from doing a specified act in connection with legal practice.

The Board is empowered to take into account any previous finding of unprofessional or unsatisfactory conduct relating to the practitioner in deciding whether to exercise a power under this section.

A condition endorsed on a practising certificate under this section may be varied or revoked at any time by the Tribunal on application by the legal practitioner.

An order under the provision providing for the payment of a monetary sum by a legal practitioner is to be accepted in legal proceedings, in the absence of proof to the contrary, as proof of such a debt.

Contravention of an order under the proposed provision is itself unprofessional conduct.

Clause 44: Substitution of heading

This clause substitutes a new heading in Part 6 of the principal Act.

Clause 45: Insertion of Subdivision

This clause inserts a new subdivision dealing with conciliation of complaints by the Board. The provision provides that nothing said or done in the course of a conciliation can be given in evidence in proceedings (other than in criminal proceedings), and a person involved in the conciliation is disqualified from investigating or further investigating conduct to which the complaint relates and from otherwise dealing with the complaint.

An agreement reached following conciliation will be recorded in writing and signed and a copy of the agreement given to each of the parties.

An apparently genuine document purporting to be an such an agreement and providing for payment of a monetary sum will be accepted in legal proceedings, in the absence of proof to the contrary, as proof of such a debt.

Contravention of or non-compliance with an agreement by a legal practitioner is itself unprofessional conduct.

The proposed provision also makes it clear that conciliation does not prevent investigation or further investigation or the laying of a charge in relation to conduct to which the complaint relates.

Clause 46: Amendment of s. 80—Constitution and proceedings of Tribunal

This clause amends section 80 to provide that a single member of the Tribunal may hear charges of unsatisfactory conduct.

Clause 47: Amendment of s. 82—Inquiries

Section 82 of the principal Act is proposed to be amended—

- to insert references to unsatisfactory conduct;
- to provide a five year time limit on the laying of charges before the Tribunal (unless the Attorney-General consents to the laying of the charge));
- to provide that charges may be laid even though criminal proceedings are pending;
- to make amendments to the powers of the Tribunal consequential to the national legal practise scheme, and to match up those powers with the new powers given to the Board;
- to provide for a finding of unsatisfactory conduct where unprofessional conduct is charged in certain circumstances.

Clause 48: Amendment of s. 84—Powers of Tribunal

This clause amends section 84 to make it clear that the power to receive in evidence transcripts of other proceedings includes power to receive exhibits referred to in such transcripts.

Clause 49: Amendment of s. 89—Proceedings before Supreme Court

This clause amends section 89 of the principal Act as follows:

- to allow the Board to institute proceedings in the Supreme Court under subsection (1) and subsection (6) (without affecting the power of the Attorney-general and the Society to bring such proceedings);
- to make amendments to the powers of the Supreme Court consequential to the national legal practise scheme, and to match up those powers with the new powers given to the Board and the Tribunal;

· subsection (7) is deleted as it is proposed that a new provision be inserted dealing with interim suspension of a legal practitioner (see clause 50).

Clause 50: Insertion of s. 89A

This clause provides that the Supreme Court may order the interim suspension of a legal practitioner if disciplinary proceedings have been instituted or the legal practitioner has been charged with or convicted of a criminal offence and the Court is satisfied that the circumstances are such as to justify invoking the provision.

Clause 51: Insertion of Division

This clause inserts a new division in Part 6 of the principal Act dealing with the national legal practise scheme as follows:

DIVISION 6A—PROVISIONS RELATING TO INTERSTATE LEGAL PRACTICE

90AA. Conduct of local legal practitioners outside State

The disciplinary provisions of the Act are to apply to conduct by a local legal practitioner in a participating State or elsewhere outside this State.

90AB. Conduct not to be the subject of separate proceedings

If disciplinary proceedings in relation to conduct have been finally determined in a participating State, no action is to be taken or continued under this Part in relation to that conduct (other than action that may be taken under section 89(6)).

90AC. Referral or request for investigation of matter to regulatory authority in participating State

This provision allows the referral of a complaint or an investigation to a participating State, where appropriate, to be dealt with according to the law of that State. After referral of a complaint, no further action (other than action required to comply with section 90AE) may be taken by any regulatory authority in this State in relation to the subject-matter of the referral.

90AD. Dealing with matter following referral or request by regulatory authority in participating State

This provision provides that if a regulatory authority in a participating State refers a complaint or investigation to a regulatory authority in this State the conduct of the practitioner in question may be investigated by the regulatory authority in this State and, following such investigation, a charge may be laid and disciplinary proceedings may be brought against the practitioner, whether or not the conduct investigated allegedly occurred in or outside this State.

90AE. Furnishing information

This provision provides for the furnishing of information by a regulatory authority in this State when reasonably required by a regulatory authority in a participating State.

90AF. Local legal practitioners are subject to interstate regulatory authorities

A local legal practitioner practising in this State must comply with any condition imposed by a regulatory authority in a participating State as a result of disciplinary action. Contravention of or non-compliance with this section is unprofessional conduct.

An appropriate regulatory authority in a participating State to which a local legal practitioner is subject in that State may suspend, cancel, vary the conditions of or impose conditions or further conditions on, or order the suspension, cancellation, variation of the conditions of or imposition of conditions or further conditions on, the local legal practitioner's practising certificate as a result of disciplinary action against the practitioner.

An appropriate regulatory authority in a participating State may order that the name of the local legal practitioner be removed from the roll of practitioners in this State (in which case the Supreme Court will remove the practitioner's name from the roll).

Clause 52: Amendment of s. 95—Application of certain revenues

This clause amends section 95 to include a reference to the fees to be paid by interstate practitioners on giving notice of the establishment of an office in this State.

Clause 53: Insertion of s. 95AA

This clause provides for the making of agreements or arrangements with regulatory authorities in other States for the purposes of the national legal practise scheme. Such agreements or arrangements are to be approved by the Attorney-General.

Clause 54: Amendment of s. 95C—Self-incrimination and legal professional privilege

This clause amends section 95C to correct a reference in the section.

Clause 55: Insertion of s. 95D

This clause inserts a new provision dealing generally with the issue of service of notices and other documents under the principal Act.

Clause 56: Transitional

This clause-

· preserves conditions applying to a legal practitioner by virtue of an undertaking entered into by the practitioner and accepted by the Tribunal under section 82 of the principal Act or by virtue of an order of the Supreme Court under section 89 of the principal Act;

· provides that the definition of "actual pecuniary loss" proposed to be inserted in section 60 of the principal Act (which deals with claims against the Guarantee Fund) will apply in relation to claims lodged after the commencement of the clause.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

CRIMES AT SEA BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to give effect to a cooperative scheme for dealing with crimes at sea; and for other purposes. Read a first time.

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

That this Bill be now read a second time.

I seek leave to have the second reading explanation and the detailed explanation of clauses inserted in *Hansard* without my reading them.

Leave granted.

The Bill is part of a scheme which will simplify the application of the criminal law in waters surrounding Australia. The scheme was developed by the Special Committee of Solicitors-General and endorsed by the Standing Committee of Attorneys-General.

Jurisdiction over crimes committed at sea was, until the early 1980s, an obscure area of law. Beginning in 1979 complementary Commonwealth and State legislation was enacted designed to apportion responsibility for crimes committed in offshore areas between the Commonwealth and States. The criminal laws of the State were extended to crimes committed at sea with which the State is connected in one of a number of specified ways. The South Australian statute is the *Crimes (Offences at Sea) Act 1980*.

The 1979 scheme presents several difficulties. The legislation of the Commonwealth, the States and the Northern Territory takes differing approaches to the issue. Within individual Acts are gaps and differences which are not found in other Acts. This adds an element of complexity to what is itself a relatively complex scheme. The imposition of State criminal law upon conduct by reference to the destination of the vessel and the State in which the vessel was registered has proved awkward. The scheme contemplates the possibility that a State authority investigating a crime at sea that was an offence against the law of another State would be bound to follow the investigative procedures of that other State.

The existing state of the law is confusing and difficult to comprehend. It is in this context that the Solicitors-General proposed that a clearer and simpler scheme should be devised.

Under the scheme agreed to by the Standing Committee of Attorneys-General the Commonwealth and the States will enact Acts containing an identical schedule that constitutes the scheme for the extraterritorial application of State criminal laws in the sea surrounding Australia (the adjacent area). The adjacent area extends 200 nautical miles from the baseline of the State or to the outer limit of the continental shelf (whichever is the greatest distance).

The criminal law of the State is to apply of its own force to a distance of 12 nautical miles from the baseline of the State. Beyond 12 nautical miles the criminal law of the State is applied with the force of a Commonwealth law. The boundaries and baselines of the States and the boundaries to the adjacent areas are described in the map and descriptive material contained in part 6 of the schedule. The scheme does not apply to State and Commonwealth laws excluded by regulation from the ambit of the scheme. This is to cater for presently operating schemes relating to subjects such as fisheries.

The authority that is investigating an offence investigates it according to its own procedure. For example, Victorian police investigating an offence that under the scheme is an offence under South Australian law will investigate it according to Victorian

procedure. Where a State offence and a Commonwealth offence operating of its own force are being investigated together the investigating authority will, as at present, have to follows the procedural requirements which are the more stringent.

The Commonwealth Act will apply the criminal law of the Jervis Bay Territory to certain criminal acts which occur outside the adjacent area. Jervis Bay Territory law will apply on Australian ships, to Australian citizens on foreign ships who are not members of the crew and on a foreign ship that first lands in Australia after the commission of an offence. The Commonwealth Act will also make special provision for the application of criminal laws in the Australian-Indonesian Zone of Co-operation.

Clause 7 of the schedule provides that the Commonwealth Attorney-General must consent to a prosecution of an offence committed on a foreign ship that is registered in a foreign country where the offence could be prosecuted in the country of registration. This requirement is necessary to ensure that any prosecution does not involve a breach of Australia's international obligations. Before granting approval the Commonwealth Attorney-General must be satisfied that the government of the foreign country consented to the prosecution in Australia.

Under the scheme Commonwealth proceedings will be run according to the law of the Commonwealth and State proceedings will be run according to the law in which the proceedings were commenced. In the example given above the South Australian offence would be tried in a Victorian court according to Victorian law.

Responsibility for the administration and enforcement of the law relating to crimes at sea is to be set out in an intergovernmental agreement. The agreement will also empower State authorities to perform functions and exercise powers in the investigation of offences as provided for in the legislation. This is provided for in clause 3 of the preamble and Part 3 of the schedule.

The agreement will provide that the arrival State, that is the State in which an Australian ship arrives after an offence has been committee, has primary responsibility for investigating and prosecuting an offence. In general terms a State will have primary responsibility for investigating and prosecuting crimes committed in its adjacent waters out to the 200 nautical mile limit. The agreement will provide that where more than one jurisdiction is empowered to prosecute offences those jurisdictions should consult to determine the jurisdiction most convenient for prosecution. It will also provide that jurisdictions should, where practicable, provide assistance to one another in the investigation of offences arising under the scheme.

The intergovernmental agreement will be entered into by Attorneys-General once the legislation is enacted in all jurisdictions. Clause 6 requires the Minister to have the inter governmental agreement published in the *Gazette*.

The South Australia Police rarely encounter crimes at sea (apart from *Harbors and Navigation Act* type of offences). When they do encounter crimes at sea they are faced with logistical problems and legal uncertainties. The policing of offences at sea will continue to be difficult operationally and logistically but this measure will eliminate the legal uncertainties.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Definitions

This clause defines certain terms used in the measure.

Clause 4: Ratification of cooperative scheme

This clause ratifies the scheme set out in the schedule.

Clause 5: Classification of offences

This clause provides a uniform basis for the classification of offences under the scheme.

Clause 6: Publication of intergovernmental agreement

The intergovernmental agreement (and any amendments) must be published in the *Gazette*.

Clause 7: Regulations

This clause provides for the making of regulations for carrying out, or giving effect to, the Act.

Clause 8: Repeal of Crimes (Offences at Sea) Act 1980

This clause repeals the current *Crimes (Offences at Sea) Act*.

SCHEDULE

The Cooperative Scheme

The details of the cooperative scheme are set out in the schedule.

Part 1 of the schedule defines various terms used in the cooperative scheme.

Part 2 of the schedule provides for the application of the substantive criminal laws of the State in the adjacent area (defined in Part 6 of the schedule). The laws of criminal investigation, procedure and evidence will apply as follows:

- the law of the Commonwealth applies to investigations, procedures and acts (other than judicial proceedings) by authorities of the Commonwealth;
- the law of a State applies to investigations, procedures and acts (other than judicial proceedings) by authorities of the State operating within the area of administrative responsibility for the relevant State;
- in a Commonwealth judicial proceeding the law of the Commonwealth applies and in a State judicial proceeding the law of the State in which the proceeding was commenced applies (subject to the Constitution).

This Part also provides an evidentiary presumption in relation to the location of an offence (ie. whether it occurred in the adjacent area, inner adjacent area, or outer adjacent area for a particular State).

Part 3 deals with the intergovernmental agreement. Basically this provides for the making of an agreement providing for the division of responsibility for administering and enforcing the law relating to maritime offences. A charge of a maritime offence must not be brought in a court contrary to the intergovernmental agreement. If a charge is brought in contravention of the agreement, the court will, on application by the Commonwealth Attorney-General or a participating State Minister, permanently stay the proceedings. The court is not, however, obliged to inquire into compliance with the agreement and non-compliance does not affect its jurisdiction.

Part 4 of the schedule—

- outlines circumstances (involving foreign ships) in which the written consent of the Commonwealth Attorney-General is required before the prosecution of a maritime offence;
- provides that the scheme does not exclude the extra-territorial operation of State law to the extent that such law is capable of operating extra-territorially consistently with the scheme;
- provides that the regulations may exclude State and Commonwealth laws from the scheme;
- provides also that the scheme does not apply to the Australia-Indonesia Zone of Cooperation (which is defined under Commonwealth law).

Part 5 provides that the Commonwealth *Acts Interpretation Act 1901* applies to the scheme and provides for the making of regulations for the purposes of the scheme.

Part 6 of the schedule defines the adjacent areas.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Acts Interpretation Act 1915, the Criminal Law Consolidation Act 1935, the Environment, Resources and Development Court Act 1993, the Evidence (Affidavits) Act 1928, the Land Acquisition Act 1969, the Oaths Act 1936, the Partnerships Act 1891, the Police (Complaints and Disciplinary Proceedings) Act 1985, the Public Trustee Act 1995, the State Records Act 1997, the Strata Titles Act 1988 and the Wills Act 1936. Read a first time.

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

That this Bill be now read a second time.

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

Leave granted.

This Bill contains some minor uncontroversial amendments to a number of pieces of legislation administered by the Attorney General, or legislation affecting areas within his portfolio.

Acts Interpretation Act 1915

Section 14C of the *Acts Interpretation Act* 1915 allows powers under an Act which is not yet in operation to be exercised if it is expedient to do so. The section is designed to enable matters to be undertaken in preparation for the commencement of the Act. However, it is not clear whether section 14C operates to validate

actions taken by persons who have, themselves, been appointed by virtue of section 14C. Clause 4 amends section 14C to make it clear that a person appointed into a statutory position that will become effective on the day the Act comes into operation, can validly exercise powers in preparation for the Act coming into operation, but the acts will not have practical effect until the Act commences. Clause 2 of the Bill makes the proposed amendment retrospective to 10 March, 1988, which is the day on which the current section 14C came into operation. The amendments will be retrospective, on the advice of the Crown Solicitor's Office, to rectify any problems that may have occurred in the past 10 years.

Criminal Law Consolidation Act 1935

Sections 348 and 354A of the *Criminal Law Consolidation Act* 1935 are designed to provide that appeals against forfeiture orders and appeals against sentences for the same offence can be heard together. When the *Criminal Assets Confiscation Act* replaced the *Crimes (Confiscation of Profits) Act* it became unclear whether an appeal against a forfeiture order and an appeal against a sentence for the same offence could be heard together in a criminal appeal because appeals against forfeiture under the *Criminal Assets Confiscation Act* are conducted as civil proceedings. Clause 5 will delete the references to the *Crimes (Confiscation of Profits) Act* in section 348, and Clause 7 will ensure that sections 348 and 354A will operate as designed.

Clause 6 of the Bill amends section 353(5) of the *Criminal Law Consolidation Act*. Section 353(4) of the *Criminal Law Consolidation Act* allows the court to quash a sentence passed at trial and to substitute a sentence which it thinks is warranted in law. However subsection (5) provides that the court can not increase the severity of the sentence except on an appeal by the Director of Public Prosecutions. The Chief Justice is concerned that subsection (5) prevents the court from increasing the non-parole period while reducing a head sentence. The proposed amendment will ensure that the court can increase the non-parole period when reducing the head sentence.

Environment Resources and Development Court Act 1993

Currently, all hearing fees owed to the Environment, Resources, and Development Court (usually in the vicinity of a few hundred dollars each) must be proven in the small claims jurisdiction of the Magistrates Court before steps can be taken to enforce payment of the sum. In contrast, the Supreme and District Courts have the power to make orders *ex parte* for the payment of outstanding fees and therefore, they avoid the process of issuing a summons and proving the debt. Given that the fees are prescribed by Regulations, and therefore there is no discretion in the order for fee payment, natural justice issues do not arise. Clause 8 will amend section 45 of the Act to allow the Registrar to issue a certificate for the fees at least 14 days after a letter demanding payment has been issued, and the amount remains unpaid. The certificate may then be lodged with the District Court, and be enforced as if it were an order of the District Court.

Land Acquisition Act 1969

Part 4A of the *Land Acquisition Act* establishes the Rehousing Committee. The Committee was established to assist residents served with notices from a public authority informing them of the authority's intention to acquire their place of residence. However, in practice, the Committee has not been well used by members of the public. In fact, since 1989 the Committee has only assisted seven people to re-house. Therefore, the Government proposes to abolish the Committee. This does not mean that the assistance intended to be provided by the Committee would no longer be available. If rehousing assistance is required the acquiring authority could establish an informal procedure to assist an aggrieved person to be rehoused. Clause 10 will abolish the Rehousing Committee.

Oaths Act 1936

The *Oaths Act 1936* allows the Governor, by proclamation, to appoint post masters to take declarations and attest the execution of the instruments. There are currently no proclaimed post pasters in South Australia. As a result, Australia Post is experiencing problems with people attending post offices expecting to have their statutory declarations attested, only to be advised that no suitably authorised person is available. The creation of the office of proclaimed post master occurred at the beginning of the century to overcome the shortage of people authorised to attest statutory declarations, particularly in rural areas. This problem no longer exists, so clauses 13-16 will delete all references to 'proclaimed post master' from the *Oaths Act*. A consequential amendment will also be made to the *Evidence (Affidavits) Act 1928* by clause 9 to delete the reference to proclaimed postmaster in section 2A of that Act.

When the new Cabinet structure was brought into effect, the ten Ministers, who had been sworn in as members of the Executive Council, ceased to be *ex officio* members of the Executive Council, and they had to be reappointed to the Executive Council. This meant that they were required to take the oath of allegiance, the official oath, and the oath of fidelity again. Clause 11 will amend section 6 to provide that a member of the Executive Council will not need to take the oath of allegiance or the oath of fidelity more than once during the life of a Parliament. However, where there is a change in portfolios, the Minister will still be required to take an new official oath. Similarly clause 12 will amend section 6A of the *Oaths Act* to provide that a Minister who is not a member of Executive Council does not need to take the oath of allegiance more than once during the life of a Parliament.

Partnership Act 1891

The *Partnership Act 1891*, amongst other things, allows South Australia to recognise limited partnerships created in another State, Territory or country. Section 62(3)*(b)* of the *Partnership Act* provides that, before the Governor can declare a law to be a corresponding law, South Australia's *Partnership Act* must be recognised in that State or Territory. New South Wales, Tasmania, Victoria, and Queensland have adopted a similar provision in their *Partnership Act*. Consequently, South Australia cannot prescribe a law of New South Wales, Tasmania, Victoria, or Queensland to be a corresponding law until the respective States have declared South Australia's *Partnership Act* to be a corresponding law, yet they are unable to do this until South Australia has recognised their laws. The amendment in clause 17 will overcome this anomaly.

Police (Complaints and Disciplinary Proceedings) Act 1985

Section 37 of the *Police (Complaints and Disciplinary Proceedings) Act* allows the Governor to appoint a magistrate to constitute the Police Disciplinary Tribunal. One magistrate can also be appointed as a deputy. The deputy only acts when the magistrate is absent or is unable to act in the circumstance. This can cause problems where both the magistrate and the deputy are absent or unable to act in a hearing. Clause 18 amends the Act to allow the Governor to appoint a pool of magistrates who may act when the magistrate is absent or unable to Act. The Chief Magistrate be responsible for directing a deputy to act.

Public Trustee Act 1995

Under the *Public Trustee Act*, the Public Trustee may establish one or more common funds for the purpose of investing money from estates under the Public Trustee's control, or for investing money on behalf of classes of persons approved by the Minister. The Public Trustee may withdraw commissions and fees from common funds established with money from an estate. However, there is no power to withdraw commission, fees and expenses from common funds established with money invested on behalf of classes of persons approved by the Minister. Clause 19 allows the Public Trustee to deduct fees, commission and expenses from money deposited with the Public Trustee for investment purposes.

State Records Act 1997

The *State Records Act 1997* provides for the delivery of official records into the custody of State Records for preservation and management. Section 19(6) provides that this does not apply to court records, except where the Governor directs that specified records be delivered into the custody of State Records, because he or she is satisfied that it is advisable for the proper preservation of the records. Currently, the Governor is not obliged to consider submissions from the head of the relevant court before ordering that the records be delivered into the custody of State Records. Clause 20 will require the Governor to consider submissions from the head of the relevant court, and weigh these arguments against the arguments advanced by the Manager of State Records in relation to the preservation of significant records, before making a direction under subsection (6).

Strata Titles Act 1988

Section 36H(1)*(b)* provides that an agent must lodge an audited statement with a 'community corporation'. The reference to 'community corporation' should read 'strata corporation'. This drafting error occurred when the Strata Titles Act was amended in consequence of the passage of the *Community Titles Act*. This is a simple drafting error which will be rectified in clause 21.

Wills Act 1936

Prior to 1994, section 12(2) of the *Wills Act* provided that a document which had not been executed with the formalities required by the Act would only be entered to probate if the applicant proved, beyond reasonable doubt, that the deceased intended the document, which purports to embody his or her testamentary intentions, to constitute his or her will. In 1994 the section was amended to

provide, amongst other things, that the document had to express the testamentary intentions of the testators. The *Hansard* debate in relation to the 1994 amendments shows that the amendment was not intended to remove the requirement that the Court be satisfied that the deceased intended the document to be his or her will. However, it is open to argument that it is now unnecessary to prove that the deceased intended the document to be her or his will. Unless an applicant is required to prove that the deceased intended the paper to constitute his or her will, it is difficult to determine if mere scrawlings are accurate and considered testamentary intentions of the deceased, or an incomplete or ill considered list of thoughts which the testator had when considering what should be in his or her will. Clause 22 will amend section 12(2) to make it clear that the applicant must prove that the deceased intended the document to constitute his or her will. It will also amend subsection (3) to make it clear that a document will not be entered to probate where the deceased expressed, through words or conduct, a clear intention to revoke that document.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that the Bill (except for clause 4) will come into operation on a day to be fixed by proclamation. Subclause (2) provides that clause 4 of the Bill will be taken to have come into operation on 10 March 1988, indicating that clause 4 has retrospective as well as prospective effect.

Clause 3: Interpretation

This clause provides that 'the principal Act' means the Act referred to in the heading to the Part in which the reference occurs.

PART 2

AMENDMENT OF ACTS INTERPRETATION ACT 1915

Clause 4: Amendment of s. 14C—Exercise of powers conferred by a provision of an Act or statutory instrument before the provision comes into operation

This clause provides that a person appointed to a position pursuant to section 14C(1) of the *Acts Interpretation Act 1915* may also exercise powers under an Act which is not yet in operation, though those powers do not take effect until the relevant provision of the Act comes into operation. The clause will enable matters to be undertaken in preparation for the commencement of an Act. This clause has retrospective effect to 10 March 1988 as well as prospective effect.

PART 3

AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935

Clause 5: Amendment of s. 348—Interpretation

This clause replaces references in the interpretation section of Part 11 of the *Criminal Law Consolidation Act 1935* to the *Crimes (Confiscation of Profits) Act 1986* (now repealed) with corresponding provisions in the *Criminal Assets Confiscation Act 1996*.

Clause 6: Amendment of s. 353—Determination of appeals in ordinary cases

This clause replaces section 353(5) of the *Criminal law Consolidation Act 1935* with a subsection which provides that, in an appeal against sentence by a convicted person, while the Full Court is unable to increase the severity of a sentence, it may, where it passes a shorter sentence under section 353(4) of that Act, extend the non-parole period.

Clause 7: Amendment of s. 354A—Right of appeal against ancillary orders

This clause amends section 354A of the *Criminal Law Consolidation Act 1935*, providing that an appeal against an ancillary order and an appeal against sentence may be heard together, even if the ancillary order relates to civil proceedings.

PART 4

AMENDMENT OF ENVIRONMENT, RESOURCES AND DEVELOPMENT COURT ACT 1993

Clause 8: Amendment of section 45—Court fees

This clause adds two subsections to section 45 of the *Environment, Resources and Development Court Act 1993*, providing for a means of recovering outstanding hearing fees. The new subsections provide that if fees remain outstanding after the date specified by a registrar in a letter of demand, the registrar may lodge a certificate for the fees with the District Court and the Registrar of the District Court must register it, whereupon it is regarded as a judgment or order of the District Court.

PART 5

AMENDMENT OF EVIDENCE (AFFIDAVITS) ACT 1928

Clause 9: Substitution of s. 2A

This clause removes references to proclaimed postmaster from the *Evidence (Affidavits) Act 1928*. This amendment is consequential on the amendments made by clauses 13 to 16 to the *Oaths Act 1936*.

PART 6

AMENDMENT OF LAND ACQUISITION ACT 1969

Clause 10: Repeal of Part 4A

This clause repeals Part 4A of the *Land Acquisition Act 1969* with the effect of abolishing the Re-Housing Committee.

PART 7

AMENDMENT OF OATHS ACT 1936

Clause 11: Amendment of s. 6—Oaths to be taken by members of the Executive Council

This clause adds subsection (3) to section 6 of the *Oaths Act 1936*. Subsection (3) provides that a member of the Executive Council does not need to take the oath of allegiance or the oath of fidelity more than once during the life of a Parliament.

Clause 12: Amendment of s. 6A—Oaths to be taken by Ministers who are not members of the Executive Council or by Parliamentary Secretary to Premier

This clause adds subsection (2) to section 6A of the *Oaths Act 1936*. Subsection (2) provides that a Minister who is not a member of Executive Council, and a member of Parliament appointed as Parliamentary Secretary to the Premier, do not need to take the oath of allegiance more than once during the life of a Parliament.

Clauses 13-16

Clauses 13 to 16 remove the references to proclaimed postmaster from the *Oaths Act 1936*.

PART 8

AMENDMENT OF PARTNERSHIP ACT 1891

Clause 17: Amendment of section 62—Liability for limited partnerships formed under corresponding laws

Clause 17 removes, from section 62 of the *Partnership Act 1891*, the requirement that the *Partnership Act 1891* be recognised in a State or Territory before the Governor can declare a law of that State or Territory to be a corresponding law. In enacting this amendment South Australia will (in relation to South Australia vis a vis other States only) break the impasse in which South Australia, Tasmania, Victoria, Queensland and New South Wales could not prescribe one another's laws to be corresponding laws until the other State had first done so.

PART 9

AMENDMENT OF POLICE (COMPLAINTS AND DISCIPLINARY PROCEEDINGS) ACT 1985

Clause 18: Amendment of s. 37—Constitution of Police Disciplinary Tribunal

This clause adds subsection (5) to section 37 of the *Police (Complaints and Disciplinary Proceedings) Act 1985*, providing for the creation of a panel of three or more magistrates appointed by the Governor, from which the Chief Magistrate may select one to act in the place of the deputy magistrate who is unavailable or absent from the Tribunal.

PART 10

AMENDMENT OF PUBLIC TRUSTEE ACT 1995

Clause 19: Amendment of s. 29—Common funds

This clause adds subsection (6a) to section 29 of the *Public Trustee Act 1995* providing for the withdrawal by the Public Trustee, of an amount at credit in the fund on account of a class of persons approved by the Minister for the purpose of recovering commission, fees or expenses fixed by regulations.

PART 11

AMENDMENT OF STATE RECORDS ACT 1997

Clause 20: Amendment of s.19—Mandatory transfer to State Records' custody

This clause replaces section 19(6) of the *State Records Act 1997* with a subsection which provides that the Governor may, if he or she considers it appropriate to do so after considering submissions from the judge or magistrate in charge of the relevant court and the Manager of State Records, direct that specified records of a court be sent to State Records.

PART 12

AMENDMENT OF STRATA TITLES ACT 1988

Clause 21: Amendment of s. 36H—Audit of trust accounts

A drafting error in section 36H(1)*(b)* of the *Strata Titles Act 1988* is rectified by clause 21 of the Bill which replaces 'community corporation' with 'strata corporation'.

PART 13
AMENDMENT OF WILLS ACT 1936

Clause 22: Amendment of s. 12—Validity of will

This clause replaces section 12(2) of the *Wills Act 1936* with a subsection providing that, in cases where a document expresses testamentary intentions but has not been executed with the formalities required by the Act, an applicant must satisfy the court that a deceased person intended to make a will or a codicil to give effect to the testamentary intentions expressed in the relevant document. Subsection (2) requires stronger proof than is currently the case, of the deceased person's intent. The subsection is intended to prevent idle musings or ill-considered lists of ideas with nothing more, to constitute a will or codicil.

This clause also replaces section 12(3) of the Act with a subsection providing that a document will not be admitted to probate as a will or codicil of the deceased person if an applicant can satisfy the court that the person (since deceased) genuinely expressed, by words or conduct, a clear intention to revoke that document. Subsection (3) provides that the expression of intent is not restricted to the written form, and may be by words or conduct. This subsection also requires stronger proof than is currently the case, of the deceased person's intent.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

MFP DEVELOPMENT (WINDING-UP) AMENDMENT BILL

In Committee.

(Continued from 24 March. Page 602.)

Clause 10.

The Hon. K.T. GRIFFIN: The Hon. Mr Elliott indicated his opposition to this clause and we reported progress on the basis that I would endeavour to consider further the issues raised by the honourable member. It must be something about the end of the session, because I am going to be generous and indicate to the Committee—

The Hon. Diana Laidlaw: But you are generous!

The Hon. K.T. GRIFFIN: Sometimes, but not always at the end of the session! I will indicate that the Government will raise no opposition to the amendments in relation to clauses 10 and 11 proposed by the Hon. Mr Elliott. There is just a little bit of uncertainty about it, but, on the basis that we intend to wind up the MFP Development Corporation very quickly (and I am told that will occur within about two months), I cannot see that there will be any difficulty in relation to the two amendments and, in order to facilitate the passage of the Bill, as well as all the other business that we have to do today, I am happy to indicate that that is the Government's position.

The Hon. M.J. ELLIOTT: I hope the Attorney-General can maintain this spirit of cooperation throughout the rest of the day and welcome his support.

Clause negatived.

Clause 11.

The Hon. M.J. ELLIOTT: I move:

Page 2, lines 26 to 28—Leave out this clause and insert new clause as follows:

Repeal of s. 13

11. Section 13 of the principal Act is repealed.

I indicated during my second reading contribution the reasons for this amendment, and I note that both the Government and the Opposition have already said that they will support it so I will not delay the Committee by speaking to it further.

Amendment carried; new clause inserted.

Remaining clauses (12 to 15) and title passed.

Bill read a third time and passed.

BARLEY MARKETING (APPLICATION OF PARTS 4 AND 5) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 609.)

The Hon. J.S.L. DAWKINS: Before speaking on this Bill I should indicate that I have until the past few years been directly involved in growing barley and that barley is still grown on land owned by the family company, of which I am a director. As you, Mr President, would well know, South Australia is the largest producer of barley in Australia and is well known worldwide for the quality of its grain.

This Bill is designed to extend for 12 months the marketing powers of the Australian Barley Board. The name 'Australian Barley Board' is a bit of a misnomer in that it covers only the barley industry in the States of Victoria and South Australia; this Bill is accompanied by complementary legislation in Victoria.

The Bill extends parts 4 and 5 of the Act, which provide the Australian Barley Board with single desk status for the export of barley and oats and the authority to issue licences and permits for the domestic marketing of barley. As I have said, the single desk status relates only to South Australia and Victoria, because the other States are covered by alternative bodies in their jurisdictions.

Parts 4 and 5 are due to expire on 30 June this year but are currently being considered for reform under the national competition policy review in regard to legislative restrictions on competition. The Bill will provide the extension of time needed while the review is properly concluded, and will allow the Australian Barley Board the latitude to assess and adapt to the outcomes of the national competition policy review and to avoid any disruption to the barley and oat markets.

The Australian Barley Board has performed an excellent role for barley producers in South Australia and Victoria for just over 50 years. However, the board has identified the need to examine the transformation of its function and role into an entity that is more suited to the current commercial environment. There are indications that the review is headed in a direction that will allow the requirements of competition policy to be met without endangering either the equity of growers in the Australian Barley Board or the future marketing prospects of barley growers in this State.

I understand that, while this process is still under way, the Minister for Primary Industries (Hon. Rob Kerin) is grateful for the support and assistance of the South Australian Farmers Federation and the Victorian Farmers Federation, along with his Victorian counterpart (Hon. Pat McNamara), the Deputy Premier of Victoria and National Party Leader in that State. This Bill is simply about allowing a 12 month extension to ensure that every chance is provided to allow this important matter to be properly determined. I support the Bill.

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. Some issues were raised during the debate. I will provide some responses and, if anything more is required, we can perhaps deal with those issues during the Committee consideration.

An issue was raised in relation to the New South Wales review of rice marketing. I am advised that it is not correct that the National Competition Council backed off and did not pursue withholding of competition payments to New South Wales. The NCC delayed the withholding of $10 million from New South Wales but did not reverse its decision on the

need for New South Wales compliance with competition policy.

Furthermore, according to NCC statements in its *Assessments of State and Territory Progress With Implementing National Competition Policy and Related Reforms* (30 June 1997), the NCC forbearance regarding the New South Wales Government's action on rice marketing was based on the fact that the New South Wales Government had indicated a preparedness to enter into meaningful discussions with the NCC and that New South Wales rice marketing was one of the first major reviews of legislative restrictions on competition. According to the *Assessments*, the National Competition Council:

> . . . will reassess the New South Wales progress on legislation review matters prior to July 1998 for the purposes of the second part of the first tranche assessment and in future tranche assessments.

The *Assessments* go on to state that the 'legislation review and reform obligations re domestic arrangements for rice marketing for compliance' are an outstanding issue and that payment due in 1998-99 is 'dependent on evidence of compliance for domestic rice marketing arrangements'. The next issue raised was in relation to the Centre for International Economics. The CIE was selected in a competitive tender to conduct the first stage of the review, that is, the public benefits test, based on its demonstrated ability to fulfil the terms of reference. The terms of reference were those required by the national competition policy guidelines. The Centre for International Economics' bid submitted for the review was neither the highest nor the lowest. The CIE was paid a total of $128 904, a cost borne equally by South Australia and Victoria. South Australia's cost therefore was $64 452.

As part of its conduct of the review, the CIE received considerable input from stakeholders through written submissions and direct interviews. The NCC assessment of reviews of legislative restrictions on competition conducted in 1997-98 should be available in June 1998. It is anticipated that this assessment will not threaten competition payments to South Australia.

The third issue related to the Victorian Government's role. The South Australian and Victorian Governments have been equal partners throughout the review process. An amendment to extend for one year parts 4 and 5 of the Barley Marketing Act is going before the Victorian Cabinet as part of an omnibus agricultural Bill on 30 March 1998. This amendment is identical in purpose to that reflected in the South Australian amendment Bill.

The next issue was in relation to the conduct of the review. Contracting an independent consultant was done to maintain compliance with the guidelines for review of legislative restrictions on competition. These guidelines explicitly prohibit individuals with vested interests from participating in the determination of public benefits of legislation. This prohibition applies to members of the industry and to statutory boards affected by the review.

Any review by any State that does not adhere to competition principles, in terms of conducting a review and implementing its recommendations, is subject to loss of competition payments, which I am informed total over $1 billion for South Australia from 1997 to 2000.

The last issue related to the second stage of the review. The purpose of the second stage of the review is to give industry ample opportunity to consider future barley marketing arrangements, given the findings of the consultants in stage 1, and to address any other issues related to the legislation. This stage of the review will involve a working group of barley growers, maltsters, grain traders and stockfeed users. The working group will be making recommendations to the South Australian and Victorian Ministers so that legislation can be introduced into Parliament in the 1998 spring sitting. The change to a corporate structure for the Australian Barley Board and changes in regulations on the marketing of barley is a proposal that will further strengthen the competitiveness of the South Australian barley industry.

This proposal is part of legislation that will be put later in 1998 and is intended to provide barley growers ownership of a commercial entity. The legislation will also provide for a transition period that maintains the competitive strength of the Australian Barley Board and protects its current value. There are several highly important issues to be addressed in this second stage. These include corporate structure of a grower-owned company, basis of distribution of shares to growers and determination of funding requirements and capital structure of the new company. This transition will be driven by industry. Other issues to be addressed in the second stage involve finalising of marketing arrangements for barley and oats.

I hope that that deals with the issues raised by members but, if there are further matters that need to be raised, that can be done in the Committee stage. I thank members for their support of the Bill.

Bill read a second time.

In Committee.

Clause 1.

The Hon. P. HOLLOWAY: Mr Chairman, as you and the Hon. Ian Gilfillan would be aware, because you were both with me this morning, the Grains Council of the Farmers Federation is at this very moment considering these issues. I thank the Attorney for providing the answers to some of the questions that I asked during the second reading debate. I want to make several comments. In relation to the National Competition Council, I do not believe that anyone has voted for that council, or for Graham Samuel. The point also needs to be made that these decisions will inevitably become political. Whether the compensation payments are made by the Federal Government will, in the end result, be determined by the Federal Government and the Federal Treasurer, and we would be kidding ourselves if we thought that ultimately politics will not play some part in all this. I will not pursue those matters further, other than to say that I believe the South Australian Government has been somewhat more intimidated by the National Competition Council and Mr Samuel than I believe it ought to have been.

As I indicated during my second reading speech, it was reported by the Victorian Minister for Primary Industries that the Barley Board would be—I have used the term 'privatised', but perhaps a more correct analysis would be converted into a private company, on 30 September this year. I would like to know whether that has been decided upon. It was certainly the public statement that was reported from the Victorian Minister on ABC radio last week.

The Hon. K.T. GRIFFIN: That has not yet been agreed. It certainly has been discussed but it has not been to Cabinet. It is still part of the proposals that are being considered. I wish to make a couple of observations on competition policy.

I reject the suggestion that South Australia has been intimidated by the National Competition Council and Mr Samuel more than it might otherwise have been. We have vigorously debated a number of the issues relating to competition policy, including the apparent extension of an

exercise of authority by the council, in ways that were not, we believe, agreed by the Council of Australian Governments. So, at each opportunity we want to ensure that the council adheres very much to the rules set down in legislation. It is correct that the National Competition Council was not elected and, to that extent, is not accountable directly. It is, presumably, accountable through the Federal Minister. But there are issues there which we vigorously contest and which will be the subject of continuing contest in the future.

The Hon. P. HOLLOWAY: My only other question relates to the continuation of the single desk for barley exports. Again, Mr Chairman, as you would be aware from the Grains Council conference this morning, the hope was expressed there that the single desk would remain at least until the review of the Wheat Board was completed in several years time. Is the Minister in any position to say whether that will be the case?

The Hon. K.T. GRIFFIN: What the honourable member suggests is a desirable objective, but it is part of the overall proposals for restructuring that are currently being considered.

Clause passed.

Clause 2 and title passed.

Bill read a third time and passed.

INDUSTRIAL AND EMPLOYEE RELATIONS (DISCLOSURE OF INFORMATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 March. Page 551.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for the Bill. One question was raised as to whether the Bill creates new record keeping obligations for employers. I am advised that it does not. Employers are already required by section 102(3) of the Industrial and Employee Relations Act to keep a time and wages record for an employee six years after the date of the last entry made in it. This clearly has application to former as well as current employees.

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

WORKERS REHABILITATION AND COMPENSATION (SELF MANAGED EMPLOYER SCHEME) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 614.)

The Hon. M.J. ELLIOTT: I intend to speak only briefly on this Bill and do not intend to move any amendments. It would be fair to say that I have some reservations about continued expansion of what was initially a trial scheme—the self-managed employer scheme. This legislation seeks to formalise the scheme and, as currently designed, would allow the system to become permanent without any ability to review the scheme if it fails to deliver, and I stress that it should deliver for all interested parties. There is no doubt that employers will not involve themselves unless they feel it delivers for them, but whether it delivers for employees, particularly injured employees, is another question.

I note that the Hon. Nick Xenophon intends to move an amendment to provide for a sunset clause in relation to this scheme and I congratulate him on that. I will support the amendment because it will give us an opportunity to review the working of the system after a couple of years of operation as it expands beyond the initial trial group. As a result, Parliament could allow a larger experiment to take place and keep control of it if it does not perform.

I gave serious consideration to moving amendments to the Act as a whole whilst this Bill was before us, because a number of areas within the workers compensation legislation need to be addressed, because they are not working properly. I will identify those areas of concern to the Democrats, and I hope that the Government will take note of that and seek to address them. If we do not see action from the Government on WorkCover, the next time any workers compensation legislation comes before this place, we will try to amend the principal Act using that as a vehicle.

The first area of concern is rehabilitation and the return to work plans. It is a workers compensation and rehabilitation scheme and involves occupational health and safety, and most people would argue that the order of importance is, first, occupational health and safety, to ensure that a person is not injured; secondly, rehabilitation, to give every chance to rehabilitate people as far as is practicable; and, thirdly, compensation. Compensation is an absolute right, but we must get those other two things right as well. Unfortunately, the focus so far has been very much on the compensation issues and costs associated with them and nowhere near enough on rehabilitation/return to work or occupational health and safety.

It is my view that it is not a matter of spending extra dollars. Quite a deal of money is being spent in the rehabilitation/return to work area but it is not being done well. I have had an enormous number of case studies brought before me and I could have brought them into this place, but I will not be doing that today. There is a general consensus from people working in the workers' compensation area that rehabilitation is not working, that it is becoming overly bureaucratic in its functioning and that it is not delivering good results to injured workers.

There have been particular abuses in relation to people who are concerned about their rehabilitation programs and have sought a review. Unfortunately, the review process, while overall it is moving far more quickly than it used to, and I think the appeals process generally is working extremely well, is not working at all well in the rehabilitation area where it is important that rehabilitation is got right immediately.

People are seeking a review on rehabilitation and the time delays regarding that review have been totally unacceptable. I think that we will have to look at a process when a rehabilitation program is under dispute where it will get urgent priority in terms of assessment as to whether or not the plan is a good one. I think ultimately that that will be one of the real checks and balances in the rehabilitation/return to work scheme—if the injured worker, who knows that what is being done is not going to work, is able to place pressure on through the appeals system.

As I have said, I think there are also problems with the bureaucracy, that it is too busy making people fill in forms rather than looking at genuine outcomes. The outcome appears to be more the form filling than what is happening with the injured workers. As I said before, on the advice that I have received it does not appear that extra money needs to be spent but that it is not being spent properly.

Issues of compensation for medical and travel expenses have also been raised in several judicial determinations as an issue which has not been managed well. To return to rehabilitation quickly, particular concern has been raised about the fact that claims management companies also are vertically integrating. The claims management companies have either set themselves up as rehabilitation providers, have subsidiaries that are rehabilitation providers or form some other direct link, and there is a real danger there that the focus then is on making the money out of the rehabilitation rather than on the outcome of the rehabilitation. I believe that WorkCover should step in and ensure that there is a real separation between claims managers and rehabilitation providers to ensure that the claims manager's only interest is in fact managing the claim and managing the rehabilitation and not having a profit motive in terms of the rehabilitation itself.

There has also been some concern in terms of other forms of vertical integration where claims management has been passed over to lawyers. At one stage (I am not sure if it is still continuing) a legal firm had taken over the claims management virtually entirely. I do not believe that that was at all appropriate. There are still concerns, and in fact only the day before yesterday I had concerns raised with me, about the fact that hospitals have two billing levels: if you go in with an injury you will get one bill but if it happens to be a worker's compensation claim the bill is significantly higher. In fact, I have asked questions—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I didn't say it hasn't been the position—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Okay. It has been for a long time. In fact, I asked questions in this place about that a couple of years ago. It is being done purely as a way of gaining extra revenue for the hospitals, and it is quite unacceptable. It impinges back on the workers' compensation system and indirectly, because it is affecting costs, I think it affects injured workers as well and not just the workers' compensation fees.

I indicated that I will speak only briefly, but I have in the process raised a number of issues within the workers' compensation rehabilitation area that are causing real concern. I have a very clear impression that there is insufficient consultation going on between the Government and the key players, particularly the representatives of workers. That is grossly disappointing when one looks at the one instance where the Government really genuinely allowed consultation to occur—and that was in relation to the appeals process which the UTLC working with the Employers Chamber largely designed—and where we have had our greatest success, a success so great that I am told that people from New South Wales were over here only two weeks ago having a look and have gone back with glowing reports. Also, representatives from workers' compensation interests in British Columbia have been over looking at the appeals system.

That has been a tremendous success, and that is what happened when the Government encouraged people interested in workers and employers to sit down together and work things through. But the Government, unfortunately, has not been consulting on a whole range of these issues that I have raised here today and, frankly, I think that if it did it would be able to fix most of them. Rehabilitation/return to work in particular is an area that we cannot allow to continue working as badly as it is right now. I plead with the Government to address it, otherwise next time we have workers' compensation legislation in this place I will be looking to try to do it myself by way of amendment, but that is not the preferred route: I think it is much better to get the key players to try to sort their way through it. I support the second reading.

Bill read a second time.

In Committee.

Clauses 1 to 5 passed.

New clause 5B.

The Hon. R.R. ROBERTS: I move:

New clause, after clause 5 insert new clause as follows:

Insertion of section 107B

5B. The following section is inserted in the principal Act after section 107A:

Worker's right of access to claims file

107B(1) The Corporation or a delegate of the Corporation must, at the request of a worker—

(a) provide the worker, within 45 days after the date of the request, with copies of all documentary material in the possession of the Corporation or the delegate relevant to a claim made by the worker; and

(b) make available for inspection by the worker (or a representative of the worker) all non-documentary material in the possession of the Corporation or the delegate relevant to a claim made by the worker.

Maximum penalty: $2 000

(2) Non-documentary material is to be made available for inspection—

(a) at a reasonable time and place agreed between the Corporation or delegate and the worker; or

(b) in the absence of agreement—at a public office of the Corporation or delegate nominated by the worker at a time (which must be at least 45 days, but not more than 60 days, after the request is made and during ordinary business hours) nominated by the worker.

(3) However, the Corporation or delegate is not obliged to provide copies of material, or to make material available for inspection by the worker if—

(a) the material is relevant to the investigation of suspected dishonesty in relation to the claim; or

(b) the material is protected by legal professional privilege.

(4) In this section, a delegate of the Corporation includes an exempt employer, a self-managed employer or the claims manager for a group of self managed employers.

I addressed the basis of this amendment during my second reading contribution. I think it is reasonably simple in that, acting on the advice given in the annual report of the South Australian Ombudsman and relying on evidence that he gave before the Legislative Review Committee, and based on historical situations that most members of Parliament would have had with constituents having difficulty accessing information on their files, even from WorkCover as the principal agency, it has been decided that now we are going to self-manage the employees and exempt the employers.

I understand that there is access by the WorkCover Corporation into the files of self-managed agencies and exempt employers, but that is a contractual arrangement between the two parties as principal and contractor. That does not necessarily provide the information that constituents or injured workers need when pursuing their cases in terms of there being some dispute about liability or about the extent of any payments or treatments that may be required as a consequence of an injury in the workplace and a claim for workers' compensation. I do not intend to go over the arguments any more. I put the amendment and I ask members for their support.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. The Government has a very strong view that this proposed provision is not necessary in relation to workers

employed by SMEs. My advice from the WorkCover Corporation is that the SME contract makes it clear that the SME is acting as an agent of the WorkCover Corporation and that the files are the property of WorkCover. The Freedom of Information Act rights are therefore available to workers employed by SMEs. Workers' rights in this regard will not be affected if an employer becomes a self-managed employer. In fact, the SME pilot scheme has been in operation for over three years and workers have on occasions used the Freedom of Information Act to obtain information.

The non-application of the freedom of information legislation to private exempt employers is of course a separate issue, and it ought not to be an issue that is dealt with in the context of the subjects covered by this Bill. In the Government's view it should not be used to expand the scope of the Bill. Whilst it is acknowledged that workers of exempt employers do not have access to the freedom of information legislation, they do have review and repeal rights under the Act and the discovery process that allows access to relevant documents. For workers whose claims are managed by agents or SMEs, this amendment would give a third access to files, namely, the Freedom of Information Act, the review and appeals process and this new process. That would add considerably to the administrative burden on the WorkCover Corporation and its agents.

It also needs to be recognised that this amendment has not been considered by the advisory committee but that the advisory committee agreed unanimously with the provisions in the Bill. I think the honourable member is seeking in a sense to confuse issues between SMEs and exempt employers in relation to the Freedom of Information Act. If the honourable member wants to extend this to exempt employers, he should seek to amend that Act or deal with it in separate other legislation. So, for very good reasons the Government opposes the amendment.

The Hon. R.R. ROBERTS: I do not want to enter into an extrapolated debate about this, but the point is that it has been established that the Employee Ombudsman has not been able to gain access to some information and that it all comes down to the definition of an 'agency'. In my second reading contribution I indicated that I was aware of the contractual arrangements between WorkCover and the self-managed employees whereby WorkCover itself has a contractual arrangement in terms of getting the information. Anyone who has worked in the workers' compensation field knows how difficult it has been for some employees—and we have to remember that most of these people are under stress—

The Hon. M.J. Elliott interjecting:

The Hon. R.R. ROBERTS: Well, most of the time it is exacerbated by their experiences when trying to get their claims processed and when accessing information. Unfortunately, WorkCover has not always had an unblemished record in terms of the provision of information. People who work in the legal area or for trade unions would know better than anyone that sometimes it takes months and months to get this information. My colleague in another place Robyn Geraghty MP, the member for Torrens, was that frustrated on many occasions when trying to access information that she became a great promoter of FOI applications; in fact, experience has shown that it is best to try to elicit all the information. Some WorkCover claimants who made a number of FOI claims through WorkCover to exempt employees received three separate sets of documents which conflicted with one another.

This amendment provides for a streamlined process in terms of the quick gathering of information for injured workers, which in many cases will assist their rehabilitation because their claims will be settled. I add that it is supported by the comments of the South Australian Ombudsman, not only in his annual report but—

The Hon. M.J. Elliott: The Employee Ombudsman?

The Hon. R.R. ROBERTS: No, the South Australian Ombudsman. Members on this side of the Council have in the past been concerned with the privatisation of Government responsibilities and the fact that no regulations are being put into legislation to protect the public interest. This is just one small step in the process. I indicate now that, when we start talking about privatising Government assets in the future, I will seek to ensure that the Ombudsman is included in such legislation, because although the Employee Ombudsman has some powers, the Ombudsman in South Australia is a reviewer. I am concerned that with the privatisation of these public assets nobody is acting as the watchdog to look after the public interest. The public interest has always been protected in the past by the very fact that these instrumentalities are Government agencies and that under the legislation access has always been provided.

This Government is particularly keen to give away the responsibilities and the safeguards that the community has come to expect. There is a continuing tendency to do it on a commercial basis and not to allow public access. In most cases, there is no regulatory problem. The privatisation of railways in England has caused a similar problem. A major report came down in the House of Commons last Wednesday which talked about introducing stronger regulatory powers to ensure that the public interest is protected in terms of track maintenance and public services. That is different from this issue, but the principle is the same. This amendment protects the public interest and allows the Ombudsman to perform more efficiently a function which is his statutory duty, anyway.

The Hon. K.T. GRIFFIN: With respect to the honourable member, he is wrong. What the Ombudsman does is focus upon private exempt employers. He does not talk about SMEs: he talks about private exempt employers. At the end of a portion of his report he makes the following point:

> I recommend that the Government take note of this apparent discrimination and promote such measures—

not necessarily legislative measures—

> as would enable through the corporation a clear, legally enforceable right of access to claims files held by private exempt employers in order to address the problem.

I just draw attention to the fact that the Freedom of Information Act of 1991, which was a former Labor Government piece of legislation, established what is the position at the present time. So, this problem has always been around for the Ombudsman—he is just drawing attention to it for the first time.

It is not as though it is a new issue, or that private exempt employers are a new creature: they have been in the legislation since at least 1986 when the legislation was passed by a previous Labor Government. Exempt employers have been there even under the old workers' compensation scheme. With respect, the honourable member is not right. I understand his point, but in this particular Bill there is no reason at all to move for wide-ranging policy changes in relation to private exempt employers when it deals with SMEs, and it deals with SMEs who are already covered by the freedom of information—

The Hon. R.R. Roberts: It deals with both.

The Hon. K.T. GRIFFIN: It deals with SMEs, and the workers in SMEs already are covered by FOI. So, there is not a problem.

The Hon. M.J. Elliott: Legally?

The Hon. K.T. GRIFFIN: Legally. So, it is already fixed. If members want to deal with the broader policy question, I do not have a problem with our debating that at the appropriate time, but let us not confuse the issue.

The Hon. R.R. ROBERTS: I see that the Hon. Nick Xenophon is present in the Chamber. He has handled many cases of exempt employers and I would be interested to get from him some idea of the history of how easy access has been for lawyers trying to gather information from these people, because I think it would be closer to my assertion than the Attorney-General's.

The Attorney-General made the point that this had not been approved by the advisory committee. It was not approved by the trade unions. What was put before the advisory committee and the trade union was agreed to. When this matter was raised it was discussed with the trade union movement, which unanimously supported the move.

To say that the trade union movement did not agree with something that it did not even consider is a ploy by the Attorney-General to persuade members in this Chamber of his argument. The fact is that when this matter was brought to the attention of principal players involved in the WorkCover area—and I am talking about the trade unions—they supported it. To say that it is not supported, when it was not even considered, is not correct.

The Hon. M.J. ELLIOTT: I pick up one point made by the Attorney-General. He said that, legally, people are entitled under FOI now. What we have is a scheme which, until now, has been a trial scheme. From the Attorney-General's previous remarks, I thought that part of the contracting arrangements guaranteed FOI, but that is not a legal guarantee. If WorkCover—

The Hon. R.R. Roberts interjecting:

The Hon. M.J. ELLIOTT: Yes, back to WorkCover. There are no guarantees, in a legal sense, that that process will continue. We have a guarantee that FOI will apply to documents that are held by WorkCover because that is its statutory role, but that is not true at this stage for SMEs, unless WorkCover does that within some sort of contract arrangement. However, that is not guaranteed by legislation.

The Hon. NICK XENOPHON: I indicate that I will be supporting the amendments moved by the Hon. Ron Roberts. In terms of my practical experience in relation to the access of documents, I indicate to the Committee that, over the years, I have spent an enormous amount of time attempting to get documents from exempt employers, some of whom—

The Hon. K.T. Griffin: You are talking about exempt employers; these are not exempt employers.

The Hon. NICK XENOPHON: The question of exempt employers is incorporated in the amendment, and I will deal with SMEs shortly. I understand the Attorney's concerns that this is something that may not be directly related to the Act in that it applies to SMEs, but it seems to me to be a sensible amendment in that injured workers who work for an exempt employer are clearly disadvantaged in terms of access to documents, and they are clearly disadvantaged in terms of having to incur additional costs and additional delays to their matters.

I have been involved in matters with a number of exempt employers who do not have any real consideration for fair play in terms of dealing with matters and who withhold documents until the very last minute, and that causes enormous prejudice to injured workers. This amendment will clear up an anomaly. It will bring exempt employers within the scheme in terms of the same rules that apply to claims agents. In terms of SMEs, I think that there is a grey area, as pointed out by the Hons Mike Elliott and Ron Roberts and, for that reason, I support the amendment.

An honourable member interjecting:

The Hon. K.T. GRIFFIN: There has been an interjection that exempt employers are referred to in clause 6, but that is already in the Act. The only thing which is different between new subsection (4) and the old one is the addition of the words 'or a self-managed employer'. It is just a matter of drafting. It does not seek in any way to change the rights or relationship in relation to exempt employers.

The Hon. R.R. Roberts: You should read the evidence of the Ombudsman.

The Hon. K.T. GRIFFIN: I will not read the evidence of the Ombudsman.

The Hon. R.R. Roberts: He doesn't agree with you.

The Hon. K.T. GRIFFIN: The Ombudsman himself talks about exempt employers; he does not talk about SMEs. I can see that I do not have the numbers. The Government opposes it; we will see what happens.

The Hon. T.G. ROBERTS: I would hate to see the Attorney-General leave and be defeated by the numbers rather than by the logic of the argument. The principle remains the same in relation to SMEs or exempt employers. There is a tendency—and there was under the old 1972 Act—for self-managed employers who used private insurance companies to fudge figures to ensure that they received a rebate off their insurance premiums for the next 12 months. The DLI had trouble obtaining statistics to put together accurate assessments on the number and type of accidents that occurred on site, whether they were major or minor.

Insurance companies set parameters that forced employers to put up more information so that assessments could be made in terms of paying their premiums for however many years. Self-managed employers will be isolated, and a lot more responsibility will fall on them to gather those statistics and that information and to manage the claims. As I said in my second reading contribution, some will do it correctly and you will not need to chase them for information. They will handle those claims properly; they will do the rehabilitation programs properly; and they will put the employees onto light or full duties properly.

However, other employers will not do so: first, they will use the circumstance to hide and to fudge and make it difficult for employees to gain access to that information; and, secondly, they will make it difficult for lawyers, if engaged, to get that information so that a true picture can be drawn. One can imagine the problems associated with itinerant workers, with self-employed persons managing their own claims and with outsourcing. We are now confronted with a new range of individuals who, in a lot of cases, do not know whom their employers are.

New clause inserted.

Progress reported; Committee to sit again.

CROYDON PRIMARY SCHOOL

Adjourned debate on motion of Hon. Carolyn Pickles:

That this Council—

1. Calls on the Minister for Education, Children's Services and Training to acknowledge criticisms by the Ombudsman that the final

report to the Minister of the Upper West School Cluster Review did not reflect dissenting views, that documents presented to the Minister contained inaccuracies, that the Co-Chairs of the Croydon Primary School signed the final report on misleading advice and that grave doubt exists as to the extent of consideration given to the Croydon minority report;

2. Acknowledges the significant campaign by the Croydon Primary School Council and parents and friends to save the school and advance the educational opportunities of their children; and

3. Condemns the Minister for Education, Children's Services and Training for closing the Croydon Primary School.

(Continued from 18 March. Page 549.)

The Hon. M.J. ELLIOTT: I support this motion. I will speak briefly to it because when I introduced my private member's Bill late last year in relation to school closures I spoke at some length on my concern about the processes involved in the closure of Croydon Primary School. A few developments have occurred since that time which are at least worth putting on the record.

At the time of the closure of Croydon Primary School last year 170 students were attending it. Croydon Primary School was considered as part of a cluster of schools, and a decision was made within the cluster to close two of those schools. One presumes that the experts—or should I say the so-called experts—in the Education Department—would have sat down, done their sums and worked out, 'We will close the school of 170 students; this is where they will all go; and this is what efficiency gains we will gain from that process.'

I would certainly argue that there is some question about whether you get efficiency gains in relation to primary schools of the size of Croydon Primary School, anyway: 170 students is large enough to be working very efficiently. In fact, I think it was one of the largest schools in the cluster, anyway. However, it was chosen to be closed, and presumably the experts felt that those students would disperse to other schools in the cluster and therefore we would gain certain improvements.

What has happened is that more than one-third of the students now attend schools outside the cluster. I am told that 56 of the students have gone to Allenby Gardens; another eight to 10 students now attend North Adelaide Primary School; several attend Woodville Primary School; and several now attend schools near Port Adelaide. Two schools in the cluster have attracted students: Challa Gardens Primary School has about 46 students; and Kilkenny Primary School has gained fewer than 40. Of course, the year 7 class of about 30 students has gone off to high school, thereby accounting for the other students. So, the students have left the cluster. The other schools in the cluster have not been beneficiaries of the closure, other than that they will receive some of the money, as I understand it, from perhaps asset sales and so on later on. However, the money is not following the students because the students have gone elsewhere.

Croydon's Aboriginal education worker has now lost her job as the Government has said that there were not enough Aboriginal students at the new schools to justify a specialised worker in this field. Whilst the Croydon Primary School had a specialised program, which employed this Aboriginal education worker, none of the schools now have enough Aboriginal students to justify that specialised worker. So, the Government got that badly wrong as well.

The department undertook to address the needs of Croydon's Aboriginal students and the community remains concerned that this has not happened. In my discussions with former Croydon Primary School Parent and School Council Co-Chairperson, Klaus Frohlich, it appears that several issues remain outstanding in relation to the school closure. The department said that the money gained from the closure of the school would follow the students; that has not been the case. As I have said, probably half the students left the cluster entirely.

The Ombudsman's report into the school closure review called on the Minister to apologise to the people of the Croydon school council for the way in which they were treated, but this has not occurred. The department promised to address safe access and transport issues for students relocated to new schools. However, I understand that has not happened. I am told that some families are now having to pay up to $30 a week to transport their children to new schools. Nothing has been done about ensuring safe access to schools.

We said before the closure of Croydon that it was a mistake. We said that it was not justified. The closure has not worked in the way in which the Government argued it would work. There have been no beneficiaries in this, unless one sees the public purse being a beneficiary because it now has an asset that it can flog off. That seems to be something that the Government enjoys doing. It just continues to fritter away public assets and, by its gross inefficiency as a Government, the money then gets wasted. This is what has happened in Croydon. It has no educational merits whatsoever and for that the Government deserves to be condemned.

The Hon. G. WEATHERILL secured the adjournment of the debate.

PORT ADELAIDE FLOWER FARM

Adjourned debate on motion of Hon. L.H. Davis:

That the report of the Auditor-General on the Port Adelaide Flower Farm be noted.

(Continued from 11 December. Page 247.)

The Hon. T.G. CAMERON: If my last speech on the flower farm was remembered for its length, I hope this one will be remembered for its brevity. I have only a few quick things to say. It is about time that the ongoing vendetta between certain people in this place and the Port Adelaide council was finally put to rest. I can only hope that all the participants in this long-running saga will allow that to happen.

The other quick comment I make is that I did read the Auditor-General's Report, and I must say I was flabbergasted that a report of that length was prepared. I will be asking questions on notice concerning how much that report cost to prepare. As I have said earlier, it is time this matter was laid to rest and that is where it should stay.

The Hon. G. WEATHERILL secured the adjournment of the debate.

FREEDOM OF INFORMATION (PUBLIC OPINION POLLS) AMENDMENT BILL

Second reading.

The Hon. P. HOLLOWAY: This Bill, which was introduced in the House of Assembly by my colleague Michael Atkinson, seeks to amend the Freedom of Information Act to allow Government funded public opinion polls to be available to the public under freedom of information (FOI)

legislation. This Bill recognises that opinion polling is, to all intents and purposes, factual or statistical material which is not exempt under the Act.

The Bill comes to this place in a different form from the original Bill moved by my colleague Michael Atkinson. Originally the Bill sought to allow access to all Government funded opinion polling. The Bill in its amended form performs basically the same function but excludes polling material, which, first, discloses information or concerns deliberations or decisions relating to Cabinet and, secondly, relates directly to a contract or other commercial transaction that is still being negotiated.

Concern was expressed in the other place about the need for protection for some Government information. The Bill in its amended form recognises that need. The thrust of the Bill, however, remains the same. Its purpose is to allow assessibility of Government funded public opinion polling.

This Bill relates to a situation which arose in 1995, in relation to the privatisation of South Australia's water and sewerage system. A contract was signed at the time with United Water to manage the system. As we are all now well aware, this decision was not a universally popular one. However, Cabinet in its wisdom decided to commission an advertising campaign to promote United Water and its new management of the system. It also commissioned an opinion poll to sample public opinion about the sale of the water system and the advertising campaign.

However, Opposition questions at the time regarding this polling were met with a blanket denial of its existence by the Government. Later, the Government admitted that the polling did in fact exist, but denied the Opposition access to the polling on the grounds that it was a Cabinet document which was essential to Cabinet's consideration of the water contract and by releasing the polling documents Cabinet confidences could be breached.

The Opposition persisted in its questioning and it is now well known that the polling actually consisted of telephone sampling and focus groups, costing over $46 000. The results of the polling went to a Cabinet subcommittee on water. The Opposition sought the Ombudsman's ruling on whether this polling could be released under the Freedom of Information Act. The Deputy Premier then issued a certificate under the Act deeming the polls to have Cabinet exemption. The Opposition appealed this decision but we did not continue with the action when the polling was eventually leaked to us. It is the Opposition's position that, under the Freedom of Information Act, opinion polling does not fit into the definition of an exempt document.

However, this Bill proposes to put this matter beyond doubt, and although certain amendments have been made to the Bill its intent remains the same. I myself have had some misgivings about the operation of the Freedom of Information Act, and in February last year I called for the Legislative Review Committee to investigate its operation. At that time my main concern was to ensure that the original intent of the Act was being realised by its operation. I stated at the time that I believed that some agencies had not embraced the spirit of the Act and were somewhat recalcitrant in their approach to the Act.

A report by the Ombudsman at the time and his subsequent reports have highlighted failures of some departments to comply with the requirements of the Act. The Bill before us recognises the recalcitrance of this Government, and Cabinet in particular, to comply with the requirements of the Act. Whilst the Opposition believes that public opinion polling does not fall under the definition of exempt document under the Act, this Bill puts that belief beyond doubt. This potential loophole has been exploited once by this Government. This Bill seeks to ensure that it will not happen again.

The Hon. T.G. Cameron: Once that we know of.

The Hon. P. HOLLOWAY: Indeed, as my colleague the Hon. Terry Cameron says, we know it was used once; it may have been used more than that and we are not aware of it yet.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: Indeed. I commend the Bill to the Council.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

ROAD TRAFFIC (VEHICLE IDENTIFIERS) AMENDMENT BILL

Consideration in Committee of the House of Assembly's amendment:

Clause 3, page 4, line 1—After the words 'A person must not' insert the words ', except in prescribed circumstances,'.

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendment be agreed to.

This amendment was suggested by the member for Spence in the other place. It relates to the compliance plate and refers specifically to the provision in clause 3 which currently reads 'a person must not remove, alter, deface or obliterate a vehicle identification plate or vehicle identification number lawfully placed on a motor vehicle or trailer'. It has been suggested by the member for Spence, and agreed to on the Government's behalf by the Hon. Dean Brown, member for Finniss, who was handling the Bill in the other place, that we should provide that there are exemptions and that those circumstances should be prescribed. The provision would thus read:

A person must not, except in prescribed circumstances, remove, alter, deface or obliterate a vehicle identification plate or vehicle identification number lawfully placed on a motor vehicle or trailer.

I indicate that the member for Finniss agreed to this on behalf of the Government, after consultation with me. The Government is pleased to except this amendment to the Bill.

The Hon. T.G. ROBERTS: We support the amendment.

The Hon. SANDRA KANCK: I indicate that the Democrats are comfortable with this amendment.

Motion carried.

STATUTES AMENDMENT (CONSUMER AFFAIRS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 March. Page 669.)

The Hon. P. HOLLOWAY: This Bill was passed through this House several months ago. Unfortunately, as part of that process, the last page of a schedule to that was omitted. That page contained—as these schedules do in relation to statutes amendment Bills—a series of adjustments to penalties, fees, etc., which are entirely technical amendments to the Bill. It was an inadvertent omission and, because the Opposition is generous, it will support the passage of this Bill through both Houses today, so that this purely technical omission can be corrected. The Opposition supports the Bill.

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

WORKERS REHABILITATION AND COMPENSATION (SELF MANAGED EMPLOYER SCHEME) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 692.)

In Committee.

Clause 6 passed.

New clause 7.

The Hon. NICK XENOPHON: I move:

After clause 6 insert new clause as follows:

Sunset provision

7. On the expiration of two years from the commencement of this Act, the amendments made by this Act are cancelled and the text of the Acts amended by this Act is restored to the form in which that statutory text would have existed if this Act had not been passed.

This has already been debated in the House, so I will not add to that, other than to say that the purpose of this clause is to have a sunset provision, given that there are reservations about the operation of the Act, and I believe that it will act to put the self managed employers, in a sense, on probation for a two year period.

The Hon. K.T. GRIFFIN: The Government opposes the amendment. With all due respect to the Hon. Mr Xenophon, it really makes a nonsense of the proposal. We have had a pilot scheme for three years, and this is intended to put the scheme in place permanently. It seems ludicrous that, having had a pilot scheme, we put something in place in the legislation: we then, effectively, go back to another pilot scheme. That gives no certainty to anyone, whether it is the employers, the employees or the Government.

Notwithstanding the reservations of the honourable member about the SME approach, it has been in operation for over three years. No major problems have arisen in that time in relation to the 26 employers who have participated. The estimate is that approximately 9 000 to 10 000 workers are employed by those SMEs. The Workers Rehabilitation and Compensation Advisory Committee gave consideration to the continuation of the SME category on a permanent basis, and it agreed to the Bill which establishes that on a permanent basis. If it had any reservations about the scheme, I would have thought that it would either have opposed it or sought to continue the pilot for a longer period of time. So, the Government vigorously opposes the proposition for a sunset clause.

The Hon. T.G. ROBERTS: The Opposition supports the amendment.

The Hon. M.J. ELLIOTT: The Democrats support the amendment, as indicated during the second reading.

New clause inserted.

Title passed.

Bill read a third time and passed.

DANGEROUS SUBSTANCES (TRANSPORT OF DANGEROUS GOODS) AMENDMENT BILL

Adjourned debate on second reading.

Continued from 18 March. Page 553.)

The Hon. T.G. ROBERTS: The Opposition supports the Bill. It is one of those Bills that brings about uniformity across the nation and lines up with some of the unified positions that have been taken internationally in relation to transport of dangerous substances. Uniformity has been a long time coming but this Act certainly gives the South Australian position through the Commonwealth Act, being the principal Act. It allows for some State variations, and that is what we are doing now.

The unifying of codes generally throughout industry and transport is one of the benefits of a federal system. The legislation tries to put together regulations to cut out the diversification of weights, for example, that used to plague the States. Other separate legislative regulations are becoming unified. Hopefully over the next few years a lot of the other microeconomic reforms will take place to remove some of those heinous barriers that prevent the States from unifying their positions for historical reasons.

There will be savings for operators. The licensing system will enable funds to be raised for various purposes, such as inspections and policing. There are requirements additional to the ADG code, and there has been a lack of mutual recognition between jurisdictions. It is an improved, user friendly ADG code, and it sets out clear procedures and, hopefully, some legal certainty. The provisions are extended to rail and they also include public roads, private roads and any justified transport activity involving vehicles.

One of the questions raised in another place sought a description of a dangerous substance, but that is prescribed in regulation, so I do not think that we need an answer on that. The question that should be asked is why South Australia did not come into line with the legislation of the other States before, because ours was probably the slackest of all the States. However, apparently the history is that we allowed a greater flexibility for transport, setting out to attract transport companies into the State. This unifies the whole process and the Opposition supports it.

The Hon. K.T. GRIFFIN (Attorney-General): I thank the honourable member for his indication of support for the Bill.

Bill read a second time.

In Committee.

Clause 1.

The Hon. M.J. ELLIOTT: I want to ensure that I fully understand the way in which this legislation will work. I understand that some people will be licensed to carry whole loads of substances deemed to be dangerous, but that unlicensed people may carry mixed loads and that some form of negative licensing will work in relation to them. Is that a correct understanding?

The Hon. K.T. GRIFFIN: It is based upon either volume or mass. If you have a container of 400 litres or more, that will be required to be licensed. If you have a number of small containers—

The Hon. M.J. Elliott: Do you mean the person who is carrying it?

The Hon. K.T. GRIFFIN: The driver and the vehicle will have to be licensed. If on the other hand you have a number of small containers which between them make up 400 litres or more, the driver and the vehicle will not be required to be licensed, but standards will have to be met, such as the marking of the vehicle and the carriage of documents in the cabin. It is based upon 400 kilogram mass bulk or 400 litres bulk. Smaller quantities making up 400 litres or 400 kilograms or more will not be subject to licence, but the driver in the truck will have to be licensed.

The Hon. M.J. Elliott: Even if they are on one load?

The Hon. K.T. GRIFFIN: Yes. A trailer load of 200 litre drums will not be required to be licensed, although it will need to meet the standards in relation to the display of signs

on the vehicle, and the documentation will have to be carried by the driver.

The Hon. M.J. ELLIOTT: Can the Minister explain what is the logic of saying that, if a driver is carrying 400 litres in a single container he needs to be licensed, but if it is in separate containers, in the same load, it does not need to be licensed?

The Hon. K.T. GRIFFIN: The rationale is that, if a petrol tanker with separate compartments of 8 000 litres or more rolls, it may spill 8 000 litres minimum. If there is a leaking valve, the potential is to spill more than 400 litres and up to 8 000 litres. If a trailer load of 205 litre drums rolls, the drums will bounce, bend and end up all over the place but, depending on the nature of the accident, only one or two may crack or leak. It is all focused upon the consequences at the point of an accident rather than any other rationale being adopted.

The Hon. M.J. ELLIOTT: If we are talking about an extremely dangerous substance, something which is highly toxic (and I am not sure whether or not radioactive substances are covered), one could theoretically be talking about a gram. If it was a substance which was sufficiently toxic one gram as a single spill would be enough to cause a problem; there are such chemicals.

The Hon. K.T. GRIFFIN: Radioactive substances are in the category of class 7 substances and are dealt with separately. Explosives are also dealt with separately under the Explosives Act. In relation to other substances, there is no special regime other than the codes established by this Bill. It all relates to driver training, documentation and identification of the materials that are carried.

The Hon. M.J. Elliott: But does the quantity vary depending on the material?

The Hon. K.T. GRIFFIN: The theme of the legislation is based upon 400 kilograms or 400 litres being the point at which licensing occurs or does not occur. Up to that amount no licence beyond that licence is required. Placards are required front and back at different levels, depending on the nature of the product which is being carried. The class 1 substances, which are the most toxic, require placards at the front and back starting at 250 kilograms or 250 litres. Of course, there is also the documentation.

The Hon. M.J. ELLIOTT: As I said, it is not my intention to oppose this provision but it appears to me that some matters clearly need further consideration. I have understood what the Attorney-General has said. The quantity at which licensing must occur does not appear to vary. However, I think that there are some quite dangerous substances in very small quantities one would only want to have handled by a licensed operator and we should not just rely upon the fact that people are complying with conditions under which negative licensing would hit them if they did the wrong thing. I express great surprise that it is working that way, that licensing is just simply by volume regardless of the substance as distinct from recognising that a fraction of a gram of some substances would be enough to kill a whole city.

The Hon. Sandra Kanck interjecting:

The Hon. M.J. ELLIOTT: That will do it, and the substances produced by some of the dino-flagellates, too. I express surprise and concern at that, and I put that on the record. Have any statistics been produced which analyse road accidents involving dangerous substances? I have a strong suspicion for a whole range of reasons that the overwhelming majority of accidents involving dangerous substances would involve mixed loads, and this includes the fact that mixed loads are probably inherently more unstable and are more likely to move around. I would be interested to know what statistics are available on accidents. Petrol tankers are inherently quite stable, and you do not hear of them rolling over or that sort of thing frequently; but other loads do so on a far more regular basis.

There have been a number of accidents in South Australia where dangerous substances have leaked on to roads, and I think that most of those in the past couple of months have involved mixed loads. I question whether or not negative licensing for mixed loads of smaller quantity and licensing for larger quantities will provide any real security when the greatest danger concerns mixed loads where licensing does not occur.

The Hon. K.T. GRIFFIN: The Commonwealth prepared a regulatory impact statement which was published. My understanding is it contained statistics in relation to motor vehicle accidents, but I do not have all that detail at my fingertips.

The Hon. M.J. Elliott: Do you have the South Australian statistics?

The Hon. K.T. GRIFFIN: I do not believe that there are any in a form which would tell us anything meaningful. The code, the substance of which is now to be reflected in the new scheme, has been in effect for some 15 years. This is directed towards basically the commercial carriage of dangerous goods. If one thinks about people such as spraying contractors, who probably buy in four, 20 or probably even 200 litre containers, and if one were to move to a licensing regime, there would be substantial disquiet around the country if one were to place even greater limitations. The important thing is to have the code, to have the standards set, require the documentation and, for bulk quantities, which is the rationale for this, the licensing regime applies. We could argue about what is the appropriate form, but that is the structure which is being proposed in this legislation.

The Hon. T.G. ROBERTS: What is the situation in relation to two inert substances which may in fact not require licensing separately but which are carried on the same load and which, as a cocktail, would become dangerous? Is that covered?

The Hon. K.T. Griffin: Active substances?

The Hon. T.G. ROBERTS: Two active substances that, say, in a collision would—

The Hon. K.T. Griffin: I know what you mean.

The Hon. T.G. ROBERTS: They may be inert as separate substances but if there was a collision would they cause a toxic reaction?

The Hon. K.T. GRIFFIN: There are rules, but they basically start in respect of what is a 'dangerous substance' and about what combustible materials can be carried. There are also rules about not carrying food with toxic substances. So, those rules are embodied in the code in relation to segregation. Basically, it starts at what is a 'dangerous substance'.

Clause passed.

Remaining clauses (2 to 26), schedules and title passed.

Bill read a third time and passed.

[Sitting suspended from 1.9 p.m. to 2.15 p.m.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

District Council By-laws—
Renmark Paringa—
No. 3—Poultry and Other Birds
No. 4—Streets

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

South Australian Housing Trust—Triennial Review 1998.

JUVENILE JUSTICE

The Hon. K.T. GRIFFIN (Attorney-General): I seek leave to make a ministerial statement on the Juvenile Justice Advisory Committee annual report for the year ended 30 June 1997.

Leave granted.

The Hon. K.T. GRIFFIN: I have been advised by the Chairperson of the Juvenile Justice Advisory Committee, Judge Terry Worthington, that there are some minor errors in the statistics contained in the committee's 1997 annual report. I seek leave to table a copy of Judge Worthington's letter to me informing me of this matter, together with a copy of a letter to Judge Worthington from the police representative on the committee, Inspector G. Rowett.

Leave granted.

The Hon. K.T. GRIFFIN: I now seek leave to table the corrected versions of pages 5 and 6 and the page containing table 3.1 of the Juvenile Justice Advisory Committee's annual report for the year ended 30 June 1997.

Leave granted.

The Hon. K.T. GRIFFIN: The corrections will be incorporated into the annual report before it is sent to the printers. The version which will be available for public distribution will therefore be correct in all respects. Members may note that the letter from Inspector Rowett states that the 1996-97 figure (of the number of cases dealt with by police) is 337 more than that recorded in 1995-96. The 1995-96 Juvenile Justice Advisory Committee report states that the total number of police contacts was 14 138, which means that the 1996-97 total of 14 515 was 377 more than that recorded in 1995-96 (not 337).

RAILWAYS, *OVERLAND*

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement in relation to *Overland* rail services.

Leave granted.

The Hon. DIANA LAIDLAW: An article in the *Financial Review* dated 26 March titled 'Threat to derail *Overland* train', commences with the statement:

> The private owner of Australia's oldest intercapital train, the *Overland*, is considering killing off the operation only months after acquiring it from the Federal Government.

The owner is Great Southern Railway, and I advise members that if Great Southern Railway did move to cease or reduce services on the *Overland* it would be in default of its agreement with both Commonwealth and State Governments in relation to minimum services. I have no expectation that GSR will breach these agreements. I received today a telephone call and the following statement from Mr John Finnin, Chief Executive of Great Southern Railway, who assured me that, first, GSR has absolutely no intention of breaking away from its commitment to maintain services on the *Overland*; secondly, GSR's bid was predicated on expanding and not diminishing the services, and I made those statements at the time, as did the Federal Minister, the Hon. John Sharp; and, thirdly, it is GSR's intention to expand services out of Adelaide in the short and medium term and, in this regard, GSR has plans to build new railcars for the service between Adelaide and Melbourne. GSR has also advised, however, that it must be able to reach commercially realistic track access charges, and this it has not yet achieved with the Victorian Government.

WEST BEACH BOAT HARBOR

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a ministerial statement on the West Beach boat launching facility.

Leave granted.

The Hon. DIANA LAIDLAW: I advise the Council that late yesterday I granted development approval to the revised West Beach boat launching facility. Members will recall that this Parliament considered the matter on 11 December last year and agreed to a joint parliamentary resolution that design modifications be made to the facility to reduce its visual impact. Subsequent to that, the Minister for Government Enterprises lodged a development application seeking to vary the previous approval to ensure implementation of the parliamentary agreement.

Members will recall that one of the principal concerns was the desire to lower the height of the breakwaters to reduce visual impact. The development approval that I have now granted implements this parliamentary resolution. In considering the revised breakwater design, both the Marine Facilities Division in Transport SA and the Development Assessment Commission advised me that major storm events could result in wave action overtopping the now lower level breakwaters, potentially affecting the launching facilities. The possibility of such an event will depend, to a significant extent, on the degree of sea level rise over the life of the facility associated with the greenhouse effect.

As a result of the concern expressed by the commission, the Government considers that it would be prudent to allow for raising the breakwater heights in the future, should it be necessary. Accordingly, while I have granted development approval to the revised design to accord with the parliamentary resolution, I have imposed an additional condition to ensure that the breakwaters are constructed in such a fashion as to enable adding additional height, should it be required in the future. Clearly, any raising of breakwater heights will raise visual impact issues. However, I consider it would be irresponsible not to provide that the current construction work enable any proposal to increase the heights to be considered on its merits, should it be necessary in the future.

Clearly, any decision by a future Government to raise the heights would take into account the actual impact of storm events and sea level rise and would be able to more accurately assess visual impact at that time, given that the facility will have been built.

I have also varied a condition imposed on my original approval in December dealing with public access. My December decision imposed a condition which sought to maintain public access through the site at all times, both during construction and after completion. In the light of recent activity at the site and the Government's obligation to maximise public safety, I have varied the December condition dealing with public access to no longer guarantee public access through the construction period.

This variation will ensure safe working conditions for the people involved in building the facility and for members of the public around the site. I have continued the condition from last December which will guarantee public access through the site after construction is completed.

Meanwhile, the Minister for Government Enterprises has advised me that the construction process will seek to provide for public access whenever it is not inconsistent with the need to provide for public and worker safety. I seek leave to table a consolidated list of conditions associated with the development as imposed by me on 2 December 1997 and as varied on 25 March 1998. In tabling these conditions I am responding to earlier requests from the Hon. Mike Elliott and undertakings that I gave to provide copies of such conditions.

Leave granted.

ARTS, SECOND TIER THEATRE

The Hon. DIANA LAIDLAW (Minister for the Arts): I seek leave to make a ministerial statement on a second tier theatre sector.

Leave granted.

The Hon. DIANA LAIDLAW: In October last year I announced that the State Government would use the recent recurrent funding decisions of the Australia Council to develop a stronger second tier theatre sector in South Australia. I now wish to inform members of the opportunity that now exists for the creation of a new innovative and challenging theatre program for South Australia.

By way of background, it should be noted that, in the context of a reduced Australia Council budget for theatre and new priority settings, the Australia Council last October rejected the funding applications from three South Australian theatre companies: Red Shed, Junction and Magpie.

This decision amounted to an immediate loss of $271 600 (the amount of the 1997 Australia Council grants) in income to theatre in South Australia, undermining the viability of all three companies. At that time it was not possible for the State Government, through Arts SA, to make an informed assessment of the impact of these cuts. All concerned had to await the result of applications for Australia Council project funding in February this year.

I was absolutely determined, however, to assist the three companies through any cash-flow difficulties, including supporting Red Shed for the presentation of its Festival production, *The Architect's Walk*, by providing for its full-year grant in advance, some $130 000. This decision was vindicated by *The Architect's Walk* gaining both strong box office and reviews during the last Festival.

In now adopting a plan that can contribute to a new vision for theatre in South Australia, I have taken into account:

1. with regard to Magpie and Red Shed, the findings and recommendations of an independent consultant's report on future funding and performance options;

2. the views of all who were consulted in preparing that report, including the companies involved; and

3. the level of funds available through Arts SA.

Meanwhile, the Board of State Theatre has resolved to discontinue the operations of Magpie while the Red Shed Board has alerted Arts SA that it '. . . has proposed that steps be taken to wind up the company'.

The Government's goal is to promote the strongest possible artistic base for a revitalised second tier theatre sector in South Australia. To this end, this Saturday a national call will be made inviting expressions of interest to build a new contemporary theatre company in South Australia with strong artistic direction, work opportunities for our actors, designers and technicians, and with audience-building potential. This initiative will be supported by up to $300 000 in State Government funding, effectively transferring to the new theatre the combined full subsidy previously provided through Arts SA to Red Shed and Magpie.

I am also pleased to confirm that the Australia Council has agreed to provide an additional $50 000 start-up funding for the new venture. It is anticipated that the output of the new company will at least match the combined output of Red Shed and Magpie with four new productions each year. This output may include new Australian plays, contemporary international theatre or new interpretations of existing repertoire, including collaborative productions with new South Australian companies.

The exact mix will be confirmed following an assessment of all expressions of interest by a small reference panel of eminent Australian theatre practitioners. In the meantime, I have advised the Chairman of Junction Theatre that the State Government funding for 1998 and 1999 ($175 000) will be maintained at 1997 levels.

Overall, I have to acknowledge that since the testing times of last October a lot of soul searching has been undertaken to ensure South Australia continues to provide funding support to promote performance opportunities at the grass roots. I am reminded of a remark made to me by last year's Academy Award Best Actor winner, Geoffrey Rush:

> Since 1971 I have been a child of subsidised theatre. A project like the film *Shine* can only happen when the grass roots are constantly watered.

It is the Government's intention to ensure that those grass roots are constantly watered, notwithstanding the cut in Federal funding through the Australia Council last October.

HOUSING TRUST REVIEW

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to table a ministerial statement given this day by the Hon. Dean Brown on the South Australia Housing Trust Triennial Review.

Leave granted.

SCHOOL ZONES

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to make a personal explanation in relation to school zones.

Leave granted.

The Hon. DIANA LAIDLAW: I wish to draw to the Council's attention further advice I received today relating to the evidentiary provisions (clause 6) of the Road Traffic (School Zones) Amendment Bill. During the debate on the Bill in the Council last night, I referred to advice (and so did the Hon. Sandra Kanck) from Transport SA concerning a 1962 Supreme Court decision on the effect of section 175 of the Road Traffic Act. In providing this advice Transport SA relied on the publication *Motor Vehicle Law South Australia*, edited by former Supreme Court Justice Derek Bollen, published—

Members interjecting:

The Hon. DIANA LAIDLAW: I will pass no comment, but I think I will highlight again that in providing the advice to me and the Hon. Sandra Kanck Transport SA relied on the publication *Motor Vehicle Law South Australia*, edited by the

former Supreme Court Justice Derek Bollen and published by the Law Book Company of Australia. This text is regarded as the most authoritative annotated version of motor vehicle law in South Australia and is regularly relied upon by lawyers as a source of advice.

The Hon. T.G. Roberts interjecting:

The Hon. DIANA LAIDLAW: Well, he got it wrong. I am now formally advised by the Crown Solicitor that the extract from Bollen *Motor Vehicle Law South Australia* wrongly states the position concerning the onus of proof. In fact, section 175 places an onus on the defendant to prove 'the contrary' on the balance of probabilities. The purpose is to avoid the far more onerous necessity for the prosecution to prove beyond reasonable doubt that a young person in the school zone was under 18 years of age. This would often be virtually impossible unless the police took a statement from the child. I emphasise in making this statement that the clarification that I have just provided does not alter the substance of the Bill—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Yes. The Crown Solicitor still maintains that this evidentiary provision is desirable in the interests of the effectiveness of the law to maximise the protection of children—and that is what we have all argued is our chief objective in addressing this matter. The Crown Solicitor considers that a motorist who takes care to check for the presence of children will be in a position to give evidence of his or her observation and thereby discharge the onus of proof.

QUESTION TIME

RAILWAYS, *OVERLAND*

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Transport a question about the future of the *Overland* passenger rail service.

Leave granted.

The Hon. CAROLYN PICKLES: Earlier today the Minister made a very brief ministerial statement, which did not seem to be a proper copy like the ones I finally got from her on the previous ministerial statement. I must say that I am dissatisfied with that statement in the light of some of the comments by the Chief Executive of Great Southern Railway, Mr John Finnin, who had stated that the future of the *Overland* is under review. I will leave members to judge what this man actually means for the future of the *Overland*. He says:

> . . . two directors are working specifically on a proposal for the *Overland* to either kill the blessed thing off or to make some money out of it.

Mr Finnin continued:

> . . . given my other products and their potential to make greater money, I might just decide to kill it.

On 26 August last year the Minister for Transport stated:

> After years of uncertainty, it is great news for rail workers and rail users that both GSR and GWI have given a commitment to maintain existing services. The South Australian Government is committed to working with both companies to ensure the long-term operation of those services.

The Hon. M.J. Elliott: What's he got to do with the country services?

The Hon. CAROLYN PICKLES: I want to know what this Government, which has been in office for four years, is doing now—

Members interjecting:

The PRESIDENT: Order!

The Hon. CAROLYN PICKLES: My questions to the Minister are:

1. Does the State Government stand by its assurance that the future of the *Overland* is secure?

2. What are the estimated job losses if GSR proceeds with the abandonment of the *Overland* service?

3. What are GSR's contractual obligations and will they incur penalties if they proceed to kill off the service?

The Hon. DIANA LAIDLAW: I certainly stand by the statement I made on this matter earlier, as referred to by the Hon. Carolyn Pickles. I also highlight that the issue of job losses is not one that myself, GSR or the unions are contemplating because GSR has contractual obligations both to the Commonwealth and the State Government in terms of minimum services, and we have every expectation that they will honour those contractual obligations and agreements. I have received advice, as I advised in my ministerial statement before the start of Question Time, that that is the expectation of Mr John Finnin, Chief Executive of Great Southern Railway. I apologise to the honourable member that the ministerial statement was not in the form that she would expect.

Mr Finnin rang just before Question Time and gave this advice to my office and, as the advice was read back to him, he confirmed it, and I repeat it now: first, GSR has absolutely no intention of backing away from its commitments to maintain services on the *Overland*; secondly, GSR's bid was predicated on expanding the services not diminishing those services; and, thirdly, it is GSR's intention to expand services out of Adelaide in the short to medium term.

I can also highlight that the discussions that I have had with Mr Finnin in recent times have been focused on building new railcars so that GSR can in fact improve these services, as they have outlined in their agreement to the State Government and the contract with the Commonwealth Government. The minimum services are five services Adelaide-Melbourne and return.

I also am well aware from my discussions with GSR, and Mr Finnin in particular, that they are having difficulty in Victoria with the track access charges, in part based on the standard of the track. We all know that that is extraordinarily poor. When this track was standardised the Victorian Government of the day did not provide the funds to change the sleepers, nor did the Federal Government offer to assist in that undertaking, so the sleepers in Victoria continued to be the old wooden sleepers. The lines were simply moved from broad gauge to standard. They are old sleepers and for many parts of this area, in fact at 15 such locations in Victoria, the speed limit is 40 km/h.

I am highly concerned about the future of the *Overland*. It is for that reason that I have been pushing for two years now for the Federal Government, a Liberal-National Party Government—we got nowhere with the Federal Labor Government—to provide some funds to ensure that this Victorian section of the standard gauge line between Melbourne and Adelaide was upgraded and $250 million has now been provided for that undertaking. That money will be used for other rail investment upgrade ventures around Australia but the priority will be in Victoria. In the meantime,

the track access charges are an issue that GSR is addressing with the Victorian Government.

The Hon. CAROLYN PICKLES: Mr President, I ask a supplementary question. The Minister does not want to answer the question, but I will ask it again in case she did not hear it. What are GSR's contractual obligations and will they incur penalties if they proceed to kill off the service?

The Hon. DIANA LAIDLAW: I gave that advice. I said that the contractual obligations in terms of minimum services are five services Melbourne Adelaide/Adelaide Melbourne, and there are penalties provided in the agreements in the contracts. But as I said in a statement and repeated in answer to the question, GSR has absolutely no intention of backing away from its commitment to maintain the services on the *Overland*. I would have thought that that answered the question very clearly, but I am pleased to have the opportunity to repeat it.

GOVERNMENT CREDIT CARDS

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about credit cards.

Leave granted.

The Hon. P. HOLLOWAY: A report in this week's *City Messenger* says that former Treasurer Stephen Baker was told by the Premier to write to the Reserve Bank requesting unbranded corporate AMEX cards. The report says about a dozen were in circulation and that the Premier had told Mr Baker he needed them because some people would find it embarrassing to use branded Government cards. My question is: have any unmarked Government credit cards ever been issued to the Premier for his ministerial staff or any other Government employees and, if so, for what purposes?

The Hon. R.I. LUCAS: I am happy to get the detailed response to that question but, certainly, my initial inquiries have informed me that unbranded or branded cards, whatever that might mean in terms of credit cards—we are still looking for a precise definition of that—are all subject to the same audit controls and public accountability processes, irrespective of whether they are branded or unbranded. So I think that is the important point in terms of public confidence in the audit process, and in public accountability for expenditure of taxpayers' money, that is, the same audit controls apply to any credit card which might be issued to a Minister, a public servant or a ministerial officer.

ROADS, SOUTH-EAST

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister of Transport a question about road safety.

Leave granted

The Hon. T.G. ROBERTS: There are two highways from Adelaide to Mount Gambier. One is the Dukes Highway, which I—

An honourable member interjecting:

The Hon. T.G. ROBERTS: This is just to inform the city based members who do not get outside the metropolitan area.

An honourable member interjecting:

The Hon. T.G. ROBERTS: No, I have not had to take a study trip on this one. My preference is to use the Coorong route to get from Adelaide to Mount Gambier.

The Hon. L.H. Davis interjecting:

The Hon. T.G. ROBERTS: Not particularly. The reason I do that is that generally the traffic is lighter.

Members interjecting:

The Hon. T.G. ROBERTS: And the view is nice. Although the Dukes Highway has been done up, the number of heavy vehicles on that highway is a bit of a deterrent to those who drive sedan cars. But I must say that the money spent on the Dukes Highway is having an impact and it is far safer than it was, and there are still improvements being made.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The passing lanes are certainly improving the flow of traffic and making it a lot safer, but accidents are still occurring on the road. However, I suspect they are more from fatigue and driver error, and perhaps speed, than due to the state of the highway. With the Princes Highway it is different. It does not matter at what speed you travel; there are sections on it that are still dangerous at any speed. I know the condition of the road has been the same over time, through various governments, but I think it is at a position now where it is causing a lot of people a lot of concern, particularly with the increased flow of tourist traffic, mixed with the B-doubles and, if you throw in caravans and interstate visitors, there is a very dangerous mix.

I have noticed recently the B-doubles going south and I have started to notice that, when the B-doubles are passing the large tourist coaches, either one or the other has to move off the bitumen to allow them to pass, and, with the swaying of the coaches, we need a restriction placed on the size of either the B-doubles or the coaches—but that is not going to happen because of the uniform laws that the Commonwealth has set.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. ROBERTS: I am not trying to reintroduce that argument, Minister. I think the Government is starting to become aware of some of the lobbying that is being done.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: Bipartisan lobbying, yes. The Hon. Angus Redford, I understand, is taking up the issue with the Government as well. The questions I have are:

1. What is the width of the road at its narrowest point between the end of the Portlocherie Plains improvements and Millicent (on the Princes Highway)?

2. What is the combined width of the largest B-double and the largest bus that services that route?

The Hon. DIANA LAIDLAW: I do not have the actual number of millimetres in my head or at hand, but I am sure my office heard the questions and they can make an inquiry, and if I can get that advice before the end of Question Time or before we rise at 6 o'clock I will provide that for the record today; otherwise I will get it to the honourable member quickly. I understand that the honourable member encountered a difficult situation last Friday when driving to the South-East Local Government Association meeting. Similar instances have been advised to me, particularly in recent times. B-doubles have been able to operate on the Coorong road for some years, but perhaps, with this Government and the economic growth, business in the South-East is flourishing and there are more trucks going to the South-East and back. But certainly the B-doubles seem to be attracting more concern from motorists generally, and so are the bigger coaches, particularly at the bends.

I know from earlier discussions with Transport SA and the South-East region that they are aware that we must do more in terms of sealing the shoulders of that road. I undertake that, within the resources of this coming year, we will seek to make such work a priority. I will get some further detail if I can for the honourable member today.

NORTH HAVEN FIRE

The Hon. L.H. DAVIS: I seek leave to make an explanation before directing a question to the Treasurer regarding a cover-up of a fire at North Haven.

Leave granted.

The Hon. L.H. DAVIS: At 4.30 a.m. on 24 August 1997, a fire caused damage of around $300 000, gutting two attached townhouses at One and All Drive, North Haven. This fire spread from one unit to the adjacent unit in 10 minutes, although if the fire wall between the two had been properly constructed it would have provided protection to the second unit of at least one hour. The subsequent inspection revealed that the fire wall fell dramatically short of building and safety standards. These adjoining units had a gap between the top of the cavity wall and roof tiles, and also a gap of almost 10 centimetres on the front and back walls and the internal cavity walls. Building experts described it as a disgraceful fire trap resulting from unacceptably shoddy workmanship. Mr John Mate and his wife had their unit gutted and were forced to vacate their house for six months.

Although the architect's plans for the building were to a proper standard, the specifications had been ignored by the builders. However, this was not a problem for just the two townhouses affected by the fire. They had been part of a major redevelopment of 190 units at North Haven, together with a retirement village of about 40 units, which had been constructed by Pioneer Constructions between 1990 and 1994. In some cases, there were six adjoining units. Pioneer Constructions should not be confused with Pioneer Homes.

After the fire, an expert examination of all these units discovered that all but one or two are defective. In his report, MFS District Officer, Brendan Walker, said the fire walls were defective and 'did not meet building specifications'. The cost of rectifying the problem is estimated at between $10 000 and $15 000 per unit, or a total of up to $1.5 million. There is still debate as to the best method of fixing the problem. This development, styled as The Gulf Point Marina complex at North Haven, is by far the largest housing development in the Port Adelaide council district. It was also the most densely populated housing development in South Australia. Residents are understandably angry at Pioneer Constructions for the shoddy workmanship and also angry at Port Adelaide council for allowing it to occur.

Until January 1994, when the Planning Act and the Building Act were repealed and rolled into the Development Act, there was a requirement that each council must employ a building surveyor, who was responsible for all building work within the council boundaries. It was the council's responsibility to ensure that new houses were constructed in accordance with building and safety regulations. All but about 30 of the 190 units in the North Haven housing development appear to have been built before January 1994. During the time of their construction I understand Port Adelaide council employed three building inspectors, together with a surveyor.

North Haven residents and building experts I have spoken to believe that Port Adelaide council had a clear duty under the Building Act to certify compliance with the relevant regulations. However, residents who have attempted to obtain records from Port Adelaide council about the required inspection of their unit while in the course of its construction have been frustrated. The files have been there but the relevant documents appear to be missing. People trying to establish the truth believe that there is a council cover-up. The three building inspectors involved at the time of the North Haven development have refused to talk about the matter. All three were suddenly retrenched late last year and received an undisclosed separation package from the Port Adelaide and Enfield council. A merger between Port Adelaide and Enfield councils occurred subsequent to the completion of the North Haven development.

In early October 1997, the *Portside Messenger* reported that several councillors had told them the development was signed off *en masse* by one council officer. Mr Paul Davos, the council's Director of Environmental Services, told the *Portside Messenger* that he did not believe that was the case. Six weeks after the fire, this senior officer of the council did not know what the facts were. Later in October, the *Portside Messenger* reported that the council was having trouble locating certain files outlining its responsibility for the development. In a letter to North Haven residents dated 13 November 1997, Mr Davos stated:

> Council's own investigations reveal that the former City of Port Adelaide gave approval to these buildings on the basis of plans and specifications which met the fire safety provisions applicable at the time. However, it now appears that some of the building work, particularly that relating to issues of fire safety, was not built in accordance with those plans and specifications.

Then earlier this year, at a residents' meeting, Mr Davos admitted that only four or five of the slabs had ever been inspected, out of a total of 190 units. Mr Davos has been replaced as council spokesperson on this matter.

The legislation at the time required building records to be kept and maintained for a period of five years for each unit. Inspectors would visit the site, taking the so-called blue file with them, including plans and specifications, inspect the slab when it was laid and then make regular inspections thereafter up to the completion of the roof line. Mr Davos has confirmed that only four or five slabs out of 190 were inspected, and nothing else. This has been described by building experts as absolutely scandalous. As they told me, if Port Adelaide council employed three building inspectors and North Haven was overwhelmingly the largest housing development in the council area, what on earth were they doing with their time? If they inspected other houses and units within the council boundaries, why did they not inspect North Haven?

Some people close to the council have alleged that files have been tampered with and documents have almost certainly been shredded following the fire. How else does one explain that important documents are missing from files? Mr John Mate, in the *Portside Messenger* in October, was quoted as saying that a senior council officer told him that documents were missing. The Port Adelaide Council clumsily wrote—

The Hon. T.G. Cameron interjecting:

The Hon. L.H. DAVIS: I am just finishing. It is pretty devastating stuff, is it not? The Port Adelaide council clumsily wrote to 15 residents earlier this year, demanding that they repair their own houses within 28 days or face legal action under the council by-law. The council then wrote to them and said that it was all a big mistake. The council is holding meetings behind closed doors on this subject and

residents are unable to obtain information about this extraordinary debacle. At the time of the North Haven development, the CEO of the Port Adelaide council was Mr Keith Beamish. In my detailed inquiries into this matter, his name has been volunteered on more than one occasion as being deeply involved in negotiations over the North Haven development.

The Auditor-General's 450 page report into the Port Adelaide Flower Farm, tabled in this House in December 1997, was scathing in its criticism of Mr Beamish's role. The Auditor-General found many examples where Mr Beamish fell far short of what would be expected of a CEO in the circumstances. As a result of Mr Beamish's dominance and control of the council, the ratepayers of Port Adelaide suffered, according to the Auditor-General, a loss of $4.3 million. The fire wall scandal at North Haven has been met by the characteristic wall of silence at Port Adelaide and Enfield council. North Haven residents are understandably outraged and frustrated at the events of 24 August 1997, and subsequently.

My question is: in view of the recent serious deficiencies revealed about the Port Adelaide council in relation to the Port Adelaide Flower Farm, would the Treasurer refer this serious matter and the allegations of negligence and possible cover-up to the Auditor-General for his inquiry?

The Hon. T.G. Cameron: It is a disgrace. Preambles of that length are a disgrace.

The Hon. R.I. LUCAS: It was the same length as the preamble from Mr Crothers yesterday, so—

The Hon. T.G. Cameron: Rubbish! You're lying again. You don't—

The PRESIDENT: Order!

The Hon. T.G. Cameron interjecting:

The Hon. R.I. LUCAS: Grow up, Terry. I will refer the honourable member's question to the Auditor-General.

The Hon. T.G. Cameron interjecting:

The PRESIDENT: Order! The Hon. Mr Cameron is out of order—twice.

The Hon. R.I. LUCAS: They are serious claims, and I will refer the honourable member's questions to the Auditor-General.

The Hon. T.G. Cameron: You let them get away with it. They waste our Question Time.

The PRESIDENT: Order!

WORKCOVER

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Government Enterprises, a question about WorkCover.

Leave granted.

The Hon. T.G. Cameron interjecting:

The Hon. M.J. ELLIOTT: It is my first question for the week. The WorkCover Corporation last week announced the names of five companies that have been chosen as agents for the scheme's claims management. This is in anticipation of the end of the initial three-year claims management period agreement, which was implemented in August 1995. As reported in the *Advertiser* this morning, nine existing claims management companies reapplied, along with three new companies. WorkCover has in place an agent performance evaluation program, which allows the performance of claims managers to be assessed against agreed performance measures. WorkCover's 1996-97 annual report recorded the results of this evaluation. It reveals that, of the five successful bidders for claims management work, two were ranked among the lowest three companies. One of the companies which gained equal first failed to be reappointed as a claims agent. I understand that all the successful bidders were international companies, with no Australian insurance companies among the winners. This has raised a deal of concern about the criteria and methods used to appoint agents and who made the decisions. I have also been told that, when the first appointments—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. M.J. ELLIOTT: —were made in 1995, the UTLC was invited to nominate someone on the appointment committee. This did not occur—

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: Who did the appointing? Brainless twerp. This did not occur in the latest round of appointments. My questions to the Minister are:

1. What criteria did WorkCover use to choose the successful companies?

2. Who was on the panel which appointed the agents?

3. Did WorkCover allow some companies to amend the cost of their bids? That is a claim that has been made: that some companies were given a chance to amend the cost of their bid and some were not.

4. Do the unsuccessful companies have any recourse to the decision?

The Hon. K.T. GRIFFIN: I will refer those questions to my ministerial colleague in another place and bring back a reply.

VICTIMS OF CRIME

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Attorney-General a question about services to victims of crime.

Leave granted.

The Hon. J.S.L. DAWKINS: I noted the launch of Victim Awareness Week yesterday and the Attorney-General's announcement of a review of services to victims of crime. I acknowledge that South Australian Governments of both persuasions have considerably improved the position of victims in the criminal justice system since the early to mid 1980s. It is my understanding that processes are effected to ensure that victims are kept up to date in relation to the progress of their case. I am also aware that funding has been provided to relevant groups, including victim support services, while various Government departments have designated officers to specifically assist and work with victims. Can the Attorney-General indicate the reasons for the review and the extent to which it will cover the broad area of services to victims of crime?

The Hon. K.T. GRIFFIN: The objective of the review is to ensure that South Australia stays in the forefront of the provision of support to victims of crime. There are three main areas. The first is the declaration of victims rights, which my predecessor (Hon. Chris Sumner) proposed in 1985. That declaration is enshrined in *Hansard* but not in law, and the question is whether it is still adequately serving the interests of victims and whether or not it ought to be enshrined in legislation. The second area is the victim impact statement, and that question is primarily whether it is effective in providing support for victims and whether there ought to be

any modification in either the way in which it is done or in the content.

The third area is the Criminal Injuries Compensation Act, where it is clear that there are a number of anomalies, one at least of which has been identified publicly as an area of concern and on which the Opposition has already indicated it would support an amendment. The object in relation to the Criminal Injuries Compensation Act is to determine whether or not that is still at the leading edge of support for victims in the light of developments interstate and overseas. They are not the only areas that will be the subject of review but they are the main focus of the review. As I said, the object is to ensure that South Australia stays at the leading edge of support for victims of crime.

COUNCIL RATES

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer questions concerning local government interest rates and late payment of council rates.

Leave granted.

The Hon. T.G. CAMERON: Currently interest rates for fines on late payment of council rates begin with an initial fine of 5 per cent. If rates are paid by instalments, the fine of 5 per cent also applies to instalments not paid on time. Section 184(8)(c) allows a further penalty by way of compounding interest to be levied each month the instalment remains unpaid. Paragraph (c) states:

> . . . on expiration of each month from that date, interest of the prescribed percentage of the amount in arrears (including the amount of any previously unpaid fine and interest) is payable.

The prescribed percentage is set out in section 184(13). The prescribed percentage is calculated by adding 3 per cent to the prime bank rate for that financial year. The prime rate is the average indicator of interest rates in the marketplace and it is set on 1 July each year based on the prime bank rate of the Commonwealth Bank of Australia and is currently set at 8.95 per cent. The current prescribed percentage is 11.95 per cent.

According to the Local Government Finance Authority, councils are presently able to access finance with floating interest rates of 5.75 per cent or fixed rates of 6.51 per cent for five years. I further understand that councils borrow against outstanding rate revenue. Councils could be making millions of dollars out of ratepayers who in many cases have been late in paying their rates because of unemployment or other reasons, and I understand that outstanding rates are currently running at a very high level. While I accept that a late payment fee encourages some people to pay on time, it is totally unreasonable that the rate is set at such a high level, and now the Government is considering removing the freeze on the level of council rates.

As the Treasurer would be aware, thousands of people are incurring fines from these debts. Even the Local Government Association is unable to put a precise figure on the amount. I do not know the full history of the establishment of these rates but I understand that it goes back to 1934 when a £10 penalty was set on rates. I am concerned about the 5 per cent fine once the rate is outstanding and the 3 per cent figure, which I understand was set a number of years ago. With current interest rates at 20 to 30 year record lows, I believe there is an opportunity to pass on some of these savings to council ratepayers. My questions to the Treasurer are:

1. Considering that interest rates are at 20 to 30 year low levels, and could fall further, will he review the 5 per cent fine and will he review the quantum, that is, the 3 per cent addition, to the prime bank rate?

2. How much was collected through fines levied by councils due to late payment?

The Hon. R.I. LUCAS: I will take advice on that question and bring back a reply.

SOUTHERN EXPRESSWAY

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Transport a question about the Southern Expressway.

Leave granted.

The Hon. CAROLINE SCHAEFER: A letter to the Editor in yesterday's *Advertiser* entitled 'Things only done by half' from Mr R. Jones expressed the view that the new Southern Expressway is inadequate and not efficient because it only goes with the flow of the traffic. It further suggested that, for a minimal amount of money, an extra lane could have been provided thus allowing two-way traffic to flow at all times. Will the Minister comment on that letter and, if possible, advise as to the costs that would have been incurred in making it a four-lane highway on which the traffic could flow both ways?

The Hon. DIANA LAIDLAW: I, too, noted the letter to the Editor. I emphasise that rather than being deemed inefficient, as alleged by Mr Jones, the road is extremely efficient because it has been constructed to ensure that it addresses the 'tidal' flow of traffic from the southern area. The road has been constructed to cater for maximum peak flow into the city in the morning and out of the city in the afternoon and evening, and that arrangement is reversed on weekends and public holidays.

Transport SA, in association with people from the southern suburbs and road planners, spent a great deal of time deciding whether we would be so bold as to commit investment by South Australian taxpayers in a road that had never been constructed or operated in such a fashion anywhere else in the world. We thought we should do so on the basis that taxpayers could feel confident that the Government was not over investing in road infrastructure simply for the sake of working on a conventional basis of road design and operation.

Rather than suggest as Mr Jones did that the cost of one more lane and dual carriageway would be minimal, I advise that the cost was estimated to be between $25 million and $30 million, and I do not see that as a minimal cost, and I know that the Treasurer would not. From the correspondence that I receive from members in this place on a daily basis seeking road funds, black spot funds, traffic lights and even dealing with school zones, I am confident in saying that funding is needed for higher priority projects rather than overcapitalising on a project such as the Southern Expressway to provide a dual carriageway.

I highlight very strongly not only that this road is setting an example for the rest of Australia and is a matter of considerable curiosity around the world for traffic engineers and road safety planners but also that we have invested in the latest leading edge technology in intelligent transport systems, and because of that we will be attracting international conferences to Adelaide from traffic planners and engineers next year. I think this is an enormous compliment to the way in which we have—

The Hon. A.J. Redford: Is that before or after the expansion of the Convention Centre?

The Hon. DIANA LAIDLAW: I am not sure that it has anything to do with the Convention Centre. I hope those people will be on the roadways for most of the time, looking not only at what we are doing in South Australia in terms of the Southern Expressway but also at other roads in terms of intelligent transport systems. I highlight to Mr Jones and members generally that optimising the State's investment in our roads infrastructure will be the way in which we proceed with further investment in the future.

MALE INFERTILITY

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Human Services, a question about male infertility.

Leave granted.

The Hon. SANDRA KANCK: Studies from around the world have proven that male fertility is decreasing at alarming rates. Not only are sperm counts reducing across the world but also there is an increasing incidence of sperm abnormalities. A review of 61 different studies has concluded that average human male sperm counts dropped by almost 50 per cent between 1930 and 1990. A Danish study has shown that in 1940 only 6 per cent of men had extremely low sperm counts—

Members interjecting:

The PRESIDENT: Order! A serious explanation is being given.

The Hon. SANDRA KANCK: —and that in 1990 this had increased three-fold, to 18 per cent. *Our Stolen Future* quotes a French study as follows:

> . . . able to compare the average sperm counts of 30 year old men born in 1945 with 30 year olds born 17 years later in 1962. For those born in 1945 and measured in 1975, sperm counts averaged 102 million per millilitre of semen. The men born in 1962 and measured in 1992 had counts that were only half that number—51 million sperm per millilitre on average.
>
> If this downward trend were to continue, the 30 year old man in 2005, who was born in 1975, would have a sperm count of roughly 32 million sperm per millilitre—about one-fourth the count of the average male born in 1925.

I first became seriously aware of this issue just a few weeks ago when I was listening to Occam's razor on Radio National. Robyn Williams introduced the program with one word—'Knickers'—and I think he had the attention of every Radio National listener from that point on. He apologised for the fact that for the past 18 years, during which Occam's razor had been broadcast, the program had failed to address this issue. However, he said that they were going to make this up by talking to Dr Judy Ford, an Adelaide based genetic scientist.

Dr Judy Ford contended in her program that modern lifestyle occupations and fashion have led to a common cause of male infertility. She recently released a book called *It Takes Two*, and I will read a couple of short extracts from it into the record. I assure members that this book is absolutely riveting and is entertaining reading. She says that it is obvious that the mail testes have been placed outside the body because they require a lower temperature than the rest of the body. She refers to some experiments that were done here in Adelaide on rams (not the Adelaide Rams, but sheep). She states:

> Recent experiments by a team of researchers in Adelaide showed that rams, which were made to wear the equivalent of modern underpants, had reduced fertility. When these rams serviced ewes, not only was there a reduced rate of conception but there was a greatly increased rate of pregnancy loss. Increased temperature caused similar problems in mice and rats!
>
> There are also several detailed studies on the style of men's underwear, the tightness of the underwear and trousers, and the material of which the clothing is made. The tests of style were completed in paraplegic men and involved measuring the deep scrotal temperature. The lowest temperature was obtained in scrotal slit underpants. Here the temperature was 1.6 degrees celsius lower than in boxer underpants that were 0.5 degrees lower than wearing Y fronts. The temperature was reduced a further 1.6 degrees if the men sat with their thighs apart.

She then refers to another study that was done on the types of fabric that the underpants were made of. In this case this was using dogs. She states:

> In these tests, the experimenter made sure that the 'underpants' were not tight enough to cause a difference in temperature. The dogs wore the underpants for 24 months. After this time, the semen was examined. In the dogs that wore polyester, there was a large decrease in sperm count and an increase in abnormalities. The researcher suggested that electrostatic effects—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: Some men in this place might learn if they listened to what was being said. She continues:

> The researcher suggested that electrostatic effects of the fabric caused the reduced fertility. The dogs recovered within a few months of wearing no underpants!

The factors which influence male infertility include tight underwear, sitting all day, over exercising, hot environments such as furnaces, saunas and hot spas, and high levels of toxins in the body. Despite the fact that a few changes in lifestyle, clothing and the environment can lead to a complete reversal of male infertility within about three months, Dr Ford says that the common causes of male infertility are frequently overlooked, and when couples present themselves to a fertility clinic with sterility problems they usually go straight into an assisted conception program and that male partners are not routinely asked about the type of underpants they wear.

The South Australian Council on Reproductive Technology was established under the provision of the Reproductive Technology Act 1988 to address the medical, social, scientific, ethical, legal and moral issues arising from reproductive technology. One of its functions is 'to promote research into the causes of human infertility and in doing so to attempt to ensure that adequate attention is given to research into the causes of both female and male infertility'.

Given the very high cost of fertility programs and the fact that some simple solutions are available, it has been put to me that savings could be made in the health budget if the Government was to put money into a public relations campaign to acquaint the public of the positive impact which lifestyle changes have on fertility rates. My questions are:

1. Will the Minister advise whether the Government would be prepared to conduct a campaign to advise men about the ways they can improve their fertility, including information on fabric and style of the underpants they wear?

2. Will the Minister advise how much of the health dollar—both public and private—has been spent on reproductive technology services in each of the past 10 years?

3. Will the Minister advise what action has followed the research work carried out by the Reproductive Technology

Council in relation to preventive health care and male infertility?

4. Will the Minister advise whether the Reproductive Technology Council is aware of Dr Ford's work, in particular her claims that in many cases simple lifestyle changes will reverse male infertility?

5. Will the Minister advise whether any guidelines for questioning are set down for fertility clinics within the public health system when couples present to a clinic with sterility problems? If so, could these be made available?

The Hon. DIANA LAIDLAW: Other members have timed the question and the explanation at nine minutes. It has been observed from this side that the Hon. Terry Cameron did not interject that this explanation was too long or took exception to the fact as he did earlier today in terms of the Hon. Legh Davis.

Members interjecting:

The Hon. DIANA LAIDLAW: I acknowledge that the honourable member did seem to get a bit excited. In fact he seemed to want to encourage the Hon. Sandra Kanck to go on and on. Anyway, the matters raised are serious, and I know that they will be considered as such by the Minister for Human Services. I will bring back a reply.

HOME AND COMMUNITY CARE PROGRAM

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Disability Services and for the Ageing a question about Home and Community Care funding.

Leave granted.

The Hon. CARMEL ZOLLO: The 1997-98 annual plan for the Home and Community Care program released by the Office of the Ageing reports that South Australia has the highest percentage of people in all age groups over 65 and the highest percentage of the population with a handicap. While South Australia has 10.2 per cent of the national potential client population, it receives only 9.1 per cent of the national HACC funding. This means that South Australia receives $76 less per head for each of the State's potential client population, or $8.4 million less each year than the amount required to reach parity with the national average.

While an additional $2.7 million growth funding is available in 1997-98, there is also an expectation by the Commonwealth that fees revenue of 11.4 per cent, or $8 million in South Australia, will be raised in 1997-98 to maintain a national growth rate in the program of 6 per cent. Has the Government determined a fees policy for the Home and Community Care program to access Commonwealth growth funds for 1997-98 and, if not, will State funding be increased to cover the shortfall, or will services be cut?

The Hon. R.D. LAWSON: The State Government has given a commitment to increase its level of funding to HACC programs over the next few years in order to bring this State into line with national averages in relation to the provision of home and community care. That commitment is being met and the level of State funding for HACC programs is rising.

The honourable member mentioned the introduction of a fees policy. It is true that in the Federal budget it was announced that growth funding contributions from the Commonwealth assume that the States collect 20 per cent of fees from HACC programs by the year 2000. That assumption is made only for future growth funding.

A number of HACC-funded agencies do in fact impose fees; for example, Meals on Wheels in South Australia has for many years charged fees for its services. A number of other HACC agencies do charge fees, and a number of agencies conducting HACC programs wish to charge fees. However, it must be said that there is some resistance within the sector to the charging of fees for certain services, and there are a number of complex issues which arise in relation to the charging of fees.

For example, a number of recipients of services receive many services from different agencies. If those recipients are to be charged a fee for each service, the question arises whether there should be some maxim or some other form of mechanism to limit the impact of the fees policy which the Federal Government seeks to impose on the States.

So far as I am aware only two States have introduced fees policies to date, namely, the State of Victoria, which has traditionally charged fees for HACC programs, and, more recently, Tasmania. In South Australia the question is still being examined by the Government. A number of submissions have been made by various HACC agencies about the question. There are, as I say, complex issues which have arisen, and the Government has those issues under active consideration. No decision has yet been made. I believe that the Minister for Human Services will make a decision in relation to this matter within the next six months.

SUBMARINES

The Hon. T. CROTHERS: I seek leave to make a precied statement before asking the Treasurer, as Leader of the Government in the Council, a question about statements made recently by the Federal Minister for Workplace Relations, the Hon. Peter Reith, concerning the Port Adelaide container wharf terminal.

Leave granted.

The Hon. T. CROTHERS: This is the second occasion on which, unfortunately, I have had to raise a question in this Council on verbal statements made by the Hon. Mr Reith about South Australian work force performance. The first occasion was some two years ago when Mr Reith came into South Australia and badmouthed the South Australian Submarine Corporation in respect of its building of the new Collins class submarine. As a former ship's carpenter, I took some time out in the question to try to educate—

The Hon. A.J. Redford: They would be in a lot of trouble if they were made out of wood.

The Hon. T. CROTHERS: Well, I would have no trouble working with you then—especially your head. As a former ship's carpenter, I took some time out in the question to try to educate what was obviously an unlettered mind in the art and knowledge of building ships of a new class. Whether or not my question succeeded, members should bear the following in mind: first, Mr Reith never resurfaced again in the subject matter; and, secondly, the executive officer of the corporation used similar arguments the following day to bring Mr Reith into line.

Unfortunately, people who know believe that Mr Reith's untimely remarks may have caused the Submarine Corporation export orders in this highly technical field of shipbuilding. What do we South Australians now find? He has done it again! In a statement made in South Australia several weeks ago, the Hon. Mr Reith decried the work performances of members of the MUA on Port Adelaide's container wharf. An article in the *Business Review Weekly* dated 9 March 1998 under the heading, 'Adelaide port shows how to turn things around', states:

There has not been an industrial dispute in five years at the Port Adelaide container wharf of Sea-Land Australia Terminals. Workers turn around shifts faster than any other stevedoring operation in Australia. . .

The article further states:

But what is perhaps worse, for Mr Reith's purposes, is that Sea-Land is a union shop that shows how things can be done.

Further:

Adelaide has always had to struggle to make its mark as a trade outlet.

The Minister for Transport bears some responsibility for those good works. When the American-owned railway and port operator Sea-Land moved in in 1993 it took on a work force of 80 but was immediately able to negotiate a new agreement. There are now 120 workers on this wharf, who do well over twice as much work as the old work force. In fact, the average number of containers shifted per crane per hour went up from between September 1993 and September 1997. The average number of containers moved each hour, not counting meal breaks or other delays, has risen from 26.1 per hour to 36.2 per hour. Members may like to know that in 1997 the port recorded its best on-year increase of 26 per cent—from just over 69 000 containers the previous year to 87 591 containers in 1997. The article further states:

General Manager, Captain Andy Andrews, defending his company against the Hon. Mr Reith's criticisms, told the media that Adelaide's costs and productivity fell within the range of Sea-Land's international business.

'While we are not at the top we are also not at the bottom,' he said.

My questions to the Minister, in the light of the foregoing, are:

1. Does the Minister believe that the ill-informed statements made by the Hon. Mr Reith concerning South Australian built submarines and the work performance on the wharfs of South Australia's ports has harmed South Australian industry both as to shipbuilding and the utilisation of our shipping ports and, if he does not, why not?

2. Realising the impossibility of silencing an ideologue, will the State Liberal Government consider buying the Hon. Mr Reith a proper hearing aid and a pair of spectacles suitable for people with impaired vision and, if not, why not?

3. Will the Minister ensure that his Federal colleague is supplied with a suitable fact sheet about the building of submarines here and the activities of work performed at the Port Adelaide wharfs so that he will be in a position to be much more accurate in any future statements he makes about South Australia than has been the obvious case for the Hon. Mr Reith in times past?

The Hon. R.I. LUCAS: Given the time and the detail involved in that question, I will take the question on notice and bring back a reply.

B-DOUBLE ROUTE

In reply to **Hon. IAN GILFILLAN** (24 March).

The Hon. DIANA LAIDLAW: The book published by Transport SA *Operation of Medium Combination Vehicles in South Australia Edition No. 1, July 1995*, nominates roads under the care and control of Transport SA available for use by B-Doubles. At the time of publication of the book the construction of the bridge at South Road Connector/Port Wakefield Road Intersection had not been completed.

On Page 14 of the book, the intersection in question was therefore shown without the bridge but the roads heading North and South were shown as B-Double routes. At present the overpass bridge over Port Wakefield Road connecting the Salisbury Highway with South Road connector is not a designated route for B-Doubles.

This publication showing the designated route network for B-Doubles is required to be carried by the driver of the B-Double as a requirement under the Government Gazette Notice in place of a conventional written permit.

From time to time an amendment to the original *Government Gazette* Notice for Medium Combination Vehicles (B-Doubles) is published to update the B-Double route network including new roads and any revisions to the existing publication.

The inclusion of this new bridge as a designated B-Double route was inadvertently overlooked and the situation will be rectified by publishing a *Government Gazette* Notice as soon as possible. Transport SA apologies for the oversight.

The new bridge has the load carrying capacity for B-Double combinations.

Transport SA will shortly advise the transport industry and SA Police by way of a media release.

QUESTIONS, EXPLANATIONS

The PRESIDENT: Before members leave the Chamber and before we move on to Orders of the Day, perhaps over the break members might contemplate Standing Order 109, which refers to questions, their content and leave granted for the explanation and, after today, the length of both the explanation and the question. I have made comment about that before. This applies not just to one question; there may be five or six. In this session, during Question Time we have averaged 10 questions a day. During the last session, we averaged 9.5 questions. Today we had 11, with three explanations well over five minutes in duration. It is in members' hands but, if members want to ask more questions, I suggest that the explanations be shortened. The five minute debate can be used to provide further material.

NON-METROPOLITAN RAILWAYS (TRANSFER) (BUILDING AND DEVELOPMENT WORK) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a Bill for an Act to amend the Non-Metropolitan Railways (Transfer) Act 1997. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this Bill be now read a second time.

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

Leave granted.

In preparation for the sale of Australian National (AN) by the Commonwealth Government in late 1997, Parliament made provision for privatised rail operations in South Australia by passing the *Non-metropolitan Railways (Transfer) Act 1997* and the *Railways (Operations and Access) Act 1997*.

The interstate passenger and SA freight rail businesses were purchased by Great Southern Railways Ltd (GSR) and Australia Southern Railroad Ltd (ASR) respectively. Optima Energy became the owner of the Leigh Creek line. These organisations have acquired AN's assets, improvements and rights but not the land itself. The Commonwealth has transferred the AN land to the State and the appropriate properties have been leased to the new owners.

The *Non-metropolitan Railways (Transfer) Act 1997* makes a number of special provisions for rail that take into account its former public ownership eg. exemptions from land tax and fencing requirements. However, no provision was made for compliance with the *Development Act 1993*. It has been drawn to our attention by the new owners of AN that, unless a declaration of compliance is provided, they could be prohibited from occupying formerly exempt AN buildings, and thus from operating their services.

Buildings and development works by AN, the Commonwealth or the State prior to the sale of AN were not covered by the State's regulatory and statutory requirements. Now that they have been taken over by the new private owners of AN, these buildings and works are no longer exempt.

For instance, Section 66 of this the *Development Act 1993* requires that buildings erected after 1 January 1974 must have a classification in accordance with the regulations made under the Act. Section 67 prohibits a person from occupying a building unless an appropriate certificate of occupancy is issued for the building.

It is therefore possible to argue that buildings acquired by the new owners of AN, who would now come under the Act, would not comply.

The State is under no obligation to provide a declaration of compliance with the State's regulatory and statutory provisions to the new owners. However, the State is prepared to take action to address this technical issue.

In considering legislation to facilitate the resolution of this matter it is worth noting that:

- a precedent already exists as an equivalent declaration was made for the same reasons in the *South Australian Timber Corporation (Sale of Assets) Act 1996*; and
- declaring compliance of buildings acquired on the sale date would not add to existing risks.

This Bill therefore seeks to amend the *Non-metropolitan Railways (Transfer) Act 1997* to add a single section that declares that buildings erected by AN, the Commonwealth or the State on the rail land comply with the statutory and regulatory provisions of covering buildings and development works at the time these were carried out.

It is important to note that any new developments would need to comply with these provisions.

This provision would also apply to any improvements on further railways land transferred to the State by the Commonwealth. Further land transfers are expected to occur when the extent of the land required for the interstate track network, which was excluded from the sale of AN, is resolved later this year.

This is an important, although minor legislative change, that is necessary to avoid an unintended consequence of the loss of the exemptions applying to development and works resulting from the sale of AN. I commend the Bill to members.

Explanation of Clauses

The provisions of the Bill are as follows:

Clause 1: Short title

This clause is formal.

Clause 2: Insertion of s. 11A

It is proposed to add a new provision that will allow building and development work carried out on land transferred under the Railway Agreement before the commencement of the principal Act to be regarded as complying with the statutory and regulatory requirements that applied at the time of the work.

The Hon. P. HOLLOWAY secured the adjournment of the debate.

NATIONAL WINE CENTRE (LAND OF CENTRE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 614.)

The Hon. P. HOLLOWAY: The Opposition supports this Bill. The National Wine Centre Bill was passed in the dying days of the last parliamentary session before the last election. The Opposition then supported the National Wine Centre, although while in Committee I moved an amendment, which was subsequently passed by this Council, to insert a PER process, which would have led to a 30 day consultation process about plans for the National Wine Centre. That amendment was rejected by the House of Assembly. The Government negotiated with the Democrats and reached a verbal understanding and that amendment was rejected. It is interesting to note from the Hon. Ian Gilfillan's contribution to this debate that assurances that were given by the Government at that time in relation to consultation and the verbal agreement reached did not come to pass. In his contribution, the Hon. Ian Gilfillan said:

> We were led to believe that there would be a process of consultation as a result of the original Bill being passed. I must say that, from my experience as Chair of the Adelaide Parklands Preservation Association and conversations with other groups that would normally be expected to be involved in a consultation process, this just has not happened.

I think that is rather disappointing. I want to say something about the whole environment in which the National Wine Centre Bill was discussed at that time.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: That is right, it had to be done yesterday. At the time all sorts of pressures certainly were placed upon the Opposition to assist in the swift passage of this Bill. We were told that the funds from the Commonwealth through the Federation Fund—or whatever the name of the fund is that recognises the Centenary of Federation—were at stake. We were told that, if we did not hurry up and pass this Bill in relation to the site that was selected on Hackney Road, there was a risk that money would not be forthcoming from the various industry groups that were part of the package. Of course, there were a lot of views within the Opposition about the suitability of the site and so on, but nevertheless we agreed that we would allow for the swift passage of the Bill at that time to enable that development to go ahead, because the Opposition is certainly committed to a National Wine Centre.

There ought to be a National Wine Centre that is a credit to this State. It should certainly be located in this State which has been the centre and which remains the centre of the wine industry ever since this State was founded. Now 12 months later, I must say that the Bill before us is certainly more suitable than the original Bill. I remember during the debate on the Bill 12 months ago that I made comments about the difficulty that I thought the architects would have in trying to come up with a suitable design for that site, given that it had to fit in with, first of all, the modernistic conservatory, secondly, the Goodman Building which was a heritage listed building and, thirdly, there was also the question of what to do with Tram Barn A. In my view, that still remains a bit of problem, but we might come to that later. Also, of course, it had to be compatible with the Botanic Gardens that were next door to the site and the whole plan had to address problems of parking, access and so on. I made the comment at the time that I thought it would be something of an architectural challenge to do that.

I believe that with the changes that are proposed, which involve moving the Herbarium to Tram Barn A and the release of that part of the Botanic Gardens site for the National Wine Centre, is a much more satisfactory arrangement, from my point of view. I am also quite happy that the Hon. Legh Davis has now reached the pinnacle of his life's work in getting the rose garden on this particular site. I must say I believe that it is a more satisfactory arrangement than what we had originally. If anyone is interested in knowing the background to this measure, they should read the Leader of the Opposition's contribution in another place in which he points out in great detail, I must say, the background to the debate on this matter and how the Opposition was misled—I think would be a kind word to describe it. We were certainly misled by some of the people in the industry about the need to rush that proposal through. I am not sure on what date it was that the Leader of the Opposition made his speech, but I happen to know that it was a day that coincided

with the Elton John and Billy Joel concert, whatever day that was.

It is worth reminding the Council that the Opposition made a considerable sacrifice in giving its support at short notice, and given that there was some concern about this, in trying to get this centre up and running quickly.

The Hon. Ian Gilfillan interjecting:

The Hon. P. HOLLOWAY: As I said, at the time there were a number of views about where this centre should go. To get the funds from the various industry bodies we were told that it had to be a neutral site; in other words, we could not locate it in the Coonawarra, the Barossa Valley, the Southern Vales or any other centres because that would be seen to be favouring one wine growing region over another. It was accepted that it should be somewhere in the city. What I think about the site is certainly that the arrangements that we now have are somewhat preferable to the original arrangement, which, as I said, would have presented a lot of difficulties in coming up with a design for a centre that would fit in with the Goodman Building and the conservatory because of the location. I would certainly hope that now with these changed arrangements we can actually finish up with a centre which does credit to this State because it is important that we should achieve that objective.

The Hon. T.G. Roberts interjecting:

The Hon. P. HOLLOWAY: It certainly would have been something of an unusual design if it had fitted in with all those three things. In relation to Tram Barn A, I understand, as the Hon. Legh Davis pointed out, that there are some problems in dealing with that because it is listed on the State and national heritage list. I will choose my words very carefully. What I will say is, perhaps if the sides and the roof of that building are replaced, then it may be more acceptable visually in this particular region, particularly if the replacements were a lot smaller.

The Hon. R.I. Lucas: It sounds like you want it knocked down.

The Hon. P. HOLLOWAY: I will not contradict the Leader of the Government on his interjection. Nevertheless, hopefully with a bit of imagination and perhaps some very vigorous creepers growing in the area, we can overcome the visual impediment of the region and come up with a National Wine Centre that is a credit to this State because, as I say, it is appropriate that it should be in this State. While we would certainly not forget the treatment that we as an Opposition were given by some in the industry at the time towards this proposal—and I do not think they did themselves any credit—nonetheless, the objective of having the best possible wine centre for this State is an important one. We endorse it and we will be supporting this Bill.

The Hon. M.J. ELLIOTT: I want to say a few brief words, as I had passage of the wine centre legislation last year. The principal responsibility is now with the Hon. Ian Gilfillan, who has now re-entered this place and who has been a champion of the Adelaide parklands for a long time. The Democrats did not support the legislation that was passed last year. The Democrats have had the view that there has to be a preparedness to draw lines in terms of the parklands and to say that we are committed to no further development within them. That is a line that we took. We argued that there were other options available for a National Wine Centre and still believe that to be the case.

This Government is now involved with the first introduction of significant commercial development into the parklands, and there is a commercial component to this development. Of course, the Tennis Centre that will be built (about which we will talk in other legislation) is entirely commercial in nature. This is the most significant invasion of the parklands of commercial activities that has ever happened and it is happening with the full support of the Labor Party. Both Parties have done a major somersault in the last decade. When the Labor Party announced that the STA was to be removed and the land was to revert to parklands, the now Premier (John Olsen), then Leader of the Opposition, was publicly condemning the Government for not doing it quickly enough. We now have Premier Olsen sponsoring two major invasions of the parklands, one being on the same site that he said should have been reverting to the parklands, and the Labor Opposition supporting it. It has been an amazing turnaround in terms of support for the parklands by both Parties in the past 10 years.

When the Labor Party offered support, the one thing that we sought to achieve with the legislation was to get what you might call the 'least worst' option: if there is to be a National Wine Centre, then let us ensure that it invades the parklands as little as possible whilst ensuring that we have a National Wine Centre of value. One of the clear concerns we had at the time was the location, as it was then designated even within the area the Government set aside in the legislation, and I moved an amendment at that time to seek to shift the development solely to the southern end of that site. I now get some comfort from noting that they have gone so far south that they have actually gone out of the site entirely. That is why we are back here having this debate now.

There was no doubt that putting the Wine Centre in front of the Bicentennial Conservatory was quite absurd, and we argued that. At the time we were being dismissed, but I must say that we feel somewhat justified in the same way as we feel justified that we attempted to amend maps for the MFP when it was first proposed. In that case we were not opposed to it: we just said that they did not have the site right. So, the shift away from the Bicentennial Conservatory is clearly a good thing for it, for the parklands and for the Botanic Gardens as a whole. I am pleased to see that happen, but some questions remain unanswered. I am not sure that the Government has solved all its problems yet, because where it is going now is not a vacant area but an area already occupied by buildings that have clear uses. It is quite possible that the people in the wine industry do not appreciate just how important the contents of those buildings are.

The State Herbarium is an asset on which it is very difficult to put a value. I am not talking about the buildings but what is contained within them. It is a resource which we would be seeking to retain in perpetuity, which is still growing and which needs to be put into a building that is purpose built in terms of temperature, humidity etc. It is in a purpose built building now and, rather blithely, the Wine Centre is now shifting onto the area containing the Herbarium and Government members are saying, 'We'll shift that and put it inside the tram barn.' Frankly, I think they are kidding themselves and that the cost will be very significant. I do not think that that has been fully appreciated.

If it were not for costs associated with the relocation of various parts of the Botanic Gardens operations, the site itself to which they have now gone is better than the previous option, but I doubt very much that they have really given sufficient thought to the cost implications of it, and I ask the Minister—and I will ask during the Committee stage if I do not get an answer at the end of the second reading debate—

what costs will be involved in the relocation of the Botanic Gardens facilities, particularly of the Herbarium. Has there already been an attempt at any sort of design work so that costings can be done on that?

The Labor Party expressed some disappointment about what it probably saw as a level of dishonesty in terms of the rush that was put on this last year. We were told that everything had to be resolved within four months, if I recall correctly, after the passage of the legislation. The legislation went through on 24 or 25 July and the four months was up at the end of November. We have gone another three or four months past that again, so what was all that rush for? One would have hoped that the extra time involved some consultation, and the Hon. Paul Holloway talked about verbal agreements that we had. It depends what he meant by 'verbal'. If he thought they were oral, they were more than that. The undertakings were given in writing by the Government. I am a little peeved, and to say that I am having increasing difficulties in trusting anything that it does would be an understatement. I have here a copy of a letter written to me by the Deputy Premier (Hon. Graham Ingerson). I seek leave to table a copy of that letter of 17 July.

Leave granted.

The Hon. M.J. ELLIOTT: I also seek leave to table a series of attachments labelled A through to E.

Leave granted.

The Hon. M.J. ELLIOTT: In the letter written to me, the Deputy Premier thanked me for meeting him and considering certain proposals, and went on to say:

> The Government totally supports your call for a formal—

and I stress 'formal'—

> consultative mechanism to be undertaken for the development of the design, including landscaping, of the National Wine Centre.

He went on to discuss the Opposition proposal for a PER, then stated precisely what the consultative process to which he had agreed would be. Members will find that the outline of the consultative program is included within the attachments. Attachment A, entitled 'Proposed consultative program', recognises that:

> Key stakeholders have been invited to sit on the Steering Committee during the design development stages of the project. The groups identified as key stakeholders include the Adelaide City Council and board of the Botanic Gardens. . . Other stakeholders have been identified as those groups, organisations and individuals who have a legitimate claim of being affected by the development and therefore should have an opportunity for their opinions to be heard. These stakeholders have been asked to participate in the design consultative program. It is proposed that stage 1 of the program have the following steps:
>
> 1. Individual stakeholder briefing on key elements.
> 2. Written communication to outline any concerns or issues expressed at the meeting and inviting further communications.
> 3. Development of design parameters.
> 4. Group stakeholder briefing and feedback.
> 5. Develop concept design and landscape options.

And it spells those out further. There was a listing of stakeholders, which consisted of the Adelaide Parklands Preservation Association, Friends of the Botanic Gardens, St Peters council, St Peters Residents Association, St Peters College, National Trust, East End Coordination Group, Civic Trust of South Australia and the Architects Foundation of South Australia. On the advice of members of those groups it appears that the formal consultation that was expected to happen was not happening. In fact, after the Major Projects Group took over this project I met with Mr Roger Cook, and he had no awareness whatever about undertakings that had been given in relation to consultations. From my meeting with him I developed the impression that he himself had a preparedness to carry out consultation and had been having meetings with one or two of those players quite independently, but he had had no understanding whatever of agreements that had been made some seven months before.

I feel mightily let down by that failure. As I said, it is remarkably difficult to maintain trust when one is being let down in that manner. The Deputy Premier also made a statement, which he titled 'National Wine Centre Bill 1997. Ministerial response to amendments proposed in the Legislative Council.' In that he identified many of the processes I described in his letter and put them on record within the Parliament itself. I seek leave to table a copy of that document as well.

Leave granted.

The Hon. M.J. ELLIOTT: I want to make it quite plain that there was more than an oral agreement. There was a written agreement and a statement within the Parliament about what was supposed to happen. All the feedback I have had is that that did not happen in the way in which the undertakings were given, and I express my bitter disappointment.

The Democrats have been opposed to the location of the National Wine Centre within the parklands on the basis that, if you do not draw a line and say there will not be one more, there will always be one more and one more and one more, and we presently have two that we are debating in the Parliament at once. The approach that we took last year was that we would seek the least worst option, one which would be most sympathetic with the parklands and the Botanic Gardens, whilst maintaining a National Wine Centre of excellence.

What is on paper so far looks quite promising but there appears to me, at least, to be some significant unanswered questions about the real cost of doing it this way. It is not just the cost of building the Wine Centre: you really have a whole lot of rebuilding to be done for significant parts of the Botanic Gardens. I would expect there to be a clear undertaking that that work will be completed before the Wine Centre work commences. In other words, they must be able to relocate and be functioning fully before they lose their buildings. I hope that the Minister can give an undertaking in that regard during the second reading.

The Hon. R.I. LUCAS (Treasurer): A number of issues were raised by members in their second reading speeches, and I believe that I can usefully address a number of those during the Committee stage of the debate.

Bill read a second time.

In Committee.

Clause 1.

The Hon. IAN GILFILLAN: I would like to ask a couple of questions in relation to the geography of the plan. In relation to the northern boundary of the land, which has been moved and which is to be dedicated to the wine centre, where does that run in relation to what will be the division, if there is to be a division, between the vineyard and the rose garden and/or Tram Barn A? The map that is shown in the Bill does not indicate that.

The Hon. R.I. LUCAS: I am advised that it runs about 15 metres south of the southern wall of the Goodman Building.

The Hon. IAN GILFILLAN: So that, in fact, the Goodman Building will be in the land dedicated to the wine industry centre?

The Hon. R.I. LUCAS: No, it will be in the area dedicated to the Botanic Gardens.

The Hon. IAN GILFILLAN: In relation to the vineyard area and the planting and care of the vines, who is it envisaged will undertake that work? Will that be part of the responsibility of the Botanic Gardens?

The Hon. R.I. LUCAS: I understand that a contract will be entered into with the Botanic Gardens.

The Hon. IAN GILFILLAN: In relation to the question of the care of the areas in consideration, the proposal for the rose garden is, of course, still only a proposal and it is not fixed in the legislation, but assuming that the rose garden goes ahead, does that have the approval of the Botanic Gardens Board? Will the Botanic Gardens Board be expected to plant and maintain that rose garden to its own determination, or will there be an independent authority which will instruct the Botanic Gardens Board as to what to do? In either case, what is the estimated cost, and will the Botanic Gardens Board's budget be reimbursed to allow for that increased cost?

The Hon. R.I. LUCAS: I am not sure whether I got all the questions, but the answer to the first question is that the Botanic Gardens does approve, and it has been given a guarantee by the Government that it will not be financially disadvantaged in relation to its involvement in the rose garden part of this development.

The Hon. IAN GILFILLAN: What are the car parking arrangements foreseen for the two areas? Is there to be any car parking on the area transferred to the Botanic Gardens? If so, how much, and catering for how many cars? Does the Leader agree that that is an extension of car parking on the parklands? That question relates to the specific area of the rose garden.

The Hon. R.I. LUCAS: There will be no car parking on the land that is to be returned to the Botanic Gardens. The car parking that is currently in front of Botanic Park will be extended in front of the area that is being returned to the Botanic Gardens.

The Hon. IAN GILFILLAN: Does that mean that there is an excising of an area which is technically parklands, or Botanic Gardens, for car parking?

The Hon. R.I. LUCAS: I am advised that the land is currently part of an STA reserve and not the parklands.

The Hon. IAN GILFILLAN: An STA reserve?

The Hon. R.I. LUCAS: I am advised that at the moment it is an unused lane, and that is what is being talked about for the extension of the car park.

The Hon. IAN GILFILLAN: That is a fascinating bit of information: that it is an unused lane still owned by the STA, and there is no legislation to transfer it to either the Botanic Gardens or the wine industry centre. Is that what the Minister has just explained to me: that there is still an area of land, an unused lane, that is vested in the STA and that that area is to be used for car parking?

The Hon. R.I. LUCAS: From what I have said, that is quite clear, and negotiations are going on with the STA as to the management of car parking in that area.

The Hon. IAN GILFILLAN: Those questions concerned Botanic Gardens car parking. As for the wine industry centre, what car parking facilities are proposed for that area? What is the scope for bus arrivals and manoeuvres in that area and what is the estimated total area that will be dedicated to car parking and bus and traffic movement on the land dedicated to the wine industry centre?

The Hon. R.I. LUCAS: I do not have an answer to the question about actual square metreage but it is proposed that there will be a car park in the area between the Goodman Building and First Creek which will be sunken and covered by vines so that it is not visible from the road. I am sure that the Hon. Mr Gilfillan would be delighted by that prospect.

The Hon. IAN GILFILLAN: The Minister has made a wrong assumption: the Hon. Mr Gilfillan is not delighted by any prospect in the proposal in any shape or form. What limit, if any, is there on the size of the wine industry centre building? Is there a determined floor space above which the building will not go? Is there any indication that there is a limited area to be used?

The Hon. R.I. LUCAS: There is no legislated limit or anything along those lines. However, a figure as much as 10 000 square metres is being talked about. Whether that is on two floors or only one floor is still being considered.

The Hon. M.J. ELLIOTT: Will the Treasurer indicate whether or not there are any changes to the usage of this building as now proposed compared with the previous proposal? Previously it was suggested that the wine centre would house the Wine Federation. Are they the only two purposes for which the building will be used or are there other purposes as well?

The Hon. R.I. LUCAS: I am told that the purposes for the building remain the same as the purposes originally discussed when the previous Bill was before the Chamber.

The Hon. M.J. ELLIOTT: Can the Treasurer give any indication of the design work that has been done for the relocation of the Botanic Gardens facilities, particularly the Herbarium, and what estimated costs are associated with that?

The Hon. R.I. LUCAS: I am advised that the project team, including the architect and quantity surveyor, are currently working up the total precinct design options. As part of this process the detailed costings of all components of the Botanic Gardens, wine and rose development will be undertaken. These costs will be known shortly.

The Hon. M.J. ELLIOTT: I would be most surprised if there has not been at least an attempt to get a ballpark figure for this project so that one would know whether or not it was realistic. Can the Treasurer indicate the ballpark figure?

The Hon. R.I. LUCAS: I do not have a ballpark figure available at the moment. My advice is that work is still being done on design options. The final design option will largely determine the cost of the development process. I do not have a figure, ballpark or otherwise, available to me at the moment to share with the honourable member.

The Hon. M.J. ELLIOTT: Is the Treasurer suggesting that there has not been an attempt at least to derive such a figure so that a decision could be made to proceed even this far? The fact that Parliament has legislation before it to shift the site suggests that someone has decided that it looks like we can afford to do it; otherwise we would not be persisting with this new design option. I cannot believe that there is no figure, and it is unacceptable that the Parliament cannot be told what it is.

The Hon. R.I. LUCAS: Clearly an estimate is available in terms of the total cost of this development project, and officers and others will have to work broadly within that overall cost estimate. If the costs in one area are so much, costs in another area might have to be adjusted. I understand that negotiations are going on with different groups about what ought to be provided and in what form, and that will be

an issue for further discussion and negotiation. At this stage it is not possible for us to put figures out into the marketplace because, as soon as we do, they will be freely canvassed as the Government's estimates. If the cost is different to that, there will be claims of cost blow-outs, cost reductions or whatever.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Crothers said that contactors might put in a higher price, so he is aware of the contracting industry. I cannot offer much more than that to the Hon. Mr Elliott at this stage.

The Hon. IAN GILFILLAN: The Government has given an undertaking to contribute $20 million to the project, and there was an expectation that possibly as much as $20 million could come from the Federal Government. I should like the Treasurer to comment on two details. First, has there been any indication that Commonwealth money will come to the project? If so, how much? If not, when does he expect there to be any firm commitment of funds?

The Hon. R.I. LUCAS: The answer is 'No': we have not received a response yet in terms of Commonwealth funding. The State Government remains ever hopeful that the Commonwealth, through this funding source, will see the good sense of providing Commonwealth funding for what would be an exciting State and national project.

The Hon. IAN GILFILLAN: Does the Treasurer concede that the $20 million, or a large part of it, could be taken up in the cost of establishing the Herbarium in an obviously unsuitable building and in the refurbishment of the Goodman Building, and that that could mean that the Wine Industry Centre would have to be housed in the old Botanic Gardens buildings because there would be no funds to build the new centre?

The Hon. R.I. LUCAS: No, I am advised that that is not likely to happen.

The Hon. Ian Gilfillan: Why?

The Hon. R.I. LUCAS: Because it's not.

The Hon. M.J. ELLIOTT: Is it planned for the Herbarium to go into Tram Barn A or a new building, or does not the Government have any idea at this stage?

The Hon. R.I. LUCAS: I am advised that the plan is for the Herbarium to go into Tram Barn A and that the Botanic Gardens and the Herbarium are happy with that possibility.

The Hon. M.J. ELLIOTT: Prior to the debate on the original National Wine Centre legislation, I placed an FOI application with the Government in relation to details on the Wine Centre. The Government took a considerable time to supply it and then left out certain information. I went back to the Ombudsman, and the Ombudsman, I know, has given an instruction to the Government to supply that information. I have still not received it. When will that occur?

The Hon. R.I. LUCAS: The honourable member has me at a disadvantage. I have no knowledge of the honourable member's pursuit of documents or correspondence. I understand that it is obviously an issue with Minister Ingerson, with whom I will be happy to take up the matter. If the situation is as the honourable member has indicated, namely, that the Ombudsman has directed that something occurs and if the legal import of that is that the Minister must comply, I am sure that he will do whatever is required. I do not have any information available to me during the Committee stage of this debate to be able to throw any light on the current progress of the honourable member's FOI application.

The Hon. M.J. ELLIOTT: For the record, I did not have copies of the Ombudsman's letter with me when I asked the question just a moment ago, but I now have a copy of both his letter to me and the letter he wrote to Graham Ingerson, the Deputy Premier, on 24 March. In the letter he notes that he had given his preliminary views to the Hon. Graham Ingerson back on 22 December 1997. At that point apparently it was made quite plain to the Hon. Mr Ingerson what the Ombudsman's views were, even though he has only just formalised them in recent days. I must again protest about this Government's persistent and wilful withholding of information.

The Hon. R.I. LUCAS: I thank the honourable member for that detail because he has indicated that the Ombudsman's decision was relayed to the Minister only two days ago. In relation to the Ombudsman's process, there is a process whereby he gives some preliminary views—it is a bit like an interim report—as to where he might be heading. There is an opportunity then obviously for some discussion with the Minister or the agency, and only after that is there a final decision from the Ombudsman. The honourable member has kindly put on the record the fact that that decision was only relayed two days ago, so I think it is probably a bit unfair of the honourable member to be critical of the Minister if he has not complied with a request given to him 48 hours ago.

Clause passed.

Remaining clauses (2 to 5), schedule and title passed.

Bill read a third time and passed.

LOCAL GOVERNMENT (MEMORIAL DRIVE TENNIS CENTRE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 24 March. Page 599.)

The Hon. R.I. LUCAS (Treasurer): I thank members for their contributions to the second reading debate and Opposition members for their indication of support for the legislation. Some issues were raised during the second reading and I look forward to exploring them at length with members during the Committee stage of the debate.

The Hon. IAN GILFILLAN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Council divided on the second reading:

AYES (18)

Cameron, T. G.	Crothers, T.
Davis, L. H.	Dawkins, J. S. L.
Griffin, K. T.	Holloway, P.
Laidlaw, D. V.	Lawson, R. D.
Lucas, R. I. (teller)	Pickles, C. A.
Redford, A. J.	Roberts, R. R.
Roberts, T. G.	Schaefer, C. V.
Stefani, J. F.	Weatherill, G.
Xenophon, N.	Zollo, C.

NOES (3)

Elliott, M. J.	Gilfillan, I. (teller)
Kanck, S. M.	

Majority of 15 for the Ayes.

Second reading thus carried.

In Committee.

Clause 1.

The Hon. IAN GILFILLAN: The project has been declared as a major development under section 46 of the Development Act 1993 and referred to the Major Developments Panel. Recently, the panel released an issues paper, and page 4 of that issues paper shows the decision-making

process for this proposal in nine steps. It indicates that the third stage has been reached, with six more steps to go before decision making. By presenting this Bill now the Government is prejudging the outcome of the panel's decisions on the level of assessment and contents of guidelines; also, the outcomes of the EIS, PER or DR process that is to be applied in assessing the process against those guidelines. Would the Treasurer indicate whether the Government accepts that we are only at stage 3 of a nine stage assessment process as outlined in the issues paper of the Major Developments Panel?

The Hon. R.I. LUCAS: Yes.

The Hon. IAN GILFILLAN: I think that any objective observer would conclude that, because the Bill is before us now, the results of the assessment are a *fait accompli*, that it has been determined by the Government that the Major Development Panel's final deliberations will be supportive of the project that has been outlined in some detail in the issues paper. If the Treasurer is in any doubt, the issues paper to which I refer is that of the Redevelopment of Memorial Drive Tennis Centre proposal by Memorial Drive Tennis Club and Tennis SA, Major Developments Panel South Australia (March 1998). Does the Treasurer agree that, in essence, that paper describes the proposal for the site?

The Hon. R.I. LUCAS: Yes.

The Hon. IAN GILFILLAN: Does the Treasurer accept that there is a possibility that the final process of the assessment could advise against the proposal?

The Hon. R.I. LUCAS: I am again advised that there is obviously a whole range of options that the Major Development Panel could come up with, and that might be one of them.

The Hon. IAN GILFILLAN: Is it not then the case that this Bill is premature and that it could in fact leave an area of land alienated from the parklands with virtually nowhere to go?

The Hon. R.I. LUCAS: I understand the Hon. Mr Gilfillan's particular interpretation of these issues which, as he sees them, pertain to the parklands. I am told that the land in question has actually been used for tennis for some 75 years. As a young country lad who travelled from Mount Gambier to attend country carnivals, I can certainly attest to the fact that it has given a lot of pleasure not only to a lot of South Australians for many years who travelled in January every year from the country for the country carnival but also in terms of its ongoing and consistent use by metropolitan Adelaide tennis players as well.

We are not really talking about untouched parkland area, which is now to be converted into some sort of dastardly new use. Rather, we are talking about an area which, for 75 years, has been used for the joy and the pleasure of many South Australians and, indeed, visitors to South Australia, for the purposes of playing tennis. I am told that there is currently a 21-year lease on this land. We are talking about, in this legislation, allowing discussions about various options in terms of the continued use of this part of Adelaide for the purposes of playing tennis and related issues. There is nothing, of course, that I will be able to do to shake the Hon. Mr Gilfillan's view loose in relation to, from his viewpoint anyway, the terribleness of what the Government and others are seeking to do, that is, continue to use this area for playing tennis. It is not a view that is shared by the Government. We acknowledge that the Hon. Mr Gilfillan takes a different view.

The Hon. IAN GILFILLAN: Unfortunately, the Treasurer shows a gross ignorance of what will be the effect of this development on his beloved tennis courts. It obliterates the possibility of playing tennis on a large area of that which is currently the Memorial Drive Tennis Club and covers it with buildings. The ground floor building of this proposal covers 4 260 square metres, which will take it out of the scope of so-called 'open space tennis courts'.

The issues paper includes a plan of the area. I am not sure whether the Treasurer's adviser has a copy that we can look at, but I assume the Treasurer knows the area about which I refer. From that plan, is the area the same as that shown in the issues paper as, 'Memorial Drive Sports Centre, Scheme 11, November 1997, Hassell', because, if it is, I would like to refer to it in some detail?

The Hon. R.I. LUCAS: I am advised that the simple answer to the honourable member's question is 'No.' As to the tennis playing capacity of Memorial Drive, we have not counted the exact number of courts but it looks to be about 30-odd, with a net loss of two courts. I am advised that there are three fewer courts in one area and one new court in another area, for a net loss of two courts out of the total present capacity of about 30 courts.

The Hon. IAN GILFILLAN: It is most unsatisfactory. In that case, I do not have a copy of General Register Office Plan GP12/98. I do have, however, the plan that is included in the issues paper, and that is the only indication of the effect of this. I advise the Treasurer to look at it because, whether or not it is his understanding, this is part of the proposal. An area north of the proposed building is described as 'proposed new landscape planting', with another proposed swimming pool, and that will take out 14 courts, let alone what is lost by buildings. I do not want to haggle over that, but it makes it very difficult to discuss the proposal if we do not know what actually is being given away in regard to area under the control of the leisure centre.

The Hon. R.I. LUCAS: I can only pass on to the honourable member my expert advice that the claims made by the Hon. Mr Gilfillan are not correct. We have been advised that there is to be a net loss of only two courts as part of this particular proposition. I am not sure what the Hon. Mr Gilfillan is driving at in terms of the tennis court playing space. As I understand it, the Hon. Mr Gilfillan has a more fundamental problem with the whole development.

The Hon. IAN GILFILLAN: That is understood, but that does not necessarily preclude me from asking some relevant questions and I expect some pertinent answers. I do not expect to be constantly reminded of what is a quite obvious fact. A lot of people regard this as a totally unacceptable intrusion into an area that should be kept as open space.

The Hon. R.I. Lucas: How is it an intrusion?

The Hon. IAN GILFILLAN: If you do not know what is being proposed it is pretty hard to argue whether or not it is an intrusion. The material before me has quite detailed listings of the proposed improvements to the centre court stadium and the northern and southern stands. Those proposals show details of interior refurbishment to the office suite, players' lounge, massage and medical room, interview room, stringers room and the ball kids' room—I did mention this in my second reading contribution—and similar, quite extensive refurbishment of the southern stand. I think that that has been estimated as something close to $2 million worth of improvements, maybe more.

With these particular improvements of facilities being provided, why is the Lloyd Leisure Centre critical to the

holding of significant tennis events, particularly as it is quite clear that not a dollar of Lloyds' investment will go into refurbishing the facilities of the centre court?

The Hon. M.J. Elliott interjecting:

The Hon. IAN GILFILLAN: That's right.

The Hon. R.I. LUCAS: I am told that the master plan proposal is to be extended over a five-year period, not a 12-month period. I am also told that, broadly, the answer to the honourable member's question is that, in terms of trying to provide for a more viable development or operation at Memorial Drive, each of the constituent parts will feed off each other. Clearly, if they are able to attract more tennis players and others associated with the proposed new facilities it would be better in terms of the viability of the total project. In terms of the facilities underneath the southern stand to which the honourable member has referred, I remember the state of those particular facilities 30 years ago. They could have done with some upgrade 30 years ago. When I visited the site about two years ago, they did not look much different from what they were like 30 years ago. Frankly, they are substandard. If we want to attract tennis players—

The Hon. M.J. Elliott: Lloyds are not paying for that.

The Hon. R.I. LUCAS: I am not saying that. Do you want a successful development? We understand the Democrats' position that they will oppose anything that is development or that anyone has a bit of fun with. The Hons Mr Gilfillan and Mr Elliott are being true to form with both the Wine Centre and the tennis development proposal at Memorial Drive.

As I have said, we have had a tennis centre in that area for 75 years or so. This is not virgin parkland untouched by human beings. This area has been used by country and city South Australians for 75 years. As I also said, when I first experienced the facilities 30 years ago they were substandard and they are certainly still substandard today. If we want to provide quality tennis playing facilities for South Australians and for visitors to South Australia, then we have to spend some money. The Government is spending a little and obviously there is some attraction of investment as part of this proposal in terms of private sector investment as well.

Again, I cannot change the position of the Democrats which is to oppose any new development with which this Government might be involved, anything that might provide improved facilities to South Australians. It is to their cost, I believe, as a political Party that whenever some positive development is introduced into South Australia they seek to either undermine it, criticise it or destroy it. In this case, in almost an unprecedented step, the Democrats tried to stop this Bill even being discussed and considered in Committee. They tried to stop it at the second reading stage, which, as I said, is almost unprecedented in terms of allowing—

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: It is not. The honourable member has not been able to explain his definition of 'intrusion'. The Hon. Mr Gilfillan when challenged by me to explain what he meant by 'intrusion' was unable to take up the challenge. I challenge him again to explain what he means by 'intrusion into the parklands' when he continues to make that claim about this particular development. It has been there—

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: Well, I am on my feet.

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: No, you take your medicine. South Australians have been playing tennis there for 75 years. If the Hon. Mr Gilfillan wants to pursue this claim about a further intrusion into the parklands, let him explain what he means by 'further intrusion'.

The Hon. IAN GILFILLAN: The actual intrusion in this case is against the Adelaide City Council's guidelines and anyone's expectation of what could be regarded as an improvement of the parklands. The Government is facilitating a totally privately owned entrepreneurial activity to make money out of the public on land which was dedicated as parklands and which is recognised as parklands. In fact, in the issues paper—

The Hon. R.I. Lucas: Where is the further intrusion?

The Hon. IAN GILFILLAN: Let us say we put galvanised roofs over the whole of the parklands. That I believe you would understand as an intrusion on the parklands. This is taking largely an area which is currently open space and which will be covered with at least two storey and in some places three storey buildings. That in its own physical sense is an intrusion, but the philosophical intrusion is even worse; that is, that we are falling down and inviting Lloyds, an overseas company, to come to South Australia and make a killing on one of the best sites available. That is an intrusion. I recommend that the Treasurer read the issues paper. On page 11 it says:

> The appropriateness of the development on land contained within the Adelaide parklands will need to be considered.

In other words, it is a factor that even this issues paper recognises as an issue. Further, it says:

> The proposal incorporates an indoor tennis/function centre on the parklands. . . The proposal may significantly enhance the capacity to hold other events than currently occur at the site. The range of recreation uses and facilities is expanded in the proposal from those existing which could affect the character of the precinct for example additional concerts and other non-recreational events.

That is a highlight of an intrusion. However, many other people who will be reading *Hansard* and who will take an interest in this will understand the significance of intrusion.

I ask a question regarding the continuity of the Memorial Drive Tennis Club. We have been advised that all existing members will be offered life membership in the Lloyds' leisure centre and, upon the expiration of the last living member of the current Memorial Drive Tennis Club, it appears as if that entity will no longer exist. If that is the case, who and what will be members of a club or an entity which can use the remaining tennis courts in that facility?

The Hon. R.I. LUCAS: I am advised the honourable member has been misinformed in terms of the basic assumption he made in relation to that question. I return to the issue of my challenge to the honourable member in relation to what I asked him was the further intrusion. On the honourable member's interpretation of intrusion on the parklands, I am presuming that what he is saying is that, if the Government, or the tennis association and others, were to fund through Government funding or their own funding any extension of facilities—for example, an extra toilet or an extension of the existing clubroom facilities—the Hon. Mr Gilfillan would see that as a further intrusion on the parklands. That is the Hon. Mr Gilfillan's interpretation of a further intrusion. What he is saying is that what exists at the Memorial Drive facility must stay as it is or be reduced. I presume he would ideally support its removal.

The Hon. Ian Gilfillan: With that Bill you would find support.

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan says, 'Yes, the Democrats would support the removal of the Memorial

Drive facility from the parklands completely.' They would support a Bill to that effect. It is important—

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan supports the proposition that it should be returned to parkland use and the buildings, facilities and so on be removed from that area. Again, that is the Democrats' position: to remove Memorial Drive facilities from Memorial Drive. That is fair enough; that is their position. It is a view that I do not believe would be shared by the overwhelming majority of South Australians. I think they would be horrified to know that the Democrats' position is that the Memorial Drive facilities ought to be removed whence they have been for the past 75 years. It is an appalling prospect but that would be the position of the Democrats.

They are not just opposing this particular improvement of facilities but their Party policy position is to get rid of the Memorial Drive facilities. I am pleased to have got that from the Hon. Mr Gilfillan who is the official Party spokesperson for the Democrats on this issue. As I said, when people become aware of that they, like me, will be appalled. There are many thousands of South Australians, from both the city and the country, who not only have enjoyed playing at Memorial Drive but enjoyed going there to watch tennis. The prospect that the Democrats want the facilities removed—and that is obviously the grandstand space (and the Hon. Mr Gilfillan confirmed that by way of response to my question)—is an appalling prospect.

Again, returning to the Hon. Mr Gilfillan's interpretation of further intrusion, as I said, even a publicly funded extra toilet block, facility block or changeroom block at Memorial Drive clearly fits within the Hon. Mr Gilfillan's interpretation of a further intrusion into the parklands and is to be vigorously opposed should such a proposition be canvassed by the appropriate authorities. Again, I can only conclude that I understand the honourable member's position. On behalf of the majority of South Australians I wholeheartedly and vigorously oppose the Democrats' policy and position in relation to Memorial Drive facilities.

The Hon. M.J. ELLIOTT: I was going to comment about some other matters, but I cannot let the Hon. Mr Lucas once again play his little games of misrepresentation. He does it without fail in this place, and I know that the people sitting behind him have their little giggles and think how clever he is, and he must feel pretty proud of himself sometimes. But he knows that he's playing a game—

The CHAIRMAN: Order! I remind the honourable member that the second reading stage of the Bill is where he can make specific comments. In the third reading or Committee stage we are at now it is appropriate to direct questions to the Minister.

The Hon. M.J. ELLIOTT: I am simply responding to what were misrepresentations; otherwise I would ask to make a personal explanation. The Hon. Mr Lucas suggests that our policy was to remove Memorial Drive. That is absolute nonsense and he knows damn well it is.

The Hon. R.I. Lucas: Ian just said he did.

The Hon. M.J. ELLIOTT: He did not say that at all. I think the question was, 'Would you be happy for those facilities not to be there?' or something along those lines. The Treasurer may or may not be aware that, recognising there is significant rebuilding both of Memorial Drive itself and this separate commercial venture proposed next to it, the Hon. Mr Gilfillan had discussions with a number of people, asking, 'Why don't we look at other locations?' The Government had made some very sensible decisions in relation to the athletics centre and netball centre, and the question that the Hon. Mr Gilfillan posed to some people was, 'Since we are going through a major rebuilding exercise isn't it worth considering, for instance, building that up as a further sports precinct, where we already have two major facilities?' The comments have to be looked at that in context.

To suggest that we were saying that there should be a dismantling of the State's major tennis centre is an absolute nonsense. But those little games have been played. Then he goes on with even more trivial ones about not allowing toilet blocks. I will just let that slide. The major issue has been that of commercial operations. This operation is not just a continuance of the playing of tennis. Perhaps the Treasurer might ask his adviser so he can then put on record in this Chamber what else is going into this so-called tennis centre, because my understanding is that Lloyds had the view that for every one tennis court there should be two squash courts, although I understand that many squash centres in Adelaide are battling at the moment and would not be too tickled with that proposal. I understand that the centre will include hair salons, restaurants, swimming pools—

The Hon. R.I. Lucas: There has been a swimming pool there for years.

The Hon. M.J. ELLIOTT: I have not finished: pools, spas, saunas.

The Hon. R.I. Lucas interjecting:

The Hon. M.J. ELLIOTT: If the Treasurer lists all the things he understands to be part of the centre he will see that there is a good deal more there than simply the tennis courts. This is a major expansion, and the legislation itself now allows for what is essentially almost a convention centre, because under subsection (2) of proposed section 855b we are talking about not only sport, health, fitness, leisure and similar activities, public recreation or entertainment, but also conventions, conferences, receptions and other similar activities. It is not only an increase in the types of things happening there, but there certainly will be a major increase in the scale and frequency of those events. No-one will set up a commercial operation that is not going to be running flat out.

The fundamental question the Government needs to address is this: when most people start a business they buy land and build. In this case, a particular white shoe brigade has arrived and persuaded the Government to allow it to come onto the parklands to run a commercial operation. That is the fundamental question. It often links into a number of other projects that we have asked questions about. Usually, people go outside the envelope that everyone understood that commercial operators were working in, and they want to break the rules. The rules that we understood and thought there was general consensus about in South Australia were that we wanted the parklands not to be commercial operations. It does not mean that they cannot be evolving over time. We want them to be heavily used, but in what way?

There has been quite strong resistance to commercial operations coming onto the land. Why should Lloyds, who are building basically a leisure centre, not do what all other leisure centre operators do and buy a bit of land and develop it, instead of coming into the parklands? That is the core issue.

The Hon. R.I. LUCAS: In terms of the technicalities, I understand that the lease will be to the Memorial Drive Tennis Club, which is a not for profit organisation, which will then sublease to David Lloyd, whatever the specific name of

the company, which will provide management services. In relation to the Hon. Mr Elliott's attempt to get the Democrats off the hook from the comments made by the Hon. Mr Gilfillan, the *Hansard* record will show—

The Hon. M.J. Elliott: It will show that you made a lot of things up.

The Hon. R.I. LUCAS: No, it will show the interjection from the Hon. Gilfillan that said that there would be support for a Bill to remove the facilities from Memorial Drive. The *Hansard* record, the tape and my response to the interjection will be quite clear.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: I cannot fabricate a tape. If the honourable member is accusing the *Hansard* reporters of fabrication, I cannot fabricate a tape. Let the *Hansard* record be the final determinant of what was actually said in this Chamber. I will let it rest at that and read the *Hansard* record tomorrow with interest.

On the issue of some of the other facilities that are being talked about down there, I am told, first, that these are proposals that have to go through due process and be considered. Some may well be approved, some may not. There will be reception or dining facilities. There have been dining facilities there for at least the 30 years that I have been visiting—

The Hon. M.J. Elliott: On what scale?

The Hon. R.I. LUCAS: There have been dining facilities there for at least the 30 years that I have been visiting Memorial Drive. They might be of better quality, and I certainly hope so, but one cannot argue that that will be a new use. The Hon. Mr Elliott railed against swimming pools down at Memorial Drive. There has been a swimming pool at Memorial Drive for 30 years, I am told, which tennis players from Port Pirie, Port Augusta and Mount Gambier have enjoyed after a hot day contesting the country carnivals on the facilities provided. I do not think that the honourable member can argue that that is a new use. And shock, horror! If they are to be allowed to provide a spa facility or something like that for the members—

The Hon. M.J. Elliott: And a hair salon.

The Hon. R.I. LUCAS: I do not know whether that will be allowed.

The Hon. M.J. Elliott: It's proposed.

The Hon. R.I. LUCAS: But as I said, if it is proposed, some things might be allowed and some might not be. But shock, horror: there are some facilities that will eventually be approved; some might not be. It might be that the appropriate agencies will say that a particular service or facility will not be allowed. That is why we have these panels or agencies to look at these propositions. But the honourable member is complaining about dining facilities and function rooms, which have been there for yonks, and club offices that obviously have been there for a long time. As to child minding facilities, I do not know whether they have had them there or not, but shock, horror: that single men and women who might have young children and who want to play tennis at the facilities might actually be provided with child minding facilities.

I do not know whether they have had child minding facilities, but if the Democrats have a problem with a service or facility that provides child minding facilities to men and women who have young children and who might want to play tennis then I pity the Australian Democrats and their supporters. They can leave their children home. I am glad the Hon. Sandra Kanck is in here, because I am sure that she would support child minding facilities for young women who want to play tennis down at Memorial Drive. I am sure that she would support that part of the facilities that might be provided there, if they were allowed. I can only repeat that there are obviously some propositions and services which are envisaged as being part of these proposals. I personally do not see them—not that I make the final decisions—as being in any way grating on the overall nature of the facilities that are provided at Memorial Drive for users of the facilities there.

The Hon. IAN GILFILLAN: To clarify any misunderstanding, I must state that the Treasurer has made a great deal regarding what I would support about the removal of buildings. As I understood it, we were talking about the area that was involved in this proposal. This proposal is the area of the Memorial Drive Tennis Club, not the Memorial Drive tennis centre. The buildings which I certainly would not object to seeing removed from their site are the current Memorial Drive Tennis Club facilities. They are not particularly attractive buildings, and I do not see any objection to their being removed. My observation had nothing to do with the major tennis centre itself, the centre courts.

The Hon. R.I. Lucas interjecting:

The Hon. IAN GILFILLAN: I will not discuss that matter. I want to clear up the Treasurer's statement that what I said about the members of the tennis club being offered life membership was inaccurate. We were briefed by the Vice Chair of the tennis club, who made very plain to us that that was part of the deal which had been offered to them by Lloyd to make this proposal attractive for them. They were all to be given lifetime free membership of the full facilities of the Lloyd leisure centre. Maybe the Treasurer's adviser has not been told of that, but if that is not true we have the tennis club being duped by a commercial venture into virtually selling out its opportunity to continue to have control of one of the best tennis sites, as the Treasurer has indicated, probably in Australia, at a very low rental—$8 000 a year is all it pays in a lease payment to the Adelaide City Council.

Incidentally, concerning the advice that the lease for the cricket ground and Victoria Park is for 50 years, I do not believe that the Victoria Park racecourse involves a term of 50 years; I believe it is 21 years. So, if this Bill does enable this area to have a 50 year lease, it will be only the second of its type ever granted by this Parliament to any area of the parklands.

What knowledge, if any, does the Treasurer have of commitments, or indicated commitments which would be made, to Lloyd's leisure centre, or whatever the name of the corporation is which intends to build the leisure centre, of estimates of lease payments and the provision of services? What, if any, arrangements or discussions on those sorts of details have taken place, either formally or informally, of which the Treasurer knows or of which he can obtain knowledge?

The Hon. R.I. LUCAS: I am advised that discussions have been taking place for about 3½ years between the Adelaide City Council, the Memorial Drive Tennis Club and David Lloyd's company. The figure that is being discussed is, I am told, commercially in confidence but that it is significantly greater than the existing lease payments.

In relation to my response to the honourable member's earlier question, I am again advised—and I wish to place it on the record—that the current members of the club will receive ongoing membership at the current rate plus the CPI. Life members will get continued rights. I am not sure whether the Hon. Mr Gilfillan, in his discussions with the Vice

President, or whomever it was, of the association has misunderstood the distinction between—

The Hon. Ian Gilfillan: The tennis club.

The Hon. R.I. LUCAS: The Vice President of the tennis club—life membership of the tennis club and the members because there are, as the honourable member will know, in most clubs, two quite distinct categories of membership: there is the vast bulk, who are the ordinary members, and there is a very small category who might be life members. So, I am not sure—

The Hon. Ian Gilfillan interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan has indicated that the discussion he placed on the record—and the indication was with the Vice President of the tennis association—

The Hon. Ian Gilfillan: No.

The Hon. R.I. LUCAS: Vice President of the—

The Hon. Ian Gilfillan: Memorial Drive Tennis Club.

The Hon. R.I. LUCAS: Certainly, we will need to take up that issue with the Vice President of the Memorial Drive Tennis Club, in terms of what the Hon. Mr Gilfillan has claimed the Vice President said to him. However, my advice, which I have just read into the record, is different from the claim that the Hon. Mr Gilfillan has indicated was made by the Vice President of the Memorial Drive Tennis Club. Also, I indicate my disappointment at the Hon. Mr Elliott's referring to David Lloyd's company as the 'white shoe brigade'.

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: Well, the Hon. Mr Elliott knew, when he used that pejorative phrase, in what context he used it. It was a phrase that was made popular in Queensland some years ago and, on behalf of Mr Lloyd and his business associates, I take strong exception to the Hon. Mr Elliott's using that phrase in that context in this debate.

The Hon. M.J. ELLIOTT: It appears to me that the Treasurer has not made a distinction between people who remain ongoing members of Memorial Drive Tennis Club and those who have been granted full life membership for the use of all the other facilities that are being put in there. My understanding is that that is what is happening: a lot of new facilities are going in, and they are being given free access to all those facilities.

The Hon. R.I. LUCAS: I am advised that the current members will pay $400, or something like that, a year for the use of the facilities.

The Hon. IAN GILFILLAN: There is an area of the cricket ground (the SACA) which is to be incorporated into this proposal. I assume that it is not covered by this Bill. Can the Treasurer indicate, through information from his adviser, whether the GRO plan does in fact embrace that area? It is an annexation, as I understand it, of the bowling club inside the SACA lease area, and in the issues paper it is quite clearly indicated that that will be an indoor court and will, one assumes, be a part of the complex. If it is not part of the complex, how does it fit in, and who will manage it?

The Hon. R.I. LUCAS: The Hon. Mr Gilfillan is correct in saying that the SACA land is not part of the Bill, but it is part of the major development proposal. I understand that, in principle, SACA is supportive but is engaged in negotiations with David Lloyd at the moment.

The Hon. IAN GILFILLAN: The issues paper talks about a proposal, and there is a flexibility implicit in the way in which it presents its material. In at least substantial part of the answer to some questions that the Treasurer has given me, he has indicated that the proposal is quite flexible and may not go ahead. Yet the second reading explanation refers categorically to the actual expenditure on the centre court and to the proposed redevelopment. Will the refurbishment and redevelopment of the Memorial Drive centre court area go ahead regardless of whether the Lloyd leisure centre or a similar proposal goes ahead?

The Hon. R.I. LUCAS: It is the Government's view that there is every expectation that the proposal will go ahead. Earlier the honourable member asked a question as to what all the possibilities could be, so I need to make clear again that the Government's expectation is that the proposal will go ahead to the benefit of all concerned. My advice is that, should for whatever reason the David Lloyd proposal not go ahead, it is possible for the other part of the development to proceed.

The Hon. IAN GILFILLAN: The Treasurer confirmed that the Bill does not deal with the area within the boundaries of the Adelaide Oval, and the second reading explanation referred to one of three discrete elements, namely, the indoor tennis court function room within the boundaries of the Adelaide Oval. It also indicated that it is a major development. Quite clearly, if it is not identified in specific detail in the Bill, it is identified in the second reading explanation, so I assume that it is in the mind of the Government. How will that discrete proposal be funded and supported? Is it anticipated that it will be linked to the Lloyd leisure centre? If the Lloyd leisure centre does not go ahead, will that proposal proceed on its own?

The Hon. R.I. LUCAS: I am advised that, as I indicated earlier, this part of the proposal is subject to negotiation between David Lloyd and the South Australian Cricket Association and no public money is involved in it. It will need to be agreed between David Lloyd and SACA.

The Hon. IAN GILFILLAN: The issues paper identifies quite a significant study which the Adelaide City Council has currently in hand and which is being conducted by Hassell into the management of the parklands. The issues paper states:

> Adelaide City Council has commenced a study on management of the parklands. The study may provide a better strategic context for decision making on proposals in the parklands. However, while the findings of this study will not be available for assessment of the Memorial Drive redevelopment proposal, information and analysis gathered during the study may assist in consideration of the project.

Can the Treasurer say whether that suggestion by the panel is being followed through or will be followed through? Will the Government see that it is followed through?

The Hon. R.I. LUCAS: I am advised that the public have until 7 April to put in their views. The major development panel will then respond in due course to the concerns that might have been raised by members of the public.

The Hon. IAN GILFILLAN: Is it envisaged that there will be a stand on the west of the centre court?

The Hon. R.I. LUCAS: I am advised that the answer is 'No.'

The Hon. IAN GILFILLAN: What is there in the Lloyd proposal which of itself will improve the amenity of the facilities of the Memorial Drive centre court?

The Hon. R.I. LUCAS: This is going back over questions that the Hon. Mr Gilfillan asked earlier. I can only give him the same answer, that is, that the proposal will improve facilities for the tennis players and others at Memorial Drive. Whether or not the Hon. Mr Gilfillan sees it as an improvement is a moot point, but others certainly will in terms of

improved facilities for tennis players. I can only again repeat my views as to the range of facilities at Memorial Drive. Without making any criticism of staff or management, I believe it is clear that money has not been available there for many years. The facilities can only improve with the sort of development that is being put forward by both the Government and David Lloyd.

The Hon. IAN GILFILLAN: The Treasurer may be relieved to hear that this is my final comment and question. He may have misinterpreted the intention of my last question because I believe that the Government's initiative to upgrade the Memorial Drive centre court facility is acceptable and, as others have said, long overdue. The money that the Government will put in to improve these facilities will mean that virtually all that can be required by a 64-draw tournament will be available. If those players need to go a couple of kilometres to play their game of squash, to have dinner, to go to the beauty parlour or to swim in a pool, I do not see that that will be of any significance as to the holding or otherwise of major tournaments at Memorial Drive.

My question was directed not so much to what opportunities would be provided by the leisure centre for people to experience but relates directly to whether it enhances the facility itself as a tennis venue for major tournaments. This is not necessarily related to whether the project should go ahead on the parklands, but I do not see from the list of what the Government is putting into the tennis facility at its own expense that anything is missing. It seems to be a complete provision of all the facilities that are required.

The Hon. R.I. LUCAS: I do not think anyone is suggesting that the difference between a quality field of tennis players coming to a major tournament in Adelaide or otherwise is only the facilities, because other issues such as the prize money, the quality of the field and the quality of the organisation will clearly be key factors as well. However, let me assure the Hon. Mr Gilfillan, as someone who has a little bit of peripheral knowledge of tennis and tennis players and what might assist their decision to participate in a tournament in a particular location, that I think that the creature comforts or the player comforts that are provided would be a factor in that consideration, and this is in relation to the larger tournaments.

If there are antiquated nineteenth century shower, bath and toilet facilities which are tacky and could do with improvement, as opposed to much improved facilities, including tennis court facilities, maybe even, shock/horror, a spa and fitness facilities, where players can cool down afterwards or warm up beforehand, undertake a physical program or whatever, that would be of some attraction in terms of the creature comforts provided for players who may want to participate in a tournament. If at the same time they can get a reasonable meal with a drink in the bar afterwards at a better quality than is currently provided, then shock/horror as well.

They are aspects of the total experience that tennis players in many other parts of the country and the world are provided with. If in South Australia those sorts of facilities were to be provided here, then terrific. I think that is a great thing, rather than saying, 'You shouldn't have a pool or spa there. You shouldn't improve the bar or the dining room facilities. You shouldn't have a child-minding centre and you shouldn't have any health or fitness facilities at Memorial Drive—because the Democrats happen to take the view that this is an intrusion on the parklands.'

The Hon. T. CROTHERS: I have a series of questions, all relating to clause 2. First, is it the Treasurer's view that it was the original intention of the first Surveyor-General, Colonel William Light, when he made provision for the green belt around Adelaide (the parklands), that that was for the maximum enjoyment of the citizens of Adelaide? Secondly, does the Treasurer believe that the projected scheme of things embodied in this Bill will enhance the quality of enjoyment of the facilities of the parklands for the citizens of Adelaide and South Australia? Thirdly, can the Treasurer explain why tennis of any international note or renown, with the exception of some Davis Cup matches, is conducted in the cities of Perth and Melbourne?

The Hon. R.I. LUCAS: I welcome the questions of the Hon. Mr Crothers. In relation to his second question, yes, I think that that is a fair thing to say. I have been saying for the past half our hour or so that I do believe that the improved facilities down there will be for the benefit of many thousands of both city and country South Australians who enjoy either playing tennis or going there to watch quality tennis being played.

I cannot help the honourable member in relation to Colonel Light's original vision for the parklands. I do not profess to be expert in his thinking. The Hon. Mr Gilfillan, I am sure, is better versed in that, as are people such as Mr Bannon, who has had an interest in this area, and might be able to talk about the historical context. I admit that I am more interested in the present and the future and what we might be able to do to improve the facilities for South Australians.

In terms of the third question, I have some experience of Melbourne but less of Perth. I think in Melbourne what you have in some respects is a quality tennis facility that is provided—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: Yes; you have a quality tennis facility that is provided with all the comforts that we are talking about. Equally, I have to say that you have a major population centre, and obviously that is a major attraction for an organiser of a major sporting event. Melbourne is seen as the sporting capital of Australia, rightly or wrongly, and added to that is a quality tennis complex which has a lot of attractions. As I have said on a number of occasions, as someone who has benefited from and enjoyed the grassed facilities at Memorial Drive for years as a young tennis player, I would not like to see this quality tennis facility lost to South Australians. I see the facilities that are being provided as improving the quality of the complex that is available for tennis players in South Australia.

The Hon. T. CROTHERS: Does the Treasurer believe—and he has told the Committee that the facilities at Memorial Drive are 75 years old—that those facilities are part of the psyche of Adelaide tradition, part of an icon, if you like, in the minds of some Adelaideans, and that therefore, because of that custom, practice and tradition, when something is being mooted and proposed relative to enhanced change, this can lead to a much more entrenched rearguard action by some people who may themselves have a vested interest in the retention of Memorial Drive as it is, or of any other facility that is in or around the parklands area?

The Hon. R.I. LUCAS: I can only say that I broadly agree with the Hon. Mr Crothers. There is an inbuilt inertia in Adelaide. On the other hand, I would not want to see much of what I see as attractive about Memorial Drive lost. I think there is the possibility of combining together all that we love

about Memorial Drive—its facilities, beauty and attractiveness—with the improved facilities for tennis players and others—

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I do not believe you can stand still forever. Nevertheless, I accept the view that there can be an appropriate balance. The Government's view is that this is an appropriate balance.

Clause passed.

Clause 2 and title passed.

Bill read a third time and passed.

PETROLEUM PRODUCTS REGULATION (LICENCE FEES AND SUBSIDIES) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

MFP DEVELOPMENT (WINDING-UP) AMENDMENT BILL

The House of Assembly agreed to the amendments made by the Legislative Council without any amendment.

WORKERS REHABILITATION AND COMPENSATION (SELF MANAGED EMPLOYER SCHEME) AMENDMENT BILL

The House of Assembly agreed to amendment No. 1 made by the Legislative Council without any amendment; and disagreed to the Legislative Council's amendment No. 2.

The Hon. R.I. LUCAS: Mr President, I draw your attention to the state of Council.

A quorum having been formed:

PASTORAL LAND MANAGEMENT AND CONSERVATION (BOARD PROCEDURES, RENT, ETC.) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 25 February. Page 462.)

The Hon. T.G. ROBERTS: I rise to indicate that, for a number of reasons, the Opposition will move that this Bill be referred to a select committee. One of the Pastoral Land Management Board's procedures is to set rents. The Opposition believes that the levels of rents are an important feature of what the public can expect in return for the use of a large part of the State and that the rents have been a contentious item of pastoral land management for over a decade.

The first problem that the Labor Government had in the late 1980s, early 1990s, when trying to get a rent formula that was fair, was that climatic conditions varied widely—and they certainly varied cyclically—across the expanse of the pastoral lands, which extend from the north-west to the north-east of the State. Cyclically, at the time that we were discussing the rents, the lands were starting to be badly degraded. There were a number of pastoral areas that had been overgrazed and abused. This was before the integration of the land management programs, the management plans, the soil boards and the other recommendations that came out of the introduction of the Bill from that select committee.

The setting up of the soil boards, the management plans, the time frames for rental, the tenure and the extension and length of the lease time frames were all issues that had to be discussed and put together to formulate a management plan that would allow the pastoralists to go to the banks, borrow the required moneys to put in those improvements (particularly watering points) and to change some of the degradation points that had occurred through overstocking of cattle in the areas around watering points associated, in the main, with water holes or from artesian bores that were in some cases left untapped.

The pastoralists put to us that they would have liked to go to the bank managers and ask for loans based on tenures of around 50 years—and some were requesting 99-year leases. When the select committee looked at all the issues and spoke to all the pastoralists, it was able to put together a consensus of views where bank managers, pastoralists, environmentalists and the Government all were relatively happy with the outcomes that had been developed out of the commitment of the Bill to a select committee.

A number of meetings were held in the northern pastoral areas with pastoralists who made it their responsibility to attend these meetings—and they were well attended. Pastoralists contributed a lot of information to the committee. A consensus was drawn, and the implementation of all those integrated management initiatives took place.

The Opposition recommends that the same process be put together with this Bill; that the select committee be of a short duration, that is, in the break between perhaps late April and early May; and that we return to this Council a Bill with recommendations on some of the issues that have been raised, in our view, without too wide a consultation with the Opposition—and I suspect the Democrats would have the same criticism—and some of the stakeholders.

We would like to be able to test the statements that have been made in support of the intentions of the Bill. We would also like to canvass some of the issues associated with the amendments that were put together in the Lower House, which included a suggestion that a person from the Aboriginal community or a representative of the original owners join the Pastoral Board. By changing the formula of the establishment of the Pastoral Board we would achieve this. Another amendment from the shadow Minister in the other place suggests that there be an annual report delivered by the Pastoral Land Management Conservation Board so that people are able to make an assessment on what is actually happening on pastoral lands.

The Opposition will be canvassing some of those positions within the terms of reference of a select committee. We would hope that a consensus can be drawn and that it is not a drawn-out struggle. There are no ulterior motives in this. There have certainly been no trade-offs in relation to setting up the committee, as, perhaps, has been suggested. It is a way in which, we believe, the Bill can be carried through into an Act of Parliament with which all persons agree, and it is a way in which we can set in place proposals that can carry into some changes. The Government is contemplating broader changes to the Pastoral Act later, perhaps next session.

The Hon. M.J. ELLIOTT: When we talk about pastoral areas, it must be recognised that there are a range of stakeholders. I suppose the first and most important stakeholders are the public of South Australia who are the land owners, and we start from that point. Of particular interest in those areas are people with pastoral interests, people of Aboriginal

background, people interested in conservation, increasing interest from tourism, and, of course, mining interests. A number of stakeholders have a key interest in the management of the land.

I think that the time is long over due when we had a piece of legislation that tackled this part of the State in a very holistic manner. It is a view I have held for quite some time. In fact, I was involved with the Farmers Federation and conservation groups in a series of round-table meetings. Those meetings were organised on my initiative. A couple of meetings were held in Adelaide and we then visited a property near Whyalla for a weekend-long meeting. For much of that time the pastoralists and the conservation representatives were making, I think, some significant progress in terms of identifying issues which were important to each of them separately. They explored ways by which the interests of both were capable of being addressed better than they are at the moment.

The reason why further discussions stalled, more than anything else, was that a number of the representatives of environmental groups said, 'Look, this is fine and we are happy with things so far as they go, but we have concerns that we are moving towards, perhaps, making some agreements about pastoral areas when there are other stakeholders.' They particularly expressed concerns that the Aboriginal stakeholders needed to be involved in further discussions. Unfortunately, at that stage, representatives from the Farmers Federation dug in their heels and said, 'Look, we are talking with them separately. We do not want to talk with them at the same time.'

That certainly caused an upset with a number of the environment representatives, and that was the reason why the discussions broke down. I still believe that it is important that a process which seeks to address the legitimate concerns of all groups and all stakeholders must take place. I think that I have put my views on the record before in this place, but I will do it again: given the choice of having or not having pastoral activities, I prefer them to be in the outback. I cite an example in support of my reasons for wanting pastoralists in that area: I had the opportunity to fly over the Pitjantjatjara lands and I saw the damage rabbits were doing in that area.

Of course, some of it relates to soil types, particular climatic patterns, and such things, but it is also, in part, that land management concepts were not, when I flew over the area—and that must be about seven years ago—being applied in those areas. Far more damage was being done to that land than there would have been if it was operating as pastoral lands. Pastoralists, when running their lands properly, can potentially be doing some good for biodiversity. If anyone has any doubt about that and suggests that I would like to see them off the land, I can say quite clearly that I do not. I do believe, though, that there is a need to attempt to set aside parts of the pastoral areas where there is full biodiversity protection and you do not have grazing at all, but I do not believe that that needs to exceed 15 per cent of the various bio-regions.

I am sure that can be worked in in such a way that stocking rates of the overall land would largely stay the same and that pastoral activities would continue on at the same sort of scale as they are now—the patterns might be just marginally different. For the most part, Aboriginal interests can be accommodated in terms of co-existence. In fact, to some extent, that is really what our Pastoral Act has been about. I am aware that the farmers in South Australia were pretty annoyed with the stand that the National Farmers Federation was taking on Wik, because their view was that there have not been major problems in South Australia but, for the sake of solidarity, they largely kept quiet.

There still are legitimate issues that need to be raised. I know that, in past discussions I have had with Government Ministers, I have suggested we almost need to go beyond a pastoral board to some sort of arid lands board which would have pastoral land management as one of its roles but which would recognise that there are issues about biodiversity, tourism and mining as well as Aboriginal issues that also need to be addressed. I find it quite exciting that you can actually have the potential for one piece of legislation that envisages and brings all of those together and works in a coordinated approach. I have no doubt that it is achievable if people have goodwill.

The danger always is that you often find that a lobby group has the ear of Government at any one time. That is one of the concerns I have with this legislation. Clearly, the farmers do have the ear of the Government. What is happening is that concessions are being made for one of the key interest groups, and any other stakeholders are being totally ignored. I find this one-way street way of legislation a real worry, because one finds that when another Government is elected a different set of stakeholders has its ear and then you lurch off in another direction. I guess that until the Liberal Government came to office the farmers were complaining, 'Well, we were not getting a fair deal. We want our fair deal now.' I do not think that is to anyone's long-term good, and that we must increasingly seek to be inclusive.

As I see this legislation, it is seeking to address the issues and concerns of one particular group to start off with. I go further: I am not convinced that the rent mechanisms that are now being proposed are fully satisfactory. I certainly would like the opportunity to be able to talk with a wide range of people about the long-term consequences of these clauses which are proposed in relation to rent. Changes were made to the pastoral board some time ago which were temporary and which then turned into permanent changes. Now the Government is seeking further consequential changes in relation to those when the broader questions about the role of the board have not been properly addressed. I would suggest that, if a select committee is established, that consideration of that question is long overdue.

The Hon. CAROLINE SCHAEFER secured the adjournment of the debate.

ROADS, SOUTH-EAST

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I seek leave to provide some information to the Council on the subject of B-doubles.

Leave granted.

The Hon. DIANA LAIDLAW: During Question Time today in answer to the Hon. Terry Roberts I advised that I would seek information about the maximum width of road vehicles, whether they are trucks, including B-doubles, or buses. I advise that the maximum width is 2.5 metres. Also the road between Portlocherie Station and Salt Creek, Millicent is predominantly 6.2 metres wide but there is one section which is 1.5 kilometres in length and which is 6 metres wide. It is narrow and it certainly would benefit from sealed shoulders.

[Sitting suspended from 6.3 to 7.45 p.m.]

PASTORAL LAND MANAGEMENT AND CONSERVATION (BOARD PROCEDURES, RENT, ETC.) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 719.)

The Hon. CAROLINE SCHAEFER: When it was put to me that this Bill was going to go to a select committee—

An honourable member: You laughed.

The Hon. CAROLINE SCHAEFER: I did laugh because I thought this cannot be possible. I thought the Labor Party had too much commonsense for this. This was a basic administrative Bill about pastoral rental and I could not see how they could possibly decide that they wanted a select committee. I was then told it was about consultation. When I listened to the Hon. Mike Elliott's second reading contribution, I realised that it really had very little to do with consultation. It was to do with public perception, with getting your face in the papers and very little to do with the Act or the people who are pastoralists.

I would like to pick up on a couple of things that the Hon. Mike Elliott said. He said, for instance, that the public of South Australia are the most important stakeholders in pastoral leases. He went on to name the various public stakeholders, including Aborigines, miners and so on. I agree that all those people have an interest and a stake in the North of South Australia and in the pastoral areas of South Australia. However, this Bill is about pastoral lease rents, and the only people who pay pastoral lease rents are pastoralists. They are not the conservationists; no rental is paid on the Pitjantjatjara lands; and no rental is paid by a mining company unless it happens to hold a pastoral lease.

The Hon. Mr Elliott talked about concessions being made for one section of the community against another—and he went on to call them rednecks. I cannot wait to tell some of those pastoralists who have struggled for the past 100-odd years to make a living in some of that country that they are reactionary rednecks. I cannot wait to tell them about that!

This is a question about nothing more than rental. A method of establishing pastoral rents was set up and experimented with, if you like, in 1996 and 1997. It was about the unimproved value of the land as opposed to the former method of collecting rent, which puzzled those of us who had anything to do with it. It was a rental based on per head of stock. However, a nominal value was then put on the head of stock that were carried on each pastoral lease so that as the value of the stock, be they sheep or cattle, varied so the rent fluctuated from year to year. As a result, the pastoralists had very little ability to properly decide or budget on what they might or might not pay.

The rental system that was established in 1996-97 has, in fact, a loading—as Mr Elliott, I should have thought, would like—towards those who are conserving properly. It is approximately 2.7 per cent on grazing, 2 per cent on conservation and 5 per cent on tourism, which is consistent with what is levied in other States and Territories.

It has been widely accepted by those who are affected most, that is, the pastoralists, and it provides for a consistent method of assessment rather than the wild fluctuations that we had before. I now find that what we are talking about here actually has very little to do with the Bill as presented; it has very little to do with valuations; it has very little to do with the payment of rental; but it has to do with the broader picture—as the Hon. Mr Elliott actually said—about the role of the Pastoral Board, which he believes, I think, should be stacked with conservationists and on which the rednecks of whom he spoke should be minimised. The thing that I also find interesting is that the Labor Party will support Mr Elliott in this, despite the fact that—

The Hon. M.J. Elliott: No, they're moving the amendment. I'm not doing it.

The Hon. CAROLINE SCHAEFER: Exactly. But I wonder what the deal is. You're not doing it this time, but I wonder what the deal is. In 1993 Labor moved for a Bill that was almost identical to the structure of rating that we are talking about formalising now—and it is only formalising it. It has actually worked and worked very well in 1996 and 1997. In fact, I have a graph which shows that the rent collected actually exceeded the branch budget last year and the year before (1996-97 and 1997-98) for the first time in many years.

Despite that, the pastoralists are happy with what we are doing, yet we will have that opposed and we will set up a ying yang, silly billy select committee. It is not a select committee about this Bill which is, as I say, largely about rent; it is a select committee about 'broadening the consultation process' and asking all these stakeholders, none of whom pay rent, to have their say.

I am entirely disappointed: I really thought that in this Chamber we did not play those sorts of games as much as is being done tonight. We have at the moment a consultation committee comprising the Valuer-General, the Pastoral Board and industry representatives. It appears to me that they are the three stakeholders who should set rental for those whose living relies on what they must pay.

There are other elements of this Bill that seem to have been totally ignored. One is for a teleconferencing facility for the Pastoral Board which, if you live where those people do, makes a lot of sense. But no, we have forgotten all about that. A couple of years ago we formally passed, with no objection from any Party, an amendment providing that there would be permanently six people on the Pastoral Board, including one representative from the cattle industry and one from the sheep grazing industry. We are now endeavouring to give the Presiding Member a casting vote and, if we look at a committee of six, regardless of where they come from, that would make a lot of sense. But again, we have forgotten all about that.

We were also talking about a rats and mice, nuts and bolts administrative issue of making appeals less formal than they previously were so that people do not have to go to a court-type situation. We have also forgotten that, in a push for what seems to me to be nothing more than publicity for the Democrats-cum-conservation people. The main conservationists in this area, as I have said before, are the pastoralists—and Mr Elliott conceded that, because their livelihood depends on a sustainable industry. This is one of the silliest, attention-seeking acts that I have seen in this place for a while.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank members who have contributed to this debate. Some strongly held views have been expressed, and I understand that there is a move for this Bill to be considered by a select committee and that the numbers are there for such a committee to be established. Therefore, rather than canvassing all the issues that have been presented in the second reading debate, it is clear that these will be

explored further during the select committee consideration. The Government will, of course, serve on such select committee, although we consider that it is hardly necessary.

Bill read a second time.

The Hon. T.G. ROBERTS: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

The Hon. T.G. ROBERTS: I move:

That Standing Orders be so far suspended as to enable the Pastoral Land Management and Conservation (Board Procedures, Rent, etc.) Amendment Bill to be referred to a select committee.

The Council divided on the motion:

AYES (9)

Crothers, T.	Elliott, M. J.
Gilfillan, I.	Holloway, P.
Kanck, S. M.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.(teller)
Weatherill, G.	

NOES (7)

Davis, L. H.	Griffin, K. T.
Laidlaw, D. V.(teller)	Lawson, R. D.
Redford, A. J.	Schaefer, C. V.
Stefani, J. F.	

PAIRS

Cameron, T. G.	Dawkins, J. S. L.
Zollo, C.	Lucas, R. I.

Majority of 2 for the Ayes.

The PRESIDENT: Members will realise that the division was called by the Chair in order to establish whether there was an absolute majority. The result of the ballot was nine for the Ayes and seven for the Noes and, because there is not an absolute majority of 12, I must declare the motion lost.

Motion thus negatived.

In Committee.

Clause 1.

The Hon. T.G. ROBERTS: I indicate that we had three amendments that we wanted considered by the select committee, but we will not be moving those amendments in Committee.

Progress reported; Committee to sit again.

[Sitting suspended from 8.20 p.m. to 12.3 a.m.]

WORKERS REHABILITATION AND COMPENSATION (SELF MANAGED EMPLOYER SCHEME) AMENDMENT BILL

Consideration in Committee of the House of Assembly's message—that it had disagreed to the Legislative Council's amendment No. 2.

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

That the Council do not insist on its amendment No. 2 but agree to the alternative amendment as follows:

Page 3—After line 16 insert new clause as follows:

Sunset provision

7. On the expiration of four years from the commencement of this Act—

(a) the amendments made by this Act (other than by section 5B) are cancelled and the text of the Acts amended by this Act is restored to the form in which that statutory text would have existed if this Act had not been passed; and

(b) section 107B of the Workers Rehabilitation and Compensation Act 1986 (as inserted by section 5B of this Act) is amended by striking out from subsection (4) ', a self managed employer or the claims manager for a group of self managed employers'.

The amendment made in this Chamber and supported by the House of Assembly was related to the so-called SMEs (self managed employers). There was a view of a majority of the Council that the structure that we were putting in place in the Bill should expire two years from the commencement of the amendments and restore the text of the Acts amended by the Bill before us to the form in which that statutory text would have existed if the Bill before us had not been passed.

The Government took the view that the two year period was much too short. It still has some concerns with a sunset clause as a matter of principle but is prepared to accept the longer period of time that is embodied in the agreement, namely, four years. That alternative amendment reflects a proper balance between what the Government wished and what the Hon. Mr Xenophon and the majority of the Council supported.

At the same time as indicating the Government's agreement to the alternative amendment to which I have referred, it is appropriate to make a further statement on the record, a statement which will also be made by the Minister for Government Enterprises (Hon. Michael Armitage) in another place. The statement is as follows:

The Government is committed to ensuring that the Self-Managed Employers' Scheme continues to provide an avenue for employers to take responsibility for the ongoing occupational, health and safety of their work force in a way which minimises the administrative burden on them. The pilot has been highly successful and has received the unanimous endorsement of the Workers Rehabilitation and Compensation Advisory Committee, which includes representatives of both employee and employer associations. To ensure that the scheme continues to achieve high standards, the Government with the support of other Parties and members of Parliament proposes a two-pronged strategy to review performance.

The WorkCover Corporation will report on the performance of self-managed employers in its annual report tabled in Parliament. The Government will undertake a review of the Self-Managed Employers' Scheme within four years of the commencement of this Act [that is, the Bill before us]. This review will be conducted by a group including employee and employer representatives and the Minister. The Government fully expects that the Self-Managed Employers' Scheme will continue to maintain the confidence of employees, employers and the Parliament and that it has a long and positive future ahead of it.

The Hon. NICK XENOPHON: I indicate my support for the amendment and commend the Government on the compromise reached. I also thank the Opposition and the Democrats, in particular Mr Elliott, for their assistance in resolving this matter.

Motion carried.

ADJOURNMENT

The Hon. R.I. LUCAS (Treasurer): I move:

That the Council at its rising do adjourn until Tuesday 26 May 1998 at 2.15 p.m.

In moving the motion I advise members that we are waiting for our colleagues in another place to deal with one remaining piece of legislation on school signs. We will need, obviously, to bide our time and wait for the collective wisdom of members in the other place to deal with that piece of legislation.

The Hon. G. Weatherill: You said 'wisdom'.

The Hon. R.I. LUCAS: Yes, I was being kind. In moving the adjournment motion I congratulate you, Mr President, on your first period. You presided over a brief session in December, but a longer session for the first session of 1998. I congratulate you on your early period as President of this

Chamber. All members have respected the task you have undertaken in terms of trying to keep members in order, not only during Question Time but during the proceedings of the Legislative Council. Certainly members of the Government look forward to working with you over the rest of this four year parliamentary term.

I think that there are some issues the Council might be able to explore usefully with you. I know that the Leader of the Opposition has asked whether or not we could convene a meeting of the Standing Orders Committee. I have indicated my support for that. We are trying to organise an appropriate time that suits all concerned to explore any particular issues. Clearly, any ideas will need to be explored by all the Party rooms and, I suppose, that includes the Hon. Mr Xenophon's Party, however he determines his own policy.

We have had a wonderful tradition in this Chamber with respect to Standing Orders. I have been in this place approximately 16 years and, in that time, Standing Orders have only ever been established with the agreement of all Parties in this Chamber. A number of times people have been sorely tempted to try to crunch the numbers without the agreement of all the Parties in this Chamber, but I am pleased to say that all Parties (Labor, Liberal and Democrat) in the past have resisted the temptation to crunch the numbers to change Standing Orders. That is different from what happens in the House of Assembly because the Government of the day in the House of Assembly has had a propensity to change the Standing Orders as it suits the particular Government.

When one has the numbers one is able to use them if one wants, but what goes around comes around. During my 16 years in this Chamber I experienced long years in Opposition. They remain fresh in my memory and I know that, on occasions, there was the temptation to side with the Democrats and to overthrow the Government of the day in a particular change of the Standing Orders. However, I am delighted that we in the Liberal Party resisted any temptation to break the longstanding convention in relation to our Standing Orders. I think it is important. It is something which is tripartisan, or whatever it is.

An honourable member interjecting:

The Hon. R.I. LUCAS: The Hon. Mr Xenophon makes it very difficult—

The Hon. L.H. Davis: Multipartisan.

The Hon. R.I. LUCAS: It is a multipartisan convention of this Chamber. Certainly, representing the Government, we would enter the discussions in the Standing Orders Committee with that strong tradition behind us. I urge all members to bear that in mind as we contemplate changes to the Standing Orders, because one thing I am sure all members have—and I can assure members I have—is a long memory in terms of the conventions of this Chamber.

Mr President, in thanking you, I also thank the table staff and all the staff of Parliament House—*Hansard*, the attendants and the catering staff—who assist members in this Chamber in undertaking our task. I also thank the Leader of the Opposition, the Leader of the Australian Democrats and the Leader, the Deputy Leader and the Whip of the No Pokies Party, for their willingness—

The Hon. Nick Xenophon: We are not a Party.

The Hon. R.I. LUCAS: Aren't you? What are you called then?

The Hon. Nick Xenophon interjecting:

The Hon. R.I. LUCAS: Well, the No Pokies person then. I thank all members for their willingness to cooperate in this Chamber in terms of processing the business. We have passed a lot of Bills in this relatively short session, although I readily concede that not all of them have been particularly onerous pieces of legislation.

An honourable member: And we have asked a lot of questions.

The Hon. R.I. LUCAS: Yes, although I will not get into that; we are in good spirits this evening. Again, I think we get on very well with each other in terms of processing the business, both Government and private members' business. We got through a lot of both in this session and—

The Hon. A.J. Redford: And the Deputy Leader has done 20 years.

The Hon. R.I. LUCAS: —and one month. My colleague the Hon. Angus Redford reminds me that in this adjournment motion we should again place on the record (as the Hon. Legh Davis did earlier) that my colleague and friend, the Attorney-General, celebrated 20 years and one month, which, as he reminded us, is the magic hour when the parliamentary superannuation charge—what is it called, Legh—

Members interjecting:

The Hon. R.I. LUCAS: The levy, or the contribution. The parliamentary contribution ratchets down from its 11 per cent, or whatever it is, to much more reasonable proportions after—

The Hon. L.H. Davis: Five point seven five. From 11.5 per cent to 5.75 per cent.

The Hon. R.I. LUCAS: From 11.5 per cent to 5.75 per cent, I am reminded by my colleague the Hon. Mr Davis. I congratulate my colleague the Attorney-General for 20 years and one month of sterling service to the Legislative Council, to our Party, the Liberal Party, and to the South Australian community. With that, I wish everyone well and we will see each other again—after this Road Traffic Bill, of course—in two months.

The Hon. P. HOLLOWAY: We support the motion. I take this opportunity to congratulate you, Mr President, on completing what must be about five months, if I have added up correctly, of your being President. You have certainly shown plenty of wisdom in that time in the Chair, and we appreciate the way in which you have conducted business in this place.

I place on record the thanks from the Opposition for the officers of this Parliament; to *Hansard*, to the catering staff and to all the people who helped to make this Parliament work over the period. I am certainly heartened by the comments by the Leader of the Government that he will be looking at the Standing Orders to make Parliament work a little better when we resume in the new session. We certainly—

The Hon. A.J. Redford: It still comes back to numbers.

The Hon. P. HOLLOWAY: It does come back to numbers, but, then again, the only problem the Hon. Angus Redford has is that the numbers lie with the Opposition plus the Independent—not, of course, that we would want to misuse those numbers.

I think that the Opposition has been very responsible in the weeks we have sat during this session, and we will continue to act in that fashion. When we resume we will certainly want to see Parliament operate a little more efficiently and in a way that will give much more accountability to the public of South Australia. We look forward to the new session.

We thank those members who contributed and also congratulate the Hon. Trevor Griffin on completing 20 years-plus in this place. We thank him for his hospitality this

evening. It is certainly a milestone to be in this place for 20 years.

Having been here for only two or three years now, it is a bit hard to envisage what it would be like to be here for 20 years, but anyone who can stay in this place for 20 years and remain reasonably sane, as the Hon. Trevor Griffin seems to be, has certainly achieved something of significance, and we should note that.

As I say, on behalf of the Opposition we thank all those who have helped us and, hopefully, everyone will come back here in May fully refreshed.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I first want to thank you, Mr President, for the sterling job you have done in the weeks we have had so far of this session, including the couple of weeks before Christmas. As for other members of the Parliament, we always have our arguments but I have little doubt that this place certainly works better than the other place.

I offer particular congratulations to the Hon. Trevor Griffin for his 20 years and one month, and I also thank the Whips. There has been a bit of flippancy in the past when members have talked about Whips in the Democrats, but I must say that the change from two to three Democrat members has brought with it a whole lot of complications.

An honourable member: Who is the Whip?

The Hon. M.J. ELLIOTT: That is right. There hasn't been a need for one officially in the past. As I said, it was something of a joke, and I am pleased that most of the time now someone else is receiving the worst of those jokes now. I think that perhaps the Whips of both the Liberal and the Labor Parties have found that the change in our numbers from two to three has made arranging things a little more complex, and that is something that we will need to address.

I thank the officers of the Legislative Council and *Hansard*. We are not going to have a break: we have standing committees meeting on a weekly basis. Some people are members of two committees, and we also have select committees.

The Hon. L.H. Davis: They meet more often than select committees.

The Hon. M.J. ELLIOTT: Standing Committees do, yes—and they should. There has been some discussion about amending the Standing Orders and talking about the fact that in the past there has been all-Party agreement. In passing, I comment that the Standing Orders Committee has representatives of two of the Parties in this place, and perhaps that is something worth looking at. If there are to be lengthy discussions on the Standing Orders Committee about what they should be, then perhaps a more cross-sectional representation may need to be looked at.

Also, whilst obviously some people will make some judgment about certain moves that have been made here, there is time for some cross-Party talk about the ongoing role of the Council. I will not get into an extensive discussion of that now, but I do think that the overwhelming majority of the members in this place actually believe in it and, indeed, believe that it has a role to play. However, it is perhaps time for some real cross-Party talk, in quite a deliberate fashion, about precisely how the place will work and what its future is likely to be. If we end up not agreeing, that is one thing, but the time is overdue for us to have such discussions. I wish everyone well. It is not really a break, but we look forward to seeing everyone in only a couple of months.

MEMBER'S REMARKS

The Hon. CAROLINE SCHAEFER: I seek leave to make a personal explanation.

Leave granted.

The Hon. CAROLINE SCHAEFER: During the debate on the Pastoral Land Management Act I accused the Hon. Michael Elliott of calling the pastoral industry 'rednecks'. There are a number of things wrong with my eyesight but usually my hearing is quite accurate. However, I have looked at the transcript, and I can only assume that my hearing was inaccurate, or I was hallucinating at the time. I withdraw my accusations.

ADJOURNMENT

Debate resumed.

The Hon. NICK XENOPHON: In terms of the positive sentiments expressed by the Treasurer, the Deputy Leader of the Opposition and the Leader of the Democrats, I say 'ditto'.

The PRESIDENT: I thank the Leaders for their kind words to the Chair. It has been a learning experience for me, of course, but the Leaders, the Ministers and the members have certainly made it easier for me. I believe that there is a good feeling in the Chamber. I know that it is combative at times, and at times I have a problem trying to administer the Standing Orders that prohibit interjections but, I must say, many of the interjections are good fun and reasonably light-hearted. I thank the Whips, the Hon. Caroline Schaefer and the Hon. George Weatherill, for their help. I also thank the staff, Jan Davis and Trevor Blowes, for the work they do for us and for the Parliament; Chris and Noelene, who are a little bit behind the scenes but who are certainly a part of the team that puts together a pretty good program for the running of this Chamber; Graham, Ron and Todd, who service us as the messengers, not only in here but around the House—they are very much a part of the team; *Hansard* and the library and catering staff.

I thank the members, on behalf of the staff who cannot get up here and give their own thanks, for the goodwill that members have expressed tonight. I hope that everyone has a pleasant break over the next two months. I know that my friends around the traps believe that we are now on holidays for the next two months and nothing else happens—if you are not sitting you are not doing any work! That is a common factor that we have to overcome. But I hope that this will be a time to recharge the batteries, ready to come back onto the deliberative stage.

Motion carried.

STATUTES AMENDMENT (CONSUMER AFFAIRS) AMENDMENT BILL

The House of Assembly agreed to the Bill without any amendment.

ROAD TRAFFIC (SCHOOL ZONES) AMENDMENT BILL

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

No. 1 New clause, page 2, after line 3—Insert:

Amendment of s. 19—Cost of traffic control devices

3a. Section 19 of the principal Act is amended—
(a) by inserting in subsection (1) 'Subject to this section,' before 'The cost of installing';
(b) by inserting after subsection (1) the following subsection:
(2) Where the cost of installing, altering or removing a traffic control device related to a school zone would, but for this subsection, be borne by a council, that cost will instead be borne by the Minister.

No. 2 Clause 6, page 2—Leave out this clause and insert—
Amendment of s. 175—Evidence
6. Section 175 of the principal Act is amended—
(a) by inserting after paragraph (c) of subsection (1) the following paragraph:
(ca) that a vehicle was driven in a school zone; or;
(b) by inserting after subsection (2) the following subsection:
(2a) In proceedings for an offence against this Act, if it is proved that a person was present in a school zone when a specified vehicle was driven in the school zone and evidence is given that the person appeared to the witness to be a child (within the meaning of section 49), it will be presumed in the absence of proof to the contrary that the person was a child (within the meaning of section 49).

Consideration in Committee.

The Hon. DIANA LAIDLAW: I move:

That the House of Assembly's amendments be agreed to.

Two amendments were made to this Bill in the other place. Amendment No. 1 relates to the cost of traffic control devices. This has been an issue that I have discussed with local government. We indicated to local government that the State Government would pay for the manufacture of the signs; for the installation of flashing lights on arterial roads owned by and the responsibility of the State Government; and for the zigzag lines that we believe should be painted onto the roads to alert motorists to the fact that they are entering a school zone.

However, there has been a discussion about the installation of the signs on local government roads. In the other place it was moved:

Where the cost of installing, altering or removing a traffic control device related to a school zone would, but for this subsection, be borne by a council, that cost would instead be borne by the Minister.

I am relaxed about accepting that. That was made known in the other place. That cost will come from the Transport SA budget, so other things will not be able to be funded because of that measure. However, as this was something about which local members felt so intensely, I think they will understand, when they cannot get all that they want or ask for in terms of roads, when we cite this issue which they consider to be so important.

My view is that it is critical that the Government, in terms of community perception of the whole school zone issue, moves promptly to clarify the law to provide the brighter signs, to support the police in enforcing the law and to support motorists' having a better understanding of their responsibilities. If it means paying for the installation of signs on local roads, I suspect that we may as well go with that rather than delaying this measure or having a long-term argument with local government about it.

Amendment No. 2 relates to the evidence provisions. Much debate took place about these matters in this place. Considerable concern was expressed about how the police would enforce the maximum speed provision of 25 km/h. The Government had proposed that the burden of proof would be with the motorist. A compromise has been reached in that regard and it is proposed that the police officer must now give evidence that persons were present in the school zone at the relevant time and that those persons appeared to the police officer to be children.

In practice, the police officer will have to log the fact that people were present at the time and that they appeared to be children. The police will have to prove beyond reasonable doubt that this was so. However, once evidence has been given that such persons appeared to be children, this will be sufficient proof of the fact, unless the accused proves to the contrary on the balance of probabilities. So, there is the opportunity for the offending motorists to challenge the fact.

However, we are not asking the police to prove that the child was present. As I outlined at length—and I will not go over the issue, although it is critical—at all times we have wanted to help the police enforce this measure given the whole issue, pre-January 1997, where the police were not enforcing this provision. Motorists generally became more casual about their responsibilities. I suppose that one benefit of the debate in recent times is that everybody is more aware of their responsibilities in school zones. The police have been enforcing it, even though some may argue far too vigorously, but what we have seen is that the number of accidents in relation to school children in school zones has fallen quite dramatically, and that is positive. We want to ensure that the police—

The Hon. A.J. Redford interjecting:

The Hon. DIANA LAIDLAW: Yes, that is so. The police must be encouraged to enforce this provision. We believe that the amendment that was moved by the Government and passed in the other place will certainly encourage the police to enforce the provision. They will do so with more care and sensitivity than many members have suggested has been the practice over the past year, and we have discussed that matter in this place over the last 24 hours.

It is important that a resolution was reached in this issue. I believe that this amendment is important in terms of helping motorists understand their responsibilities, helping police to enforce the maximum speed but, overall, for all of us to remember that the safety of kids is paramount. I believe that this legislation reinforces that objective. I thank members, again, for their consideration of this measure and the attention that they are giving it, albeit at 1.15 a.m.

The Hon. CAROLYN PICKLES: The other place has taken a very long time to change very little. I have asked the Minister to deal with these amendments separately. Amendment No. 1 deals with the matter that I raised during the second reading and Committee stages, that is, the costs to be borne by local government. I believe this measure goes some way towards answering those concerns. I am not sure whether the Minister has had time to consult local government on this issue. I dare say that someone would not have appreciated being contacted in the early hours of the morning. However, I believe that this legislation is certainly an improvement on the Bill that came before this Council. The Opposition supports amendment No. 1.

However, as to amendment No. 2, as was raised in the other House, we believe this is a rather circuitous way of applying what we intended to provide, by deleting clause 6, and having the kind of existing provisions that we have had for 60 years, which have not caused too much angst. I have not had too many complaints about it—perhaps one or two, but not too many. It seems to me that this is an unnecessary amendment, and we do not believe it improves the Bill. I suppose it does to some extent, given that the Bill that went out of this place was the reverse onus of proof; but I suppose, on balance, just to make a point, we will oppose it but we will not divide.

The Hon. SANDRA KANCK: I am pleased that we have been able to come to a resolution on what appeared to be an impasse for quite a while. One of the things that surprised me has been the way that the Opposition has somehow decided that the police are going to allege, make up, or whatever—

The Hon. Diana Laidlaw: Fabricate.

The Hon. SANDRA KANCK: Yes, fabricate—I guess is the best word—charges against people.

Members interjecting:

The Hon. SANDRA KANCK: I find it surprising that the Opposition thinks this way about the Police Force. I happen not to think that way about our Police Force.

The Hon. P. Holloway interjecting:

The CHAIRMAN: Order! The Hon. Paul Holloway will have a chance later.

The Hon. SANDRA KANCK: I think ultimately what the Opposition was concerned about, which was the issue of reverse onus of proof, has been resolved with this amendment. I am reasonably confident that we have something in place that is going to work and I think that that is very important for the safety of our children. I remind members that just yesterday we put an amendment to the legislation that requires that a review will be begun by the department within 12 months of this legislation commencing and that the results of that review will be tabled before both houses of Parliament within six months of the commencement of that review. So there is adequate opportunity now, if there is anything wrong, for it to be brought to the attention of this Parliament and to allow us to revisit the matter if it becomes necessary. So, I indicate that the Democrats are reasonably content with what we have come up with, and we are supporting this amendment

The Hon. A.J. REDFORD: As a member of the governing party I am grateful for the Democrats' support. I have to say that I am prepared to offer $50 to any person who can best explain, in four sentences, what this clause means. I look forward to that.

Members interjecting:

The Hon. A.J. REDFORD: I will put a rider on it, and the rider is they have to be either on the register of the poll from either the seats of Gordon or MacKillop. I am sorry, that probably leaves the Attorney out of it, because I know he is anxious—

Members interjecting:

The Hon. A.J. REDFORD: No, I had not finished the offer, and I will repeat it. I am prepared to offer $50 to any person from either of those two seats to properly explain what on earth, in simple terms, this clause means, in four sentences, and I look forward to the further grandstanding from those couple of members, and I look forward to reading in the *Border Watch* and other publications precisely what on earth this all means and how on earth in practical terms, in real terms, it affects ordinary people.

The fact of the matter is that, if someone drives fast past a school that my kids attend, I get a bit annoyed, and I believe that those drivers ought to be fined. We have sat here for about four hours talking about esoteric matters and, at the end of the day, we are talking about my kids being close to schools and cars driving fast past them. Are they not clever! Because they hold the balance of power—or they believe they do, or they believe they are the Government—they come up with this clause, which states:

> In proceedings for an offence against this Act, if it is proved that a person was present in a school zone—

if it is proved, they say—

> when a specified vehicle was driven in the school zone and evidence is given that the person appeared to the witness to be a child (within the meaning of section 49), it will be presumed in the absence of proof to the contrary that the person was a child (within the meaning of section 49).

Members interjecting:

The CHAIRMAN: Order!

The Hon. A.J. REDFORD: I have to say that at this late hour I am not prepared to provide a detailed analysis of what on earth that might mean. But we have taken four hours, costing thousands of dollars, with members and staff here and lights on, etc., to come up with something like this. The fact of the matter is that the Independents ought to just settle down for a moment. This is rubbish; it is a joke.

Members interjecting:

The CHAIRMAN: Order!

The Hon. R.R. ROBERTS: I can probably give the Hon. Angus Redford some guidance: this was written by either a drunken lawyer or a sober and totally focused Democrat.

Motion carried.

WORKERS REHABILITATION AND COMPENSATION (SELF MANAGED EMPLOYER SCHEME) AMENDMENT BILL

The House of Assembly agreed to the alternative amendment made by the Legislative Council in lieu of its amendment without amendment.

ADJOURNMENT

At 1.32 a.m. the Council adjourned until Tuesday 26 May at 2.15 p.m.