# LEGISLATIVE COUNCIL

**Tuesday 23 March 1999**

**The PRESIDENT (Hon. J.C. Irwin)** took the Chair at 2.15 p.m. and read prayers.

## ASSENT TO BILLS

His Excellency the Governor, by message, intimated his assent to the following Bills:

Criminal Law Consolidation (Contamination of Goods) Amendment,

Livestock (Commencement) Amendment,

Lottery and Gaming (Trade Promotion Lottery Licence Fees) Amendment,

Manufacturing Industries Protection Act Repeal,

Parliamentary Superannuation (Establishment of Fund) Amendment,

Racing (Deduction from Totalizator Bets) Amendment,

Road Traffic (Proof of Accuracy of Devices) Amendment,

Shearers Accommodation Act Repeal,

Stamp Duties (Miscellaneous) Amendment,

Statutes Amendment (Local Government and Fire Prevention),

Statutes Amendment (Sentencing—Miscellaneous),

Supreme Court (Rules of Court) Amendment.

## QUESTIONS ON NOTICE

**The PRESIDENT:** I direct that written answers to the following questions on notice be distributed and printed in *Hansard*: Nos 94, 109, 138, 148 and 171.

### ADELAIDE HILLS, NOISE LEVELS

94. **The Hon. T.G. CAMERON:**

1. Will the Government undertake to investigate complaints by Adelaide Hills residents that noise levels from the wheels of passing freight trains on the Adelaide Hills line have been measured as high as 95 decibels?

2. Have noise levels risen since the Adelaide Hills line was upgraded three years ago to standard gauge, with concrete sleepers replacing timber ones?

3. (a) Have the numbers of freight trains using the Adelaide Hills line increased over the past three years; and

(b) If so, by how many?

**The Hon. DIANA LAIDLAW:** The Minister for Environment and Heritage has provided the following information.

1. The Environment Protection Agency (EPA) has required the operators of the rail system to report on noise control options by May this year. The Minister for Environment and Heritage expects that report to include an assessment of current noise levels.

2. Noise levels have not been reported at this stage. The EPA is not in a position to comment until the facts are available.

3. Informal advice from the Australian Rail Track Corporation suggests that there has been little or no change in the numbers of trains using the Adelaide Hills line over the last three years.

### AUSTRALIAN FISHERIES ACADEMY

109. **The Hon. P. HOLLOWAY:**

1. What are the sources of funding for the Australian Fisheries Academy?

2. What is the State Government's role in relation to the operation and funding of the Australian Fisheries Academy?

3. (a) What were the annual contributions made by the State Government to the Australian Fisheries Academy since it began operations; and

(b) Through what sources were these contributions made?

4. For what purpose is the State Government funding of the Australian Fisheries Academy intended?

5. Who audits the accounts of the Australian Fisheries Academy?

**The Hon. R.I. LUCAS:** The Deputy Premier, Minister for Primary Industries, Natural Resources and Regional Development has provided the following information.

The Australian Fisheries Academy is a commercial body involved in the delivery of training services to the fishing industry. These services are provided on a commercial footing in competition with those other service providers operating in the area of fisheries based training. The academy has developed a reputation for sound, cost efficient service delivery and enjoys considerable support from the fishing industry throughout Australia.

Sources of funding are no different from the wide variety of service providers operating in the commercial marketplace. In that sense the academy is simply a specialised service provider in the same manner as, say, Pride Business College.

The academy has successfully tendered for a number of State Government contracts in open competition and also has been granted the status of preferred provider for a number of training services.

The Government has not generally provided any form of funding to the academy that has not been as the result of a competitive tender process in a commercial environment. I am advised that there has been one exception to this in that the Director of Fisheries, Dr Gary Morgan, approved a grant of $8 600 to the academy to assist in the preparation of a Fisheries Research and Development Corporation (FRDC) grant application for the development of a seafood industry People Development Program. This application is currently under consideration by FRDC.

If the academy is successful in their application then the money provided will be returned to Government.

I am further advised that the normal audit requirements of any such commercial body are undertaken and that the academy uses the firm of T.J. Smith & Co. for audit purposes.

### FAMILY COURT

138. **The Hon. T.G. CAMERON:**

1. What is the average waiting period before family matters are heard before the Family Court?

2. Does the Attorney-General agree the average delay before the Family Court is currently 93.3 weeks?

3. If so, what steps is the Attorney-General undertaking to address the average 93.3 week delay for 'standard track child matters'?

4. Has the Attorney-General approached the Federal Attorney-General to address the issue of lengthy waiting periods for Family Court matters?

5. If so, what steps will be taken to address this issue?

**The Hon. K.T. GRIFFIN:** I advise the honourable member that matters relating to the Family Court are not within the State's responsibilities and therefore should be referred to the Federal Attorney-General.

In relation to Part 4 and 5, I advise that I have not taken up the issue with the Federal Attorney-General. If the honourable member has concerns, can I suggest that he directs them to the Federal Attorney-General for his consideration.

### LION ARTS CENTRE

148. **The Hon. T.G. CAMERON:**

1. In relation to the recent study commissioned by Arts SA and the University of South Australia to determine whether organisations at the Lion Arts Centre would be interested in relocating, how much (in dollars) did this study cost in total?

2. (a) Is the Minister considering leasing or selling the Lion Arts Centre to the University of South Australia; and

(b) If so, for how much and when would a decision be made?

3. Considering the University of South Australia currently occupies a large section of the West End which is inaccessible to the public after hours and on weekends, can the Minister ensure public access is increased and maintained as part of the contractual arrangements if the Lion Arts Centre is either leased or sold to the university?

4. Is the Government considering integrating shops, restaurants and other services into the design of the West End to allow the public to fully utilise the West End complex and fully realise the vision of a vibrant living arts centre in the West End?

5. If the Lion Arts Centre is sold to the university, will the Government consider purchasing another inexpensive warehouse

complex for the current organisations of the Lion Arts Centre, spending some of the money on practical refurbishment and channelling the remaining funds back to the artists themselves?

**The Hon. DIANA LAIDLAW:**

1. The total cost of the project is $10 000 with Arts SA and the University of South Australia contributing $5 000 each.

2. No proposal has been put to, nor raised by Arts SA to date. Subject to receipt of the consultant's report, and the findings, it is expected that preliminary discussions will be held in late March.

3. It is expected an arts presence will be maintained in the precinct and that this would require after hours access.

4. Government consideration to date is limited to Government arts organisations and others in receipt of Government financial assistance through Arts SA.

5. The consultant has been asked to establish the specific needs of the organisations currently located in the Lion Arts Centre, as well as identifying suitable accommodation for them within the West End.

The use of a warehouse complex will be considered if such an operation presents itself, in a manner consistent with the Government's policy objective of a greater arts presence in the West End.

### BROCHURE MAIL-OUT

171. **The Hon. M.J. ELLIOTT:**

1. How much did it cost to produce and mail out a colour brochure and covering letter to South Australia's public school teachers in January 1999?

2. Where did the funding come from?

3. Were external consultants used in the preparation of the material?

4. Was the brochure sent to all Education Department employees covered by te Education, TAFE and Children's Services Acts?

5. If so, how many employees were sent the information?

6. Is another mail-out planned?

7. If so, how much money has been budgeted for this purpose?

**The Hon. R.I. LUCAS:** The Minister for Education, Children's Services and Training has provided the following information:

1. The cost of producing and mailing out the colour brochure was $37 304.

2. It was funded from the Department budget.

3. External consultants were used in the preparation of the material.

4. The brochure was sent to all Education Department employees covered by the Education, TAFE and Children's Services Acts.

5. 23 716 employees were sent the information.

6. No further mail-out is planned at this stage.

7. Nil.

### PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Regulations under the following Acts—
- Financial Institutions Duty Act 1983—Non-dutiable Receipts
- South Australian Motor Sport Act 1984—Principal

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

Rules of Court—
- Magistrates Court—Magistrates Court Act—Victim Impact Statements
- Supreme Court—Supreme Court Act—Criminal Renumbering

By the Minister for Consumer Affairs (Hon. K.T. Griffin)—

Regulation under the following Act—
- Liquor Licensing Act 1997—Alcoholic Ice Cream

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

Reports, 1997-98—
- Board of the Botanic Gardens of Adelaide and State Herbarium
- Border Groundwaters Agreement Review Committee
- State Heritage Authority

Regulations under the following Acts—
- Goods Securities Act 1986—Fees
- Local Government Act 1934—Superannuation Board—Spouse Contributions
- Passenger Transport Act 1994—
  - Maximum Fares Chargeable by Taxis
  - Penalties—General.

### ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

**The Hon. J.S.L. DAWKINS:** I lay on the table the report of the committee on fish stocks of inland waters.

## QUESTION TIME

### ALICE SPRINGS TO DARWIN RAIL LINK

**The Hon. CAROLYN PICKLES:** I seek leave to make a brief explanation before asking the Minister for Transport a question about the Alice Springs to Darwin rail link.

Leave granted.

**The Hon. CAROLYN PICKLES:** It appears that the Alice Springs to Darwin rail link is again under siege. Last week I raised the issue that capital grants made to the construction of the rail link will be taxable, which means that the State would make a net loss from any Federal Government grant—that is, the Commonwealth puts in $100 million but gets $108 million in taxation. Further diminishing what is a very important project for South Australia is the latest news of Federal Government support for the rival Melbourne to Darwin link, which is estimated to cost about $10 billion, compared to the $1 billion Alice Springs to Darwin line. My questions to the Minister are:

1. What is the future of the Alice Springs to Darwin rail link, given the Howard Government's recent announcement that it was facilitating the rival Melbourne to Darwin rail link?

2. Has the Minister had any discussions with her Federal counterparts in relation to their decision to support the rival bid?

3. Does the Minister concede that this latest development potentially jeopardises the $900 million private capital required for the Alice Springs to Darwin rail link?

**The Hon. DIANA LAIDLAW:** Certainly, I deny any suggestion that a team of Federal members of Parliament working to address issues on the eastern seaboard railway will have any impact on the three bids to finance and operate the Adelaide to Darwin railway line. Incidentally, those bids will be lodged by the end of this month; so, there are about eight days for those bids to be lodged.

I think it is very important, in terms of the move by the Federal Minister for Transport and Regional Development (Hon. John Anderson) to establish this team of Federal MPs, to look at in the context of the New South Wales election. It is certainly my understanding that the New South Wales National Party in particular is very anxious in the election environment in New South Wales to be seen to be doing more to further its cause.

I believe that members of the National Party in New South Wales or Queensland—or some members even in Victoria—have been active in pushing this Eastern State railway for many years. I highlight that they are still pushing. This committee does not have any funding attracted to it.

In terms of keeping this whole issue in perspective, it is important to acknowledge, too, that the Federal Government

has provided $100 million for the Adelaide-Alice Springs-Darwin railway. There is no money that the Federal Government has even mooted for the Melbourne to Darwin railway project.

The honourable member should be aware that the notice that I gave today for the Bill in terms of third party access rights for the owner operator of the Adelaide-Darwin link is a very important further step in the development of this railway line through central Australia. It is a Bill and a matter that all bidders have sought in terms of finalising their bids.

I suggest to the honourable member that the Adelaide-Darwin project is extremely well advanced. Work is being undertaken on all fronts to secure the start of construction at the end of this year. We still have to tidy up the issue to which the honourable member referred in terms of the Federal Government's capital grant and receiving the full value of that grant for the Adelaide-Alice Springs-Darwin project; but, again, discussions are well advanced on that front. I have always been optimistic, and I would encourage the honourable member to be equally optimistic in relation to this project.

## ELECTRICITY TARIFFS

**The Hon. P. HOLLOWAY:** I seek leave to make a brief explanation before asking the Treasurer a question about the Olsen Government's ETSA tax.

Leave granted.

**The Hon. P. HOLLOWAY:** The whole area of the constitutionality of various categories of taxation by the States has been the subject of much debate and judicial decision in recent years. On no fewer than three occasions between 2 and 4 March the Premier referred to the new $168 ETSA charge as a 'tax'. On a further eight occasions the Premier referred to the ETSA charge as an 'impost'. The *Concise Oxford Dictionary* definition of 'impost' is 'a tax, a duty or tribute'. My questions are:

1. Does the Treasurer agree with the Premier that the new ETSA charge is a new tax and, if not, why not?

2. What is the strict legal definition that the Government will be using to describe the charge?

3. What advice has the Government sought, and from whom has that advice been sought, in relation to the terms, legal nature and validity of the new charge?

**The Hon. R.I. LUCAS:** I am surprised the honourable member has not realised the term that the Government is calling the power bill increase. It will be called the Rann power bill increase. We have been calling it that for the past four weeks since we announced it.

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** No, I called it the Rann power bill increase. Let the people of South Australia be aware that this will be a Rann power bill increase. Whether you want to call it a tribute—

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** Look, I can recall one of the occasions to which the honourable member is probably referring. I saw the *Hansard* transcript (and I will check to see whether that is the one to which he is referring), where he inadvertently uses the words and very quickly changes and uses a different descriptor rather than the term 'tax'. If the honourable member is using that as one of his examples—and I will have that checked to see whether he has misled this Chamber by indicating something which the Premier then corrected—

*Members interjecting:*

**The Hon. R.I. LUCAS:** Whether the Premier then corrected it—

*Members interjecting:*

**The Hon. R.I. LUCAS:** I am sure the honourable member would not again come into this Chamber and mislead the Council in quoting from the *Hansard*, where a member may have corrected a statement that he or she made—in this case, the Premier. I am sure, or I would hope (I should not say that I am sure), that the Deputy Leader has not endeavoured to mislead members of this Chamber by including, in between those dates of 2 March and 4 March, a statement which has been corrected by the Premier. I will check that—and very quickly—to ascertain whether or not the honourable member has been deliberately misleading this Chamber in relation to this issue. I look forward to that research with some glee.

As I said, the title has been public for some time. I am not sure why the honourable member would want to take up a good Question Time with this heavy hitting question about what we will call it. We have been calling it a Rann power bill increase for the past four or five weeks since the announcement of the power bill increase. We took advice. Again, this is a question to which I have responded before. We have taken a wide variety of advice in relation to this issue. I am on the public record in relation to the totality of that advice. I have indicated before that the Government, having considered the totality of the advice that it received, had determined to proceed.

I think I also indicated—and I am happy to do so again—that the New South Wales Labor Government, which I understand Mr Rann and others in the Labor Party have been supporting in recent times in its coming battle in the New South Wales State election (so Mr Rann is a close supporter of the policies and directions, I can assume, of Bob Carr in relation to this particular issue), has introduced an electricity tax. They called it a tax. They designated it as a tax in their budget documents.

**An honourable member:** They were a bit more outrageous than you.

**The Hon. R.I. LUCAS:** No, they obviously decided—

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** If the Hon. Mr Roberts wants to determine that that is the approach of the New South Wales Labor Government on this issue, I would be delighted after the coming election (if it is successful in relation to the election as to its attitude about electricity assets) to quote back to the Hon. Ron Roberts his interjection that the New South Wales Labor Government was honest. So, the Labor Government in New South Wales has a tax designated as a tax on electricity in New South Wales. They have called it that.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** No, ours is a power bill increase, so ours is quite different.

*The Hon. P. Holloway interjecting:*

**The Hon. R.I. LUCAS:** Ours is a power bill increase: theirs is a tax. It is as simple as that. The New South Wales Labor Government—

*The Hon. R.R. Roberts interjecting:*

**The Hon. R.I. LUCAS:** And the New South Wales Government isn't, I take it? The New South Wales Labor Government has had its tax in operation for at least two years. As I said, whilst it has designated it as a tax, there has been no challenge, no problem, and no concern expressed by the Hon. Mr Holloway or the Hon. Mr Rann in their endeavours

to support Bob Carr in his re-election that in any way something that he did in New South Wales was unconstitutional or wrong. The New South Wales Labor Government seems happily to be able to collect money from something it has called a tax.

The South Australian Liberal Government has a Rann power bill increase and, as I indicated, I am disappointed that members of the Labor Opposition in South Australia seek to damage the South Australian budget by encouraging questioning of this Rann power bill increase when they do not seek to damage their friends and colleagues in New South Wales. They are prepared to support the New South Wales interests ahead of South Australia. They are not prepared to stand up for South Australians and defend South Australia's budget. They are quite happy to defend the New South Wales Labor Government and but very rarely, if ever, are they prepared to stand up and defend South Australians and the South Australian budget.

## ABORIGINAL DRUG ABUSE

**The Hon. T.G. ROBERTS:** I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Aboriginal Affairs, a question on drug treatment and abuse in the South Australian Aboriginal community.

Leave granted.

**The Hon. T.G. ROBERTS:** Recently I asked a series of questions in relation to a growing problem in the Aboriginal community in South Australia. I signalled that, because of its cheap availability, heroin is becoming a major problem in metropolitan and regional areas of South Australia among young Aboriginal people. I was also concerned at the lack of details about the rehabilitation and treatment programs of which I am aware as a member of the Opposition and which are in place to take into account the growing use and abuse of heroin. Members on both sides of the Chamber know that alcohol and marijuana are generally available to all sections of the community, and that heroin—

**The Hon. K.T. Griffin:** Not lawfully.

**The Hon. T.G. ROBERTS:** No, not lawfully, but I comment only on availability. Heroin had been difficult to get and it was generally regarded as a middle class recreational drug of abuse. It was too expensive for people on low incomes, particularly those in working class areas, to avail themselves of.

**The Hon. M.J. Elliott:** It is cheaper than beer now.

**The Hon. T.G. ROBERTS:** The honourable member says that it is cheaper than beer. That was the information that I was supplied with from people on the ground who saw that young unemployed people, including Aboriginal people, which has particular reference to my portfolio, were being targeted by pushers to unload heroin at a very cheap price, thereby entrapping those young people into a life on the downward slide to oblivion, because the drug has that sort of effect. There is very little hope for rehabilitation once the drug gets a grip.

The answers that I received from the Minister give me some hope that there is an awareness of the growing use and abuse of heroin as a potent drug and that it is tearing apart young Aboriginal communities in South Australia. There is also an awareness that South Australia is aware of the information travelling via the Commonwealth and other areas in Australia, and that remedial measures are being set up. When I checked with the people on the ground about the support services that were being provided, they said that they were unaware that a lot of the programs that had been indicated to me were being funded and wer off and running. One organisation that I contacted said that although the program for treatment and rehabilitation may be available it was not aware of it. I thought that because it was an organisation that was in touch with people on a daily basis it might have some awareness of it.

Other programs that I have some information about are those in relation to prisoners, particularly prisoners who have been released from gaol and who were incarcerated because of drug problems. They should be earmarked for special treatment as well. My questions relate to the reply that I received and are as follows:

1. Recognising that there is a serious drug abuse problem in rural, regional and metropolitan Aboriginal communities, what efforts has the Government made through its agencies to attempt to address the problem through cross-departmental referencing and support services?

2. What cross-referencing is being done between State and Federal Government departments and agencies?

3. Given that the Government has difficulty in collecting empirical evidence and suggests that resources can be made available to address the problem, what resources have been turned over to assess the problem on the ground and what evidence has been collected thus far?

My remaining questions concern rehabilitation programs and are as follows:

1. What are details of those programs and what level and duration of State funding is provided to ADAC in relation to outreach services to former prisoners?

2. What is the level of funding and duration of State moneys provided to ADAC in relation to outreach services for 'the similar program in prisons' outside of prisons?

**The Hon. DIANA LAIDLAW:** I appreciate the genuine concerns that the honourable member has raised. I will refer those questions to the Minister and bring back a reply.

## MURRAY-MALLEE CONSERVATION

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I seek leave to table a ministerial statement made today by the Minister for Environment and Heritage in the other place on the Murray-Mallee partnership memorandum of understanding.

Leave granted.

### BUSES, PUBLIC

In reply to **Hon. T.G. CAMERON** (4 March).

**The Hon. DIANA LAIDLAW:** Further to my reply on 4 March 1999, I am able to advise that the regular daytrip ticket costs $5.40 and the concession daytrip ticket, $2.70. On weekends and public holidays two children under 15 years of age can travel free when accompanied by a parent or guardian using a daytrip ticket.

For the honourable member's information, Canberra has a family ticket, priced at $9.00 which allows two adults and three children to travel an unlimited distance all day. Melbourne has a similar family ticket which allows travel across all three zones for $18.50.

### HOLDFAST SHORES BREAKWATERS

In reply to **Hon. M.J. ELLIOTT** (16 February).

**The Hon. DIANA LAIDLAW:** The initial excavation costs, which included extension to the breakwater and associated works, was part of a $3 million contribution paid by the Government to the Holdfast Shores Project. This work was undertaken between October 1996 and September 1997.

Subsequent maintenance dredging (November 1997-March 1998) cost $420 000, and was undertaken by the Department of Administrative and Information Services.

Between September 1998-February 1999 Transport SA, which now has responsibility for maintenance, spent $243 000 dredging mainly seagrass and some sand.

## INKERMAN WASTE DUMPS

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

**The Hon. DIANA LAIDLAW:** The names and addresses of the applicant's for the four landfill applications in the Inkerman area recently submitted to the Development Assessment Commission are as follows:

| Development No | Applicant Name | Address | Owner of Land | Contact Person |
|---|---|---|---|---|
| 373/0036/99 | Suweal Pty Ltd | 135 Glen Osmond Rd Eastwood SA 5550 | R & H Menadue | Jamie Botten & Associates |
| 373/0037/99 | Campaction Application Tips Pty Ltd | 135 Glen Osmond Rd Eastwood SA 5550 | R & H Menadue | Jamie Botten & Associates |
| 373/0038/99 | Mallala Pty Ltd | 135 Glen Osmond Rd Eastwood SA 5550 | R Menadue | Jamie Botten & Associates |
| 373/0039/99 | Downs Holdings Pty Ltd | 135 Glen Osmond Rd Eastwood SA 5550 | R & H Menadue | Jamie Botten & Associates |

BC Tonkin & Associates prepared all the reports submitted as the proposal.

## ENVIRONMENT

In reply to **Hon. G. WEATHERILL** (8 December 1998).

**The Hon. DIANA LAIDLAW:** The Minister for Environment and Heritage has provided the following information.

The decline in public transport patronage is not a new issue. Information indicates that a decline in public transport usage has been recorded since the mid 70s. This decline has been linked to—

- changes in lifestyle, with a greater demand for flexibility and increased mobility;
- the public's need to travel greater distances; and
- the fact that driving your own car has become a viable alternative, with easier access to car parking and the relative cheaper cost.

In relation to environmental concerns the Honourable Member overlooked a key finding in this report, that 76.7 per cent of South Australians are concerned about environmental problems and that this figure is above the national average. Also, environmental issues rated fifth in a list of most important social issues.

Ultimately, all South Australians need to appreciate that our current lifestyle will only continue if we are prepared to take greater personal responsibility for our actions.

## SCHOOL ZONES

In reply to **Hon. CAROLYN PICKLES** (17 February).

**The Hon. DIANA LAIDLAW:**

1. As I indicated on 25 March 1998 during the Road Traffic (School Zones) Amendment Bill, Transport SA is implementing a policy to replace all school zones with a suitable pedestrian crossing on roads under its care, control or management. These treatments include Emu (flag) crossings as well as the two forms of pedestrian crossing mentioned in the honourable member's question.

According to Transport SA records, there are 84 school zones located on country roads that are under its care and control. Some of these zones serve more than one school.

Of these 84 country school zones, seven already have an Emu (flag) crossing installed, ten are proposed to have an Emu crossing installed, and 42 are proposed to have a Koala (flashing light) crossing installed. One particularly long school zone that serves three schools is proposed to have a Pedestrian Actuated crossing installed in addition to a Koala crossing.

A further 25 country school zones are still under review to determine the most appropriate treatment. Five of these zones are located on unsealed roads, on which it is not possible to install a crossing because the pavement markings which form an essential part of any crossing cannot be installed on unsealed roads. The possibility of installing a short section of sealed pavement is being investigated. Some of the remaining school zones are currently under negotiation for possible removal, or relocation to a council road. A few schools have zones where no children actually cross, but the school wishes to retain the lower speed limit as protection for children walking alongside the road.

Upgrading has been completed this financial year on three school zones on Transport SA roads, and a further eight zones are expected to be upgraded by the end of the current financial year. All of these 11 school zones are located within the Adelaide metropolitan area, where higher traffic flows present a greater risk to children and hence justify a higher priority for upgrading.

2. The 1998-99 budget allocation for the upgrading of school zones on Transport SA roads is $670 000. All of this allocation is being spent in the metropolitan area due to higher traffic flows. The 1999-2000 budget allocation has not yet been confirmed.

3. The upgrading of school zones on all Transport SA roads, in both the country and the metropolitan area, is currently scheduled for completion by the end of the 2000-01 financial year.

4. The current estimated cost to complete the remaining upgrades of country school zones is $2.4 million.

5. As previously indicated in question 1, seven of the 84 school zones on Transport SA roads at country schools have an existing Emu crossing.

There are 32 school zones on Transport SA roads in the Adelaide metropolitan area, seven of which have an existing Emu crossing. In the current financial year, funding is being provided to upgrade 11 sites in the metropolitan area to Emu crossings, Koala crossings or Pedestrian Actuated crossings. Details of these are set out below.

| School | Road | Type of Crossing |
|---|---|---|
| Completed | | |
| Scotch College | Blythewood Road | Koala (flashing lights) |
| Temple College | Henley Beach road | Emu (flags) |
| St Michaels College | East Avenue | Koala |
| Scheduled for completion during 1998-99 | | |
| Lefevre High School | Hart Street | Koala |
| Rostrevor College | Glen Stuart Road | Koala |
| Magill Primary School | Magill Road | Koala |
| Henley High School | Henley Beach Road | Pedestrian Actuated |
| Marbury School | Mt Barker Road | Emu |
| Bellevue Heights Primary School | Shepherds Hill Road | Pedestrian Actuated |
| Salisbury Primary School | Park Terrace | Possible Pedestrian Actuated |
| West Beach Primary School | Burbridge Road | Appropriate facility to be decided |

## MOSQUITOES

In reply to **Hon. T. CROTHERS** (3 March).

**The Hon. DIANA LAIDLAW:** The control of mosquito-borne disease is entirely a matter for my colleague the Minister for Human Services. The issue of housing development in mosquito-affected areas is, however, within my portfolio responsibilities as Minister for Transport and Urban Planning and it is in this context that I respond.

The honourable member would by now be aware that the article in the *Advertiser* on Monday 1 March contained a number of inaccuracies. Indeed, the expert quoted in the article—Dr Michael Kokkin of the University of South Australia—wrote to the *Advertiser* on Wednesday 10 March claiming that he had been misquoted.

In particular, Dr Kokkin did not 'recommend that authorities cease any further subdivision in the area'. What Dr Kokkin actually said was—and I quote from his letter of 10 March—

> When the suburb was developed, there were no severe mosquito problems there. There was no way that developers could have predicted the current situation. Were they looking at the area for development now, they would not go ahead because of the current mosquito problem. In other words, the mosquito problem is a recent phenomenon and it urgently needs investigation.

Dr Kokkin has also stated that, in his view, the new wetlands in the area have not contributed to the mosquito problem. I quote again from Dr Kokkin's letter of 10 March—

> . . . the mosquitoes which are causing the problems . . . are saltwater species and not able to use freshwater wetlands for their breeding. The construction of wetlands in the urban areas of Adelaide by the various catchment boards is not likely to provide mosquitoes with places to breed.

I believe this clarifies that the planning system cannot reasonably be regarded as the cause of, or even a contributor to, this problem.

The original decision to allow housing west of Port Wakefield Road in the vicinity of Globe Derby Park was taken in the early 1970s. There is currently only one area zoned for residential development, and that is a rural living zone immediately north of Globe Derby Park. This is a low density residential zone intended to accommodate houses in a semi-rural setting in association with keeping of horses.

The zone currently contains around 125 houses and is largely fully developed.

I am unaware of any current proposals to rezone additional land in the area for housing. In particular, the areas identified in the *Advertiser* report of 1 March 1999 as 'possible future development sites' are, in fact, currently zoned as part of the Metropolitan Open Space System. Any proposals to rezone this land for housing would not be supported by the State's Planning Strategy and would therefore be most unlikely to secure State approval.

## ROADS, COUNTRY

In reply to **Hon. T. CROTHERS** (17 February).

**The Hon. DIANA LAIDLAW:**

1.-3. Further to my contribution noting the Environment, Resources and Development Committee's report on the South Australian Rural Road Safety Strategy (10 March 1999), I confirm that Transport SA has already commenced work on the road audits on arterial roads and National Highways (11 000 kilometres). This work will be accelerated with the injection of new funds of $880 000 over two financial years 1999-2000 and 2000-2001—with all audits due to be completed by 30 June 2001.

4. The Government's expectation is that all work arising from the audit recommendations, will be implemented—but at this stage the extent of the work and the costing has not been identified. In the meantime, the Honourable Member will appreciate that the Government's capacity to fund the work may well be determined by the sale of ETSA, the relief of State debt and access to monies now dedicated to interest payments on the debt.

## NATIONAL HIGHWAY ONE

In reply to **Hon. R.R. ROBERTS** (16 February).

**The Hon. DIANA LAIDLAW:**

1. The responsibility for funding works on the Port Augusta to Port Wakefield Road rests with the Federal Government as the road is a National Highway.

South Australia is seeking Federal funds to construct seven passing lanes on the Port Augusta to Port Wakefield Road between 1999-2000 and 2001-02. These lanes are proposed to be constructed for southbound vehicles between Nectar Brook and Mambray Creek, and in both directions between Port Pirie and Crystal Brook, Snowtown and Lochiel, and Lochiel and Nantawarra.

Using Federal funds, Transport SA has already constructed ten passing lanes on the Port Augusta to Port Wakefield Road and 19 lanes on the Dukes Highway between Tailem Bend and Keith (three more are nearing completion). Other high volume, rural arterial roads with high accident rates such as the Tea Tree Gully-Mannum, Mount Barker-Strathalbyn, Noarlunga-Cape Jervis and Noarlunga-Victor Harbor Roads have also been treated. Transport SA priority to date has been based on traffic volume, delays and accident history.

Transport SA is currently developing a passing lane strategy on a State-wide basis. This strategy will identify locations for future passing lanes and priorities for their construction.

2. While no additional audio-tactile linemarking has been installed, Transport SA has recently installed a trial of non-reflective raised pavement markers at six metre spacings between the reflective raised pavement markers on the edge lines of a 16 kilometre stretch of the Dukes Highway. This trial, which cost significantly less than a similar length of traditional audio-tactile linemarking, will be monitored and feedback sought from the public, before it is considered for other locations around the State.

In addition, significant shoulder sealing/seal widening has been undertaken on the National Highway between Port Augusta and Port Wakefield, Sturt Highway and Dukes Highway. Transport SA plans to continue this widening to achieve seal widths of at least eight metres, wherever road trains operate, and to provide sealed shoulders where run off road accidents have occurred.

## GAMBLING, TELEPHONE COUNSELLING SERVICE

In reply to **Hon. NICK XENOPHON** (17 February).

**The Hon. DIANA LAIDLAW:** The Minister for Human Services has provided the following information.

1. The current 24-hour Gambling Helpline service commenced on 1 December 1998. Clearly it would be premature to make any evaluation of a service of this nature after such a short period of operation. A thorough evaluation will be undertaken of the operation of this service at the end of a six month pilot period of operation. Meanwhile, data is being collected which will form the basis of the evaluation—

- call analysis data is being provided by Telstra to the Department of Human Services on a monthly basis;
- the Addiction Research Institute provides monthly reports on call numbers, more detailed statistical reports at three and six months operation and a report at the end of six months operation which includes data plus analysis and inferences;
- a client satisfaction questionnaire is included whenever information is mailed out to callers with a reply paid envelope to the Department of Human Services and is also given to clients by local Break Even Services when they identify that client as having been referred to them by the Gambling Helpline.

2. What is important to people with gambling problems, particularly those who decide to call the Gambling Helpline because of a crisis situation, is that they receive immediate access to experienced counsellors with expertise in dealing with gambling problems.

In South Australia, gambling counsellors are available through a network of BreakEven Services funded by the Gamblers' Rehabilitation Fund. However, these counsellors have existing and ongoing client loads and are not always immediately available to take telephone calls.

One of the roles of the 24-hour telephone service is to provide callers with information about local services.

Participating in the use of the 24-hour gambling telephone counselling service currently provided by Addiction Research Institute in Victoria, New South Wales, Queensland, Tasmania and Western Australia gives South Australians direct access to—

- a roster of 38 professional staff who specialise in gambling problems with the flexibility to deal with peaks in call rates;
- counselling in 12 languages;
- counsellors who always have back up support and supervision on hand and are never on duty alone.

3. A range of options for the provision of a 24-hour telephone counselling service were considered. Referring only after hours calls to Addiction Research Institute would have created confusion for callers who telephoned on more than one occasion, finding immediate access to a counsellor after hours and being answered by a Break Even agency counsellor or possibly a receptionist during

business hours. It would also have made it difficult to develop a simple message to promote the availability of the service if two different types of responses were in operation.

## STATE DEBT

**The Hon. L.H. DAVIS:** I seek leave to make an explanation before asking the Leader of the Government in the Council and Treasurer, the Hon. Robert Lucas, a question about State debt.

Leave granted.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. T.G. Cameron:** We've all read the article today, Legh.

**The Hon. L.H. DAVIS:** Not everyone could have, Terry.

**The PRESIDENT:** Order! The Hon. Mr Davis will go on with his explanation.

**The Hon. T.G. Cameron:** Hands up those who have not read the article. There you go, Legh, everyone has read it.

**The Hon. L.H. DAVIS:** Thank you, Terry. On Sunday morning I flew in a light aircraft through a heavy rainstorm back to Adelaide Airport.

*Members interjecting:*

**The Hon. L.H. DAVIS:** I tricked them all straightaway.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. L.H. DAVIS:** As we waited for our luggage, for the first time I saw the four bold words in the banner headline of the *Sunday Mail*: 'Elliott—ETSA switch hint'. The *Sunday Mail* political reporter Craig Clarke quoted the Democrat Leader, Mr Elliott, as saying:

> I will not be putting the State's finances at risk.

The article further stated that his announcement the following day would be 'in the best interests of the State'. Yesterday, we saw what a confection that was because in the media release the Australian Democrats announced that they would not be supporting the sale of South Australia's electricity assets.

I was intrigued, so I sought to obtain a copy of this news release, which contained many paragraphs, on which I will not comment, even though it is very tempting. It is a joint statement from Sandra Kanck and Michael Elliott who, apparently, has now taken over as spokesman on this issue from Sandra Kanck, his Deputy Leader. I do not know whether there has been a palace coup in their telephone box, but Mike Elliott is now talking on ETSA. In part, the news release said:

> The Government's own data shows the State debt is steadily reducing and is reducing at the same relative rate as New South Wales and Victoria.

That immediately rang a bell with me because I have been known to have some interest in this matter. I went back to my official statistics on this matter and I saw that net debt as at 30 June 1993 (according to the Australian Bureau of Statistics) was as follows, for the benefit of the Hon. Mike Elliott: New South Wales State debt, $21 billion—

**The Hon. M.J. Elliott:** Don't talk to me; ask him the question.

**The Hon. L.H. DAVIS:** No, I am talking to you—this is for you, just to upgrade your knowledge.

**The PRESIDENT:** Order!

**The Hon. L.H. DAVIS:** Victoria's State debt was $31.8 billion, and South Australia's was $8.48 billion or $8.5 billion. That was the level of public sector debt as at 30 June 1993. That was the last budget before the change of Government in South Australia. I move now to the current debt position for those three States because that was the proposition put by the Hon. Michael Elliott in his media release and supported by Sandra Kanck who, no doubt, would have helped with this 1 000 hours of research to contribute to the weight and accuracy of this statement—and I suspect the Hon. Ian Gilfillan, who, obviously is the most cerebral of them, had no input whatsoever.

At page 17 of their Access Economics Budget Monitor produced earlier this year—and, as honourable members know, Access Economics is unarguably the foremost economics analyst in Australia—New South Wales's debt had fallen to $17.8 billion; Victoria, in the period from 1993 to 1998, had fallen from $31.8 billion to $10.98 billion; and South Australia was $7.9 billion—and there are some small variations in the figures. In other words, it seems that over the past three years New South Wales's State debt has fallen by a much greater percentage than South Australia's, and Victoria's is but a third of what it was in 1993. My questions to the Treasurer—

*The Hon. T.G. Cameron interjecting:*

**The Hon. L.H. DAVIS:** The Hon. Terry Cameron encourages me to make one further point; that is, if you take the Access Economics figures from the—

**The PRESIDENT:** Order! An explanation is not to make points; it is to give an explanation.

**The Hon. L.H. DAVIS:** I am sorry, Sir. All right, I will provide some further information for the Treasurer. The Access Economics forecast for the year 2003 suggests that South Australia's debt will fall to only $7.25 billion; Victoria's will shrink to $3.7 billion—and some regard that as conservative—and New South Wales will be at just $16.3 billion—and that will disappear altogether if its electricity assets are sold, as expected. My questions to the Treasurer are as follows:

1. In view of the fact that on more than one occasion publicly they have complained that they have not had sufficient financial information to make an informed decision on the sale of the electricity assets, did the Australian Democrats seek any further financial information from the Government through the Treasurer (or any other source) before they announced their final decision yesterday?

2. Has the Treasurer seen the media release from the Australian Democrats yesterday and can he say whether he agrees with the proposition that 'the Government's own data shows that State debt is steadily reducing and is reducing at the same relative rate as New South Wales and Victoria'?

**The Hon. Diana Laidlaw:** We can only wish it was.

**The Hon. R.I. LUCAS:** My colleague the Minister for Transport says, 'We can only wish it was.' For the life of me I cannot understand the statement that was issued by the new spokesperson for electricity, the Leader of the Australian Democrats (Hon. Michael Elliott). The Hon. Mr Davis has highlighted—

*The Hon. T.G. Cameron interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** —one of a number of extraordinary claims made yesterday by the Leader of the Australian Democrats; that is, from our own data that we allegedly showed them, our State debt was reducing at the same relative rate as Victoria. That is just an outright lie.

**The Hon. K.T. Griffin:** It is a misunderstanding of mathematics.

**The Hon. R.I. LUCAS:** My colleague is much more generous—it is a misunderstanding. The Democrats could not understand the mathematics of the figures that were provided to them. Let us look at Victoria. The Hon. Mr Davis has highlighted that just five years ago Victoria's debt was $31 billion, and Access Economics is predicting that in a short space of three years—

**The Hon. L.H. Davis:** It was $31.8 billion.

**The Hon. R.I. LUCAS:** Well, let's say $32 billion. In the space of the next three years that figure of $32 billion will have declined to $3.7 billion. In the space of less than 10 years, Victoria will reduce its debt from $32 billion to just over $3 billion. As the Hon. Mr Davis has indicated, with the high proceeds they are getting from their gas asset sales—higher than otherwise projected by some commentators—it may well be that that $3 billion worth of debt will disappear completely. How can the Hon. Mr Elliott on behalf of the Democrats stand up with a straight face in front of the media—and I understand he had to do three separate media conferences yesterday; he did not want to have all of them together for fear of them all asking him questions at the one time—and claim that our debt, on the basis of figures that I had provided to him on behalf of the Government, was declining at the same relative rate as Victoria's? It is just extraordinary that a Leader of a Party—

**The Hon. L.H. Davis:** It is lentil soup economics.

**The Hon. R.I. LUCAS:** Yes, it is lentil soup economics. How could the Leader of a Party, a person who took control of this issue out of the hands of his Deputy Leader—

*The Hon. L.H. Davis interjecting:*

**The Hon. R.I. LUCAS:** After she had done 1 000 hours of research—I was going to say 1 000 years of research. We were told in the early stages not to consult with the Hon. Mr Gilfillan or the Hon. Mr Elliott because the Deputy Leader was handling the negotiations on behalf of the Australian Democrats. We complied with that request. But then, in the latter weeks, we were told to handle our negotiations and discussions through the Hon. Mr Elliott, which we did.

**The Hon. M.J. Elliott:** That's a lie.

**The Hon. R.I. LUCAS:** You are pretty well versed in that area. If you want to talk about lies, have a look at this statement. You go outside this place and make this statement. We handled the discussions with the Hon. Mr Elliott—

**The Hon. IAN GILFILLAN:** Mr President, I rise on a point of order and ask you to rule whether the accusation that a member of this place is lying is acceptable parliamentary language.

**The PRESIDENT:** I accept the point of order. This has been ruled out of order in the past and I will do the same. It is not acceptable in this place to call another person a liar. I ask the Treasurer to withdraw that comment.

**The Hon. R.I. LUCAS:** I think the Hon. Mr Gilfillan—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** I think that the Hon. Mr Gilfillan was referring to the Hon. Mr Elliott, who made the accusation that I had lied in relation to this issue.

**The PRESIDENT:** Does the Hon. Mr Gilfillan want to explain his position?

**The Hon. IAN GILFILLAN:** Mr President, my request to you to call the Treasurer to order was with respect to his statement that the Leader of the Democrats (Hon. Mike Elliott) had lied, and it is on that basis that I ask you to rule that that is unparliamentary.

**The PRESIDENT:** If that is the case, I ask—

**The Hon. R.I. LUCAS:** I am happy to withdraw, but I also ask that the Hon. Mr Elliott withdraw the interjection to which I responded—that, indeed, I had lied.

**The PRESIDENT:** I did hear an interjection from the Hon. Mr Elliott clearly saying that there were lies—

*Members interjecting:*

**The PRESIDENT:** I ask the honourable member to withdraw.

**The Hon. M.J. ELLIOTT:** I withdraw the comment, guardedly.

**The PRESIDENT:** It was out of order in the first place.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** I do not intend to pursue that line. It is just extraordinary that the Hon. Mr Elliott could claim that I, on behalf of the Government, had given him figures which verified that our rate of reduction of debt in South Australia was the same as Victoria's. Whilst I cannot use appropriate words, it is grossly misleading of the honourable member to make that claim, as he did yesterday, that in some way I had issued figures or provided him with figures that justified that claim.

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** On ABC TV last night the Hon. Mr Elliott's analysis on behalf of the Democrats went even further. I refer again to the ABC transcript from last evening, as follows:

> The Hon. Michael Elliott: They (the Government) are capable of borrowing long at low interest rates, and you'll see in the next decade the debt will be gone.

So, there is the solution. I have been worrying about our debt for such a long time and, really, it is a simple solution: just get some vanishing cream, or look at it long enough and hard enough, or go out and borrow long at low interest rates and, in 10 years, our $7.5 billion debt will be gone, according to the Hon. Michael Elliott. That is the statement made by the Leader of the Democrats in justifying his position on this issue in relation to ETSA. If I were the Hon. Mr Gilfillan and the Hon. Ms Kanck I would hang my head in shame that they are members of a Party whose Leader could go out and make such an outrageous statement: that we can get rid of the debt, so that it disappears—not reduce it, but that we can get rid of it. It will be gone in 10 years by borrowing long at low interest rates.

In his press statement yesterday the honourable member again talked about keeping debt declining simply by balancing our budget, and that that is all we needed to do. I had some very quick figures pulled out this morning (and we will provide some more detailed figures later) which indicate that for this debt to magically disappear with the Democrat vanishing cream that they want to rub on it, so that it will just disappear over the next 10 years—

*Members interjecting:*

**The PRESIDENT:** Order!

*The Hon. T.G. Cameron interjecting:*

**The PRESIDENT:** Order, the Hon. Terry Cameron!

*The Hon. T.G. Cameron interjecting:*

**The PRESIDENT:** Order! I am sick of hearing the honourable member's voice.

**The Hon. R.I. LUCAS:** We cannot simply use Democrat vanishing cream because, if we are to get rid of this debt, we cannot just balance the budget—we have to make surpluses in each year and use the surplus to repay the debt. It is a bit

like a household budget. If you have a mortgage and you want to repay it within 10 years, you have to make more money than you earn each year over that 10 year period and you use that surplus to repay your debt. We have taken out some figures which indicate that we would have to run surpluses of about $600 million to $700 million a year for the next 10 years to find the money to repay the debt.

**The Hon. L.H. Davis:** That represents about 12 per cent of the market.

**The Hon. R.I. LUCAS:** That represents about 12 000 to 13 000 teachers in South Australia—almost our entire full-time teaching force. So, we could close down all our schools and get rid of almost all our teachers under the Democrat policy—13 000 or 14 000 teachers—and then we would have $600 million to $700 million in annual surpluses to devote towards repaying this debt in the next 10 years. As I said, we will do some more detailed figures over the next 24 hours in terms of a detailed break-down but just very quickly, in the information provided by the Hon. Mr Davis and in response to his questions, I believe that we have clearly demonstrated the ridiculous nature of the claims that were made by the Australian Democrats yesterday.

In relation to the second question, we provided a large amount of information to the Australian Democrats about two to three weeks ago. There was a covering letter on that note which went to the Hon. Mr Elliott which indicated that, if the Hon. Mr Elliott had any questions at all which remained unanswered as a result of that information, could he please list them and fax them to me on behalf of the Government and I would happily respond to those further questions. Clearly, the Hon. Mr Elliott had no further questions, because he did not respond to that invitation. He provided no further questions to me seeking more information.

Before the Hon. Mr Elliott made his policy announcement yesterday, based on the information which he quoted yesterday—that our debt was declining at the same rate as Victoria's and that, if we borrowed long at low interest rates, the debt would disappear within 10 years—I only wish that he had at least checked his information. We could have indicated to the honourable member that those claims he was about to make were wrong in fact, and were grossly wrong in terms of what they were suggesting.

**The Hon. T.G. CAMERON:** I have a supplementary question. Did the Treasurer send me the same documentation that he sent the Democrats?

**The Hon. R.I. LUCAS:** Yes, but I think that a copy of the letter that went to the Hon. Mr Elliott was not included in the information that I provided to the honourable member.

*An honourable member interjecting:*

**The Hon. R.I. LUCAS:** You are not indicating a willingness to either support it or to reconsider your view. If you would like to reconsider your view, I would very happily share—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. R.I. LUCAS:** If the honourable member indicates that he is reconsidering Mr Rann's position, which he has dictated to—

**The Hon. T.G. Cameron:** I have to tell you that there is not one thing in the documentation that you sent me that would even go anywhere near persuading me that the debt—

**The PRESIDENT:** Order! The honourable member is out of order.

**The Hon. R.I. LUCAS:** The Hon. Mr Cameron has indicated by way of interjection that there was no information which would have justified that statement. I can only confirm that, and I can assure the Hon. Mr Cameron that the letter that I took off the copy of the information did not have any further information which would have justified such extraordinary claims having been made by the Leader.

## OLIVES

**The Hon. M.J. ELLIOTT:** I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** We've actually got a couple of Bills on which we can debate this, rather than using Question Time.

*The Hon. L.H. Davis interjecting:*

**The PRESIDENT:** Order!

*Members interjecting:*

**The PRESIDENT:** Order! The honourable gentleman is on his feet seeking—

*Members interjecting:*

**The PRESIDENT:** Order!

**The Hon. M.J. ELLIOTT:** It is just a matter of not wasting Question Time.

*Members interjecting:*

**The PRESIDENT:** Order! The honourable member is on his feet, seeking leave to make an explanation before asking his question.

**The Hon. M.J. ELLIOTT:** My question to the Minister for Transport and Urban Planning, both in her own right and representing the Minister for Environment and Heritage, relates to proposals that have been put to the Minister regarding a PAR on the growing of olives.

Leave granted.

**The Hon. M.J. ELLIOTT:** On behalf of the Minister for Environment and Heritage the Minister tabled today a ministerial statement made in the other place in relation to a Murray-Mallee partnership which referred to an agreement between South Australia, Victoria and the Federal Government in relation to conservation. It does make particular mention of Ngarkat Conservation Park, among other things, and refers to protecting the vital Murray region.

I am aware that the Conservation Council wrote to the Minister regarding its concern about a rapid expansion of olive growing. The concern is not so much that the olives themselves are being grown but that some of them are being grown close to national parks. In fact, the letter to the Minister suggested that there have perhaps already been some plantings of olives within 50 metres of Ngarkat Conservation Park.

The Conservation Council also expressed concern that the Tatiara Council has amended its PAR in such a way that such plantings would certainly have been validated. There might be some question as to whether or not the current plantings were. Recognising that olives do have a propensity to spread in the wild (and we already have problems with olives in Belair National Park and in some other parks in the Adelaide Hills), has the Minister at this stage given any consideration to special treatment of olives as a crop to ensure that we do not have problems with them in later years?

**The Hon. DIANA LAIDLAW:** I am aware of the concerns to which the honourable member has referred. In

fact, I have been alerted that those same concerns were the basis of an appeal against a $30 million development in the Pinnaroo area. So, it is becoming increasingly important that more work is done between Primary Industries, Planning, Environment and Heritage and councils generally in terms of developing a better basis of understanding between all parties regarding the places where olive plantations can be planted. I will therefore get more detail for the honourable member in relation to this subject.

## MUSEUM

**The Hon. J.F. STEFANI:** I seek leave to make a brief explanation before asking the Minister for the Arts a question about the closure of the South Australian Museum.

Leave granted.

**The Hon. J.F. STEFANI:** I noticed in a media announcement last week that work will soon commence at the South Australian Museum to establish the Australian Aboriginal Cultures Gallery which will house the Museum's world-class collection of Aboriginal art and artefacts that are currently in storage. The construction work is part of the Government's 10 year plan to redevelop and upgrade the cultural institutions along North Terrace. My questions are:

1. Why must the Museum close whilst the construction work is undertaken?

2. What will happen to Museum staff during the construction period?

3. Will the Museum's programs be available for the public to visit during the construction period?

**The Hon. DIANA LAIDLAW:** I thank the honourable member not only for his interest in the South Australian Museum but also, and especially at this time, for his being instrumental in support for the Migration Museum. I hope the honourable member continues to receive many positive responses from individuals in terms of that fundraising effort. It is true that, following the extensions to the Art Gallery, opened in 1996, we have undertaken further work in terms of our 10 year plan to upgrade our major State institutions along North Terrace and that last week I announced a $70 million project for redevelopment of the South Australian Museum.

We want this project, which includes the Australian Aboriginal Cultures Gallery, to be completed by February next year, prior to the opening of the next Adelaide Festival and Fringe, when there will be such an international focus on our city. There is no question that interest in all things Aboriginal is a focus for international tourism as well as a basis for our advancing reconciliation overall.

This opportunity for major work on the Aboriginal Cultures Gallery not only brings these works out of storage where they have been for almost all time but also is a prime opportunity for us to undertake very basic work that has never been undertaken on the Museum structure. It has never been air conditioned; it has never had fire protection work done, and it has never been earthquake proofed. Those major structural deficiencies can now be addressed during the whole Museum project. We aim to do the lot but, because we are doing so much in such a short time frame, with a February opening, it has been agreed by the management board and the Government that the Museum will close from 5 April, when work commences, until mid February.

I advise that the following arrangements have been made by management and endorsed by the board. I received formal advice of these just yesterday. In terms of the school program, two of the three Travelling Education Service exhibits will be maintained in regional areas. A suitable city venue will be sought for the 'Life and Lands' exhibition, which was to come to the Museum. Museum education officers will take classes in schools using transportable teaching material. Some classes using the 'Science at Work' curriculum will be given a tour of and lesson in the Natural Science Building.

In terms of the information centre, it is planned to have an information booth in the Museum forecourt to meet the dual purpose of providing information on the Museum development and the regular information centre inquiries. In relation to tour groups, tours will be available to collections and other South Australian cultural and scientific centres on the basis of negotiation.

The temporary exhibition program related to 'Captive Lives', which has just opened and which is advertised to run until May, will be finding an alternative venue. In terms of the existing temporary Egyptian exhibition, this will have to close early after negotiation with sponsors. The redevelopment of the Museum does form a critical part of our 10 year program, the next step of which is rebuilding of the State Library, and plans are well under way for that project also.

## YEAR 2000 COMPLIANCE

**The Hon. CARMEL ZOLLO:** I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Year 2000 Compliance, a question about the Year 2000 date problem.

Leave granted.

**The Hon. CARMEL ZOLLO:** I have been approached by two South Australian information technology small businesses which have both designed world beating fixes for the issue of Year 2000 compliance and information systems. While the companies tackle the year 2000 date problem differently—one on a hardware level and the other on a software and data correction system—they cover most machines affected by the problem, including desktop PCs, embedded chips, data and mainframes. Despite the smart technology being available 'right now on our doorstep', I am advised that these companies have failed to get the Government support that they have sought. I understand that, instead, the Government has chosen imported products from the United Kingdom and the United States—products which, reportedly, do not provide the overall solutions that the locally manufactured and developed products do.

In one case, correspondence from the Australian Communications Authority (ACA) has indicated that late last year the Department for Education, Training and Employment had purchased 4 500 units manufactured in the US. This is despite the South Australian Office of the Year 2000 Compliance and the Business Centre being aware of the South Australian products.

Further, I understand that whilst this product is now in the process of being retro-labelled with a 'c-tick' mark at the time of purchase, this imported hardware card was not ACA approved and breached ACA regulations, which require 'c-tick' compliance and labelling. My questions to the Minister are:

1. Why are South Australian companies with suitable technology and commercial products being ignored in preference to companies manufacturing overseas?

2. Can the Minister detail what products have been purchased to address the year 2000 compliance issue in its agencies and, in particular, in the Department for Education, Training and Employment?

3. Do these products fully address the real time clock issue and correct existing data?

**The Hon. R.I. LUCAS:** I will refer the question to the Minister and bring back a reply.

## JULIA FARR SERVICES

**The Hon. J.S.L. DAWKINS:** I seek leave to make a brief explanation before asking the Minister for Disability Services a question about Julia Farr Services.

Leave granted.

**The Hon. J.S.L. DAWKINS:** I note that in the *Eastern Courier* Messenger of 17 March 1999 it was reported that the Minister for Disability Services said:

> Julia Farr's management should dip into a multimillion bequest from the late M.S. McLeod, founder Murdoch Stanley McLeod, to help fund day-to-day activities.

My questions to the Minister are:

1. Did the Minister state that Julia Farr Services should dip into the bequest to fund its day-to-day activities?

2. If not, does the statement attributed to the Minister reflect the Government's view about the funding of Julia Farr Services?

**The Hon. R.D. LAWSON:** I can assure the honourable member and the House that I never suggested that Julia Farr Services should dip into its charitable bequest to fund its day-to-day activities. That is certainly not my attitude, nor is it the attitude of the Government. I did see the report to which the honourable member referred and it wrongly attributes to me those sentiments. Unfortunately, the *Advertiser* of 22 March in its headline has repeated the same sentiment, namely, the suggestion that the Government is proposing that Julia Farr dip into its trust funds. There has never been any suggestion that either I or the Government is adopting a cavalier attitude to the budgetary pressures which are faced by Julia Farr Services and all other health units.

Julia Farr Services and the Disability Services Office have been working for quite some time to establish new service models. There has never been any suggestion other than that the bequest of M.S. McLeod and other assets available at Julia Farr would be used in devising these new service models.

The honourable member might be interested to know that in April 1997 there was an agreement between Julia Farr Services and the South Australian Health Commission in which Julia Farr said that it would establish new services, including home based rehabilitation and residential and community disability support services, and the agreement goes on to say that 'funding for this new role would initially be from private funds'.

In a letter of June 1998, the Chairman of the Board of Julia Farr Services acknowledged the fact that it proposed 'the use of in excess of $15 million of private capital to assist with the redevelopment of future service models for Julia Farr clients'. I commend the board of Julia Farr for the proactive approach that it has taken in devising new service models. It is planning facilities at Felixstow and Mitchell Park for community purposes, using some of the charitable funds that it has; equipment is already being supplied to clients of Julia Farr Services from those sources; and a new brain injury rehabilitation facility will be established shortly on the Fullarton campus of Julia Farr Services for the purpose of advancing the work of the service.

There is no suggestion that the Government will cut funds to services on account of the fact that Julia Farr did inherit from M.S. McLeod some $10 million of funds. In conclusion, it is worth saying that the allocation to Julia Farr over the past three years has increased from $23.9 million to $24.6 million—not a substantial increase, I will admit; however, it is an increase. Contrary to an earlier answer I gave, the number of residents at Julia Farr Services is about 250 at the moment, rather than 220.

## SHOP TRADING HOURS

**The Hon. K.T. GRIFFIN (Attorney-General):** I seek leave to table a ministerial statement made this day by the Minister for Government Enterprises on the subject of the proclamation of new shop trading hours arrangements.

Leave granted.

## MOSQUITOES

**The Hon. T. CROTHERS:** I seek leave to make a precied statement before asking the Minister for Transport and Urban Planning two questions on the subject of mosquito infestations.

Leave granted.

**The Hon. T. CROTHERS:** The question is a continuation of one I asked on 5 March 1999—and I thank the Minister for her lucid and comprehensive answer to that question. However, an article, featured in the *Advertiser* of Monday 8 March and entitled, 'Residents put bite on wetland', states that, due to plans to build a wetland system in the South Parklands, Parkside residents fear that they are next on the hitlist of Adelaide's troublesome mosquitoes. According to the article, Unley Councillor, Mr Mike Hudson, is leading a campaign to try to stop wetlands being constructed on the parklands adjacent to Greenhill Road—a plan which is currently being assessed by the Patawalonga Catchment Water Management Board. The article states:

> Mr Hudson is renewing his campaign following news that Globe Derby Park's mosquito problem had forced an end to future housing developments in the area. And he is concerned that, like some northern suburbs, Parkside, Unley and Wayville will become infested with mosquitoes.

Last year in this State, after some flooding around the Yunta area, 57 cases of Ross River Fever were reported in one week. In the light of what I have just said, my questions are:

1. Is the Minister aware of such plans being discussed by the Patawalonga Catchment Water Management Board?

2. Does the Minister intend to intervene should the Patawalonga Catchment Water Management Board approve plans for the building of a wetlands system in the South Parklands, in view of the unbearable situation which residents in the Globe Derby Park area are presently experiencing?

**The Hon. DIANA LAIDLAW:** I will refer the two questions in relation to the deliberations of the Patawalonga Catchment Water Management Board to the Minister for Environment and Heritage and bring back a reply. However, I would highlight (and I recall saying in the answer to the member's earlier question) that the Globe Derby Park mosquito problem is not related at all in any way to freshwater mosquitoes. It is a saltwater mangrove concern, and I think it is very important that we make that clear to the public at large, and particularly to Councillor Hudson and the residents at Parkside—and I think out of courtesy to the Hon. Carolyn Pickles, who is in a neighbouring area. The mosquito issue does not involve a freshwater mosquito. There can be no relationship between the circumstances at Globe Derby

Park and any proposal for wetlands in the south-west corner of the city. I will get further advice on that issue. I also respect the concern about Ross River fever.

## MEMBERS' BEHAVIOUR

**The PRESIDENT:** Order! I was disappointed by the behaviour of members in this Chamber after prayers this afternoon when the Council was receiving a message from His Excellency the Governor. Some members were talking, some members were out of their allocated seats and one or two members were leaving the Chamber. I respectfully ask that honourable members show to the person bringing a message from His Excellency the same acknowledgment and courtesy that they would give to His Excellency himself if he brought over the message.

## TRANS-TASMAN MUTUAL RECOGNITION (SOUTH AUSTRALIA) BILL

Adjourned debate on second reading.

(Continued from 9 March. Page 852.)

**The Hon. M.J. ELLIOTT:** I rise to speak briefly to this Bill. We in this place have already passed legislation relating to mutual recognition between the various States of Australia and now we have legislation which extends the same concept beyond Australia to New Zealand. There have been some concerns about the implications of mutual recognition. Whilst the arguments can be more easily sustained within a single country, it becomes increasingly difficult as we seek to involve other nations in it. One of the concerns that people have with mutual recognition is the danger that the lowest common denominator becomes the centre of the standards. The Democrats wrote to the South Australian Farmers Federation seeking its views about the mutual recognition Bill and, for the record, I will read into *Hansard* a response from the Apple and Pear Growers Association and from the South Australian Farmers Federation itself, because those responses cover a couple of issues that are worth considering. The first letter states:

> The Executive of the Apple and Pear Growers Association of South Australia have considered the document and we would offer the following comments—
>
> 1. The industry has always had concerns with the principle of mutual recognition as the concept often works on using the lowest common denominator as the base to work from. As a result, if the standard of quality of a product or qualification is lower than those set within South Australia then that lower standard becomes the accepted base. It is essential that the mutual recognition Bill does not lower the standards of products/qualifications produced/offered within South Australia.
>
> 2. Industry has always had concerns that the process of closer economic relations between Australia and New Zealand could be used to apply pressure on one or other country to lower/alter some specific legislation and/or process. In the same way the mutual recognition process becomes another 'tool' for individuals and/or groups to use in reducing other legitimate barriers. An example is the issue of New Zealand exporting apples to Australia. Quarantine issues, in particular fire blight, have always been the basis for the rejection of New Zealand apples.
>
> Regularly the issue is a discussion point at trans-Tasman talks and on occasions New Zealand has threatened to disrupt those talks or other trade activities as a means of applying subtle pressure on our politicians and bureaucrats. To this point Australia has been able to withstand the pressure. We realise that quarantine is an exemption to the mutual recognition Bill but this will not stop New Zealand growers or authorities using the principle of mutual recognition in again applying subtle pressure on the system. We would seek assurances from the Parliament that adoption of this Bill will not result in South Australia giving ground on some of these issues at a later date.
>
> 3. Your point on country of origin labelling is most valid. We would seek assurances that the new national country of origin labelling is picked up within this proposed Bill. If it is not then alterations to this draft Bill should be made before proceeding. What is the New Zealand country of origin labelling laws? Are they comparable to those introduced in Australia? Again if there is variation then does that 'lowest common denominator' principle apply? We would not want to see the Australian country of origin labelling diminished any further by a lesser New Zealand law.
>
> The issue of packaging and labelling of fresh produce is most important. South Australian producers are required to comply with packaging and measurement requirements under the Trade Measurement Act 1993. If New Zealand produce coming into Australia does not have to comply with this legislation then this is a major advantage to New Zealand. We would seek clarification as to whether compliance to this type of legislation is required on New Zealand produce. Overall we have major concerns with section 11 (on page 10) of the proposed Bill.
>
> 4. The issue of food safety does not seem to be a major part of the Bill. Given the work being done on food standards throughout the Australian New Zealand Food Authority it may be appropriate to recognise this within the Bill.
>
> Hopefully these points will be of some assistance to you.

That was from the Apple and Pear Growers Association. The Farmers Federation put in a briefer response, which states:

> The federation is pleased to see that exemptions are made and that the scheme does not affect laws relating to quarantine, endangered species and agricultural and veterinary chemicals. There are concerns as to how mutual recognition will impact on the new laws covering country of origin labelling. It is not clear whether there is a requirement for New Zealand producers and manufacturers to identify products as grown or made in New Zealand, even though we do not require any other information additional to that of New Zealand.

I will give a couple of other examples where the legislation may cause difficulties. At times the States have tried to have different laws for their own reasons. The ACT recently attempted to ban battery hens. It wanted to ensure that eggs were produced by free range hens for reasons of animal cruelty. The ACT has had enormous difficulty getting other States to refrain from sending their eggs into the ACT. The ACT introduced a law not to protect its egg producers but to tackle questions of animal cruelty. Could the Minister respond to that point, that is, could the sort of difficulties that we are seeing even at a national level occur as a consequence of mutual recognition legislation? It does not fit into the exemption category, so I would appreciate knowing how constrained States would be if they tackled questions of animal cruelty, and that is just one example.

I have also recently been involved in some debate about quarantine. I am mystified as to why Australia has been very strict about the entry into this country of salmon products destined only for people's plates; yet thousands of tonnes of pilchards have been brought into South Australia and dumped straight into the sea. One would have thought that the latter produced a somewhat greater quarantine risk than the former. I thought that what was on my plate was less likely to contaminate the sea and pass on infection to other species than what was being thrown directly in there by the thousands of tonnes of pilchards.

After making inquiries about this I received some correspondence—and unfortunately I have not brought it with me—that seemed to suggest that there were some international treaties—and I was surprised about that—which made it difficult for us to reject the product even though I

would have thought it was a quarantine issue. That being the case, I cannot again help but wonder what else we are setting ourselves up for in relation to products moving between only New Zealand and Australia. Is the quarantine exemption absolute? What tests will be applied if one wishes to use quarantine as a reason for not allowing particular products to come into the country?

The Democrats have expressed some reservations about mutual recognition in so far as it constrains States on behalf of their own residents to make decisions that their residents want, but I will not go over that argument again other than to simply state it as that. However, I express concern about the further extension to another country. I would ask the Minister to respond to some of the issues that I raised during the second reading.

**The Hon. T.G. CAMERON:** I have a brief contribution to make in relation to this Bill, which forms part of a larger legislative framework involving the enactment of legislation by the States and Territories and the Commonwealth and New Zealand Governments. The Commonwealth, New South Wales, Victoria and New Zealand components came into effect on 1 May 1998 and the other States have either passed this legislation or it is before their respective Parliaments.

The aim of the Bill will allow the mutual recognition of the regulatory standards of goods and registered occupations adopted in both Australia and New Zealand. The principle of mutual recognition is based on the removal of impediments to the trans-Tasman trade in goods and the mobility of labour caused by regulatory differences amongst Australian and New Zealand jurisdictions.

The practical benefits of mutual recognition have been considered as greater choice for consumers; reduced compliance cost for manufacturers; economies of scale in production leading to lower product costs; greater cooperation between regulatory authorities and accelerated development of national standards where appropriate; greater discipline on individual jurisdictions contemplating the introduction of new standards and regulations; and increased movement of service providers and freedom for service providers to practise in jurisdictions in which they are not registered.

This mutual recognition arrangement was finalised in April 1995 by the Council of Australian Governments and New Zealand and is based on two main principles. The first is that a person registered to practise an occupation in Australia can seek automatic registration to practise an equivalent occupation in New Zealand and vice versa, provided proof of residence and registration is supplied. However, the activities and occupation must be substantially similar. The second principle is that goods legally sold in participating Australian jurisdictions can be sold in New Zealand and vice versa as long as the regulatory requirements for sale in the jurisdiction in which they are manufactured or first imported are met.

The focus on mutual recognition is on the regulation of goods at the point of sale and on entry by registered persons into equivalent occupations in another participating jurisdiction. I understand that the Australia Labor Party is supporting the Bill. It should be placed on the record that when this Bill previously appeared in the Parliament the Liberal Party opposed it and it would be interesting to get some clarification on that. However, SA First supports the legislation. It will encourage and act as a catalyst for the free flow of trade between Australia and New Zealand. I commend the legislation to the Council.

**The Hon. A.J. REDFORD** secured the adjournment of the debate.

## TOBACCO PRODUCTS REGULATION (SMOKING IN UNLICENSED PREMISES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 906.)

**The Hon. T.G. CAMERON:** The new laws for smoke free dining came into effect on 4 January 1999—a courageous move on the part of the Government. The intent of the Act is quite clear and that is wherever possible and practical to eliminate smoking where people are consuming a meal. I do not think there is any doubt that passive smoking can be dangerous to people's health, and the move to separate dining and smoking is one which the community in general supports. I place on the record that I am a smoker.

However, it is becoming increasingly evident that some sectors in the community are being discriminated against under the new laws. Our office has received quite a number of letters and phone calls from small business people who are suffering commercial disadvantage because of the smoke free dining laws. I have received correspondence from John Brownsea of the Small Retailers Association outlining the discriminatory nature of the current legislation. Quite clearly and simply, there was an unintended consequence of the previous legislation that was introduced in the Council in that it discriminated in a very real and practical way against unlicensed premises. Some of these people, particularly snack bar and cafe owners, have complained that their business decreased by 30 per cent in the first week alone.

In an article in the *Advertiser* of 13 January several cafe and snack bar owners publicly pointed out how these new laws were affecting their business. Small business is already struggling in the current economic climate in South Australia. They face deregulated shopping hours, a sluggish economy, poker machines and now have to deal with a loss of customers who traditionally like to come in for a coffee, smoke and chat. The letter from John Brownsea of the Small Retailers Association dated 15 January 1999 is as follows:

> The application of this Act is damaging business selectively in a manner that should never have been the intent or outcome of the legislation.

What he is saying is correct. I do not believe that it was the intention of anyone who supported the legislation to see small business owners, such as snack bar and cafe owners, having their turnover reduced by 30 per cent.

*The Hon. A.J. Redford interjecting:*

**The Hon. T.G. CAMERON:** The Hon. Angus Redford interjects and refers to the 'smoke police', but I am not quite sure that he picked up exactly what I was saying. What I am saying is that—

*The Hon. Carmel Zollo interjecting:*

**The Hon. T.G. CAMERON:** I am supporting the legislation. What I am saying is that I do not think the Parliament appreciated the impact that the legislation would have on unlicensed—

**The Hon. A.J. Redford:** Some people did.

**The Hon. T.G. CAMERON:** I would doubt that it went unnoticed by the AHA, but that is another matter. The simple fact is that in the first few weeks of the new legislation coming in—and members can understand the concern that a small snack bar or cafe owner might have with the prospect of a $1 000 fine—they were supervising it and they were

telling people to butt out or they would have to go outside. Members can imagine the quandary in which they were placed. They were ordering their customers out the door because they had lit up.

Anyway, licensed premises are allowed significant concessions under the Act. For example, they can apply for an exemption to allow them to section off an area to permit smoking. As a result of the application of the new laws, two sets of rules have emerged—one for licensed premises and one for unlicensed premises. As a result, I submit that unlicensed premises were treated unfairly with the introduction of the new legislation. I welcome these amendments for unlicensed premises to have the same rights as licensed premises under the Act. They should share the same privileges under the Act. I welcome the Government's initiative to provide unlicensed premises with the ability to apply for an exemption the same as licensed premises. It is just a pity that we were not all fully aware of the impact this legislation might have when it was introduced.

However, as I have said before, hindsight is a wonderful thing in politics. It is also a shame that many small businesses may have folded or experienced undue hardship over the past few months as a result of this legislation. It is imperative that this legislation is passed by this Chamber as quickly as possible. I support the second reading. One question I have for the Minister is: has the Minister met with the Small Business Association in respect of its letter dated 15 January 1999 and, if so, could we have a report on the outcome?

**The Hon. A.J. REDFORD:** I support the second reading of this Bill. This Bill introduced into Parliament in February this year clearly demonstrates the problems alluded to by the Hon. Ron Roberts (and others) in his contribution when this legislation was initially introduced in March 1997. Indeed, it is one of those rare moments when I agreed with what the Hon. Ron Roberts was saying in terms of criticism of the Government—

**The Hon. T.G. Cameron:** That would be the first, would it not?

**The Hon. A.J. REDFORD:** I do not think it is a first, but it would be pretty close to it. The whole process in which this legislation was developed and promulgated by the Government in 1997 is a model of exactly how not to introduce legislation as significant as this. Indeed, I wish to quote the Hon. Paul Holloway who in his contribution of 18 March 1997 said:

> The other point I wish to make about the measures which the Minister for Health rushed in last week as a justification for introducing this Bill is that they only apply in two years' time. Why has this Bill had to be debated in such quick time when it does not apply until two years from now? Why? What is the reason for the hurry?

The need for this amendment was highlighted only days after the smoking legislation took effect. This legislation was introduced six weeks after the smoking legislation came into effect, which highlights the problems that arise when legislation is hastily conceived, dealt with and promulgated. Indeed, much of the comment made by the Minister in introducing this Bill could have been foreseen if the process in bringing in the initial legislation had been thought out more carefully.

The Minister in introducing this Bill in another place said that he was introducing it because:

> . . . concerns have emerged in relation to coffee shops, bowling alleys and roadhouse cafes, particularly truck stops.

I must say that the use of the word 'emerged' is probably a bit light on, in that there was an avalanche of criticism and concern shortly after this legislation took effect. I must say that I am a little concerned about how this legislation is currently working. I made some comments about my concerns about this legislation in March 1997. In my contribution on this enabling legislation I said:

> People will not go to restaurants in the same numbers as they did before. If we look at the American situation—and I know that there are certain elements (and I will not name them unless provoked) who have sought to distort that fact—the fact is that their incomes will decline. It does not matter which way you look at it or at what experiment you look: their incomes will decline and they will bear the brunt of this crusade. There is absolutely no doubt about that.

My observation in relation to the restaurant industry since this legislation took effect in January this year is that that is what is happening. It has probably been ameliorated by the fact that we have enjoyed good weather throughout the course of January, February and the first half of March. If one walks down Rundle Street East, Norwood Parade or O'Connell Street one sees that the outdoor table settings are full and there is a thriving business. However, if one looks inside the restaurants, one invariably sees that they are empty. Indeed, I fear for the future of our restaurants in this State when winter comes and when people are no longer able to sit outside. Indeed, I know that the dining habits of some of my acquaintances have changed significantly simply as a consequence of this legislation.

**The Hon. T.G. Cameron:** In what way?

**The Hon. A.J. REDFORD:** I regularly have lunch with some of my legal colleagues. We used to frequent three restaurants but we have not been to any of them this year. We have been to a hotel—

**The Hon. T.G. Cameron:** Why?

**The Hon. A.J. REDFORD:** Because we are all smokers. We go to a hotel where smoking is allowed, and I must say that its dining room is absolutely full—and the Hon. Terry Cameron accompanied me on one occasion to the Maid and Magpie Hotel. It was chosen simply because it is one of the few dining areas in which we are allowed to smoke. Indeed, that hotel is enjoying an absolute boom in terms of dining, whereas restaurants are experiencing the opposite.

**The Hon. T.G. Cameron:** Can you explain why?

**The Hon. A.J. REDFORD:** It is because they applied for an exemption, whereas there is no ability to grant any exemption to a restaurant.

*The Hon. T.G. Cameron interjecting:*

**The Hon. A.J. REDFORD:** No. I know that on some occasions my legal colleagues have arranged for catering at home as opposed to attending a restaurant simply to avoid this legislation. From what I can see, the net effect of the legislation to ban smoking in restaurants has been to substantially diminish the takings of members of the restaurant industry through no fault of their own. And that is what has been achieved. That is what was predicted by me and others at the time. I know that, in relation to the coffee shop industry, it has been severely affected. I know of two coffee shops that have closed their doors since the introduction of this legislation. I know of one example where a contract had been entered into for the sale and purchase of a coffee shop, but the contract fell through principally as a result of the effect of this legislation.

I wait with bated breath for a report from the Minister of Health some time later this year or next year to say how this legislation has dramatically caused a lot of people to give up

smoking. I must say, from my personal view, I doubt whether it will have much of an effect at all. So, at the end of the day, as I predicted at the time, this whole regime will do nothing but inflict pain and damage onto small businesses, because the anti-smoking crusaders feel that they have moved some way towards reducing the consumption of cigarettes. At the end of the day, I do not accept that for a second.

The other interesting point that I wish to raise is a comment made by the Hon. Sandra Kanck when she spoke on this issue back in March 1997. In her contribution she referred to a facsimile transmission that she received from the Australian Small Business Association in relation to the legislation that existed at the time, and she quoted what the Australian Small Business Association said at the time, as follows:

> The Australian Small Business Association notes the full page advertisement in the *Advertiser* of Thursday, 13 March 1997 calling for the Australian Democrats to support small business by rejecting the recently introduced Tobacco Products Regulation Bill. The Australian Small Business Association feels that this is a matter which directly affects such trade groups as the tobacco industry, the hoteliers and the restaurateurs, or is the subject of personal opinion or preference. Accordingly, the Australian Small Business Association wishes to make it known that, as a representative body for small business, they have no position on this matter.

I have to say to the Australian Small Business Association that it did a fairly lousy job of representing those small businesses—namely, the coffee shops and the like—in relation to the promulgation of that legislation. I think that members of that association ought to hang their collective heads in shame. At the time I congratulated the AHA, the Restaurateurs Association and the Licensed Clubs Association whose representatives virtually lived down here during the passage of that legislation in order to secure the best deal for their respective groups.

It is unfortunate that John Brownsea of the Small Retailers Association was not here at that time to protect some of these small businesses. In the case of some of them, it is too late. I commend this Bill, but I believe that it is an object lesson on how to bring in legislation and how to properly consult. It is a lesson that should be learnt by this Parliament in future.

*The Hon. T.G. Cameron interjecting:*

**The Hon. A.J. REDFORD:** Yes, small retailers. I commend the Bill to the Council.

**The Hon. NICK XENOPHON:** I support the Bill. I commend the statements made by the Hon. Terry Cameron in relation to this amendment Bill. He has really encapsulated a number of my concerns, particularly with respect to small businesses being severely disadvantaged by this Bill in terms of unlicensed premises, and also in respect of the views of the Small Retailers Association, which considers the Act to be discriminatory against unlicensed premises. It is interesting that it could well be that the power of the hotel lobby in this regard was material in relation to the earlier legislation.

I also think it is curious that, with respect to gaming rooms, they have now become an area within hotels where hotel staff encourage patrons to go to because it is an area where you can smoke—although I note that food and drinks are often consumed in gaming rooms. I believe that that is something that ought to be looked at in terms of gaming rooms being smoke-free zones as well.

*The Hon. T.G. Cameron interjecting:*

**The Hon. NICK XENOPHON:** As the Hon. Terry Cameron says, tea, coffee, biscuits and more, sometimes, and I believe it is important that that be considered in relation to any further reforms.

**The Hon. T.G. Cameron:** And you are correct. I have walked into that section of a hotel myself to have a cigarette.

**The Hon. NICK XENOPHON:** The Hon. Terry Cameron has shocked me. He said that he has walked into the poker machine area to have a cigarette. He has reminded me that he is a smoker. In terms of the impact of this Bill, I have been very concerned in respect of the impact on small businesses. In particular, Mr Paul Stamatelopoulos, who runs the King William Coffee Lounge, told me that he has had a reduction of up to 30 per cent in his business as a result of this legislation. It is something that I have discussed with him on a number of occasions. He and his wife have worked very hard in their business over a number of years. They reported a significant decrease in their turnover as a result of the introduction of poker machines, but this piece of legislation has seriously affected their turnover and I hope that once the amendments have been passed they will see some increase in their turnover.

That is not to say that I do not support a comprehensive anti-smoking strategy. Only last night we saw a report by Kerry O'Brien on *The 7.30 Report* that indicates the pernicious, dishonest nature of the tobacco industry—how it has lied time and again over the years in terms of its approach to the marketing of its product. It is an industry that deserves opprobrium for the way in which it has dealt with the community and its essentially dishonest and deceitful conduct over the years.

In relation to this Bill, I believe it is important that we put into perspective that this needs to be part of an overall tobacco control strategy but, as part of an overall tobacco control strategy, it ought not be discriminatory against the small businesses of this State. I would like to think that the Government will also look at other areas, including moving along with litigation, as a number of US States have done, against the tobacco industry to recover health care costs. I do not accept the excuses given by the Federal Health Minister (Dr Wooldridge) that it is not practicable in the Australian context.

I believe it is also important that we deal with a number of other strategies to encourage the cultural shift with respect to smoking and to effectively reduce the rate of smoking in this State. I would like to think that the earlier legislation that is now being amended will go some way towards assisting that and preventing people from being subject to passive smoking. As I have said, I believe that the Bill before us is a step in the right direction, but it also ought to be part of a comprehensive tobacco control strategy that is fair in its application in the community.

**The Hon. J.S.L. DAWKINS** secured the adjournment of the debate.

## NURSES BILL

Adjourned debate on second reading.

(Continued from 4 March. Page 827.)

**The Hon. T.G. CAMERON:** A review of the current Nurses Act was undertaken several years ago in response to competition policy, modern nursing practices, changes in higher education standards and technology. But does this Bill meet those challenges? The Bill is designed to reflect national and international developments in nursing regulation, aiming

to standardise language and functions in a clear, concise description for consumers, employers, education providers and nurses; standardise entry to practice requirements and limit them to competency assessment promoting physical and professional mobility; allow all regulated persons to provide services to the full extent of their knowledge, training, experience and skill; and to redesign regulatory boards to reflect interdisciplinary and public accountability demands of the changing health care delivery system.

Deliberations by all members in this place should reflect its importance. I have read the contributions of members of this and the other place and there is one thing on which we all agree, that is, that nurses are held in very high esteem by all in the community. Nurses undertake an often difficult and undervalued job. Unfortunately, many members of the public take nurses and their profession for granted. The full value of the nursing profession and precisely what it means does not dawn on most people until such time as they go to a hospital and experience it at first hand. Nurses provide care, often intimate care, for people at one of the most vulnerable times in a their life, that is, in sickness. You do not end up in hospital unless you are really sick. Nurses do their job without complaint.

This Bill recognises the important role that nurses play in ensuring that the public receives the highest standards of health care available. However, there are several issues of contention which have come to light. Before elaborating on my analysis it is important to draw some distinctions between a registered nurse (RN) and an enrolled nurse (EN). First, the maximum rate of pay for an EN is about $8 000 less than for an RN at the bottom end of the scale. An RN has university qualifications. They are trained to undertake diagnoses, assessment of patients and treatment plans. Their role is predominantly interventionist. In contrast, an EN has no university training and is mainly trained on the job. However, many undertake formal education to enhance their skills and knowledge base.

However, this is not to deny the incredibly important role that an EN plays in nursing care. They perform an important, supportive role for the RN. It is the EN who carries out the treatment plan of a patient designed by the RN. An EN's role is more bedside oriented. The EN contributes to the treatment plan of a patient. As Jeanie Davidson, an EN at the Women's and Children's Hospital who made representations to my office, stated:

> An EN's career begins at the bedside and remains at the bedside.

Under the current Act, an EN carries out a plan of care under the supervision of a registered nurse. This supervision is not clearly defined under the current Act. However, an attempt has been made to clarify the definition of 'supervision' in this Bill. The issue of supervision of enrolled nurses has been very contentious, and I will talk a little more about it later in my contribution.

Competition policy has been a foundation stone in the review of this Act. As members know, all aspects of Government policy have or will come under the knife of competition policy. We must fall into line by the year 2000 to guarantee the compliance payment promised by the then Keating Government. The underpinnings of competition policy are to limit any unnecessary restrictions in order to maximise the public interest. It seems a little paradoxical to link competition and nursing, but this is the Government's aim. Translated, competition according to neo-Liberal philosophy will deliver an efficient standard of health care driven by the marketplace. It is an interesting notion, and we will wait to see whether or not it works.

Whilst at the same time the Government is directing public policy towards the marketplace, promoting less Government intervention, in practice it seeks to regulate the practice of nursing even further. This may or may not be a bad thing. No doubt, it will please the socialist Left in the Labor Party who promote control and regulation. But whether competition does result in a higher standard of health care, delivery time will tell. I am aware of no research which support this hypothesis. Regardless of this, however, it is essential that this Bill delivers the highest possible standards of health care for the people of South Australia.

A number of issues have already been dealt with as a result of the Minister's desire to achieve a consensual outcome on this Bill. The 11 on the board will be a majority of nurses, with the Chairperson being a nurse. This makes sense; nurses should be in charge of nurses. I understand the many issues faced by nursing practitioners.

I believe that the Hon. Sandra Kanck is also supporting the notion that a majority of the board members including the Chairperson, be registered nurses, at least two of whom are registered to practise in a specialty area and at least one of whom is a practising midwife. At this stage I will support those amendments. It is very important for midwives to be represented on the board. I will talk about midwives in more detail at a later stage.

This may come as somewhat of a shock to the Hon. Sandra Kanck, but I place on the record that the Hon. Sandra Kanck has been tireless in her efforts to ensure that this Bill meets its objectives. The honourable member's arguments have been persuasive, and I commend her diligence. I now turn to the issue of supervision. Currently under the Act—

*Members interjecting:*

**The Hon. T.G. CAMERON:** I told you that you would get a shock. Well, give praise where praise is due and give them a kick in the backside when it is not. I think she has had more kicks in the backside than compliments, so I think we both know where we still stand. I suspect that it will be a long while before the Hon. Sandra Kanck is on her feet commending my diligence and suggesting that my arguments have been persuasive, but I will continue to work on the honourable member. You never know: if you do not have a go, you cannot succeed. I now turn to the issue of supervision.

Currently under the Act all ENs must be supervised by a registered nurse. This supervision has not been defined and has been loosely applied. In some settings, such as the RDNS, 'supervision' means that there will be an RN a telephone call away. In other settings, such as hospitals, one RN could be on a ward with a number of ENs, similarly there for consultation or advice when or if the need arises.

To make my point, supervision as it currently stands has been *ad hoc* or, to say the least, loosely applied. The Government seeks to regulate the issue of supervision and to tighten up this clause. In this Bill, 'supervision' includes oversight, direction, guidance or support when given directly or indirectly. Many human service professions rely on supervision, whether it be termed 'supervision', 'debriefing' or 'support'. However, supervision is supervision. Supervision in this context occurs whether you are an EN, an RN or a Director of Nursing. Colleagues support other colleagues. It is the nature of the profession. Therefore, what is the contention of this Bill?

The Government has inserted a provision for supervision of an EN to be waived if an application by an EN is received

by the board. For some reason, this has the ANF and the Labor Party up in arms. I have looked at all the arguments put forward by the ANF and the Labor Party and find them to be lacking in substance. I draw members' attention to part 3, clause 16(2)(a) and (b). I believe these two clauses underpin the whole intent of the Bill. Correct me if I am wrong, but with the majority of registered nurses on the board it would give the board an understanding and appreciation of the complexities of the nursing and midwifery professions. It would seem somewhat odd that the board would grant an exemption to an EN if it were not 100 per cent confident that the highest professional standards of both competence and conduct in nursing had been met by that individual.

At the end of the day, we have a board comprising a majority of nurses, all of whom are qualified and registered. I should have thought that would be the appropriate authority to determine whether or not an EN would be able to work on their own without direct day to day, hour by hour, minute by minute supervision. The Government argues that there are many settings where supervision is not accessible, in doctors' rooms or hostel retirement villages, for example. This clause for exemption of supervision would allow nurses to be employed in doctors' rooms, creating a higher standard of service delivery.

At present, many ENs are not employed as ENs but, rather, as care workers or administration staff because of the supervision requirement; or, if they are, they are not doing it under the guidance or the watchful eye of the board. It might surprise members to know—and the ANF might claim otherwise—that many enrolled nurses support and welcome this change, as they believe this will regulate ENs contrary to present circumstances where many work in unregulated settings. That might come as a surprise to the ANF but submissions have been put to my office by ENs—and I think the Hon. Sandra Kanck has encountered something similar. She is nodding, so I will take that as an interjection to get it on the transcript.

I know many ENs who are members of the ANF and who feel that their concerns on this issue, particularly initially, were not being addressed by the ANF. I do not have any proof of this, but it has been put to my office that some have even resigned from the ANF over the way in which they approached the question of enrolled nurses.

To highlight and support my arguments, I draw members' attention to one of the many letters I have received from enrolled nurses supporting this change. Ann Shattock works as an EN in a hostel retirement village and has responsibility for approximately 72 residents. Her workload is dictated by the many varied simple and complex needs of the village and the hostel. At all times, her manager (an RN) is accessible by telephone. As the current Nurses Act stands, Nurse Shattock is working in a grey area because she literally works unsupervised, because the Act does not define 'supervision'. She states:

> It would be very easy for me to demonstrate through my extensive education and experience that I am more than competent in my role, but it would be much easier if there was clarification and endorsement from the Nurses Board of South Australia as is proposed under section 24(2)(b).

She argues (and I support her argument) that it will clearly provide greater protection for the patient public to have this legal authorisation. Varying the requirements for supervision is not removing supervision for all enrolled nurses, as stated in many arguments put forward by the Australian Labor Party on behalf of the ANF. In contrast, for the first time the Nurses Board will have greater control over where ENs work in an approved advanced capacity. I will just make that clear: I believe that it will give the Nurses Board greater control over where ENs work in an approved advanced capacity. I should have thought that would give greater protection to the public—which is a major thrust of this legislation.

Many ENs have written and telephoned my office supporting the changes. The ANF claims to have the overwhelming support of the enrolled nurses who are members of the ANF, and I am sure the hierarchy of the ANF has been diligent in protecting their interests. However, it is also clear that not all ENs—in fact, only a minority—will want to apply for exemption. The onus is on the individual to apply. It has been suggested to me that at present there would be probably only about 50 enrolled nurses who feel that they would have the standard of competency necessary to be able confidently to practise in limited circumstances defined by the board.

So, we are not talking about a situation where thousands of enrolled nurses will be rushing applications into the Nurses Board to be allowed to work without supervision. To suggest that the board is going to be inundated with applications for exemptions from ENs and that the two tier structure of nursing will be eliminated as a result of this legislation is nothing more than ludicrous.

It is a fundamental duty of the Nurses Board of South Australia to protect the public, and clause 24 facilitates that. More importantly, as I have already stated, clause 16(2)(a) and (b) underpins it, providing as it does:

> The board should exercise its functions under this Act with a view to—
>
> (a) ensuring that the community is adequately provided with nursing care of the highest standard; and
>
> (b) achieving and maintaining the highest professional standards of both competence and conduct in nursing.

The argument which suggests that there is no current model or parameters to guide the board in its application of this change is typical of a lack of faith we have on a whole range of issues here in South Australia. Nobody can put to me that a board of 11 professionals, the majority of whom are registered and enrolled nurses with vast experience in their profession, cannot sort out that problem. It is a nonsense argument to put forward. It is more a question of saying, 'No, we are opposed to this, and let us go out and find as many arguments as we can to support our "No" case.' That is one argument that I do not accept.

We used to lead the nation in developing firsts here in this State, and the Hon. Sandra Kanck was very persuasive in the arguments that she put forward. I intend to support her amendments on this issue—another surprise for the Hon. Sandra Kanck! The Government has also seen sense in the honourable member's arguments—

*The Hon. Sandra Kanck interjecting:*

**The Hon. T.G. CAMERON:** —and has used the wording of her amendments as its own. I thought I would say a couple of nice things about you during this debate before we get to the ETSA debate, because it might not be quite the same for the honourable member when we get to that debate.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. T.G. CAMERON:** Well, you kick a backside when it deserves to be kicked and you give praise when the praise is warranted—and in this instance it is warranted. I will say more about the kick in the backside; that is coming later.

It would seem that a sensible consensus has been reached on this particular part of the legislation after much deliberation. I also indicate at this stage that I cannot support the

ANF's—or should I say the Hon. Paul Holloway's—amendments regarding legislating for the applications for exemptions. Is legislating for a model of the first of its kind in Australia the best way to go, or would it be better to ensure protection for all concerned via legislation on issues such as coercion by employers moved constructively by the Democrats, for example? Would not a better outcome be achieved for all if the details of such a model were to be nutted out by the board in conjunction with key stakeholders in our community, the principal stakeholder being the ANF, which would naturally have input and be involved in that process?

The Government has recognised the important role for the ANF in assisting the board to develop a model and has enshrined this in legislation—very accommodating on the Government's part. The ANF has gone to a lot of trouble to come to some conciliatory arrangement on this issue, but I suspect this occurred only after it counted the numbers. The ANF uses the argument that supervision of ENs underpins the national competency standards. I also believe that these national competency standards are under review.

The other States are watching us here in South Australia to see what we do in relation to this provision. Should we not be setting, not following, the standards in achieving excellence? The ANF's change of heart on this issue begs many questions. Although I do not wish to elaborate on that issue at this point of time, I am curious about the parameters or model on which the ANF has based its amendments.

I now turn to the issue of registers. This is a sticking point for the Government. The Labor Party, the Democrats and I at this stage do not see eye to eye with the Government on this particular piece of the legislation. Many arguments have been put to me both for and against separate registers. However, one argument is compelling: for the retention of separate registers for mental health nurses and midwives.

I would like to draw members' attention to the unique professions of midwifery and mental health practitioners. According to the Australian College of Midwives, midwifery is a separate and distinct profession from that of nursing and is a clearly defined scope of practice as endorsed by the World Health Organisation, the International Confederation of Midwives and the International Federation of Gynaecologists and Obstetricians—not a bad set of recommendations!

In the year 2000 there will be direct entry to midwifery, which is currently the case in many parts of the world. It might interest members to know that two-thirds of the world's midwives are not nurses. They have achieved their qualification by what I would term direct entry education, that is, they are trained specifically, and often on the job, to be midwives. Midwives have a collegial relationship with doctors. According to the Australian College of Midwives Incorporated, they are not nurses and should not be defined or regulated as such. They deserve to be regulated by legislation that protects the uniqueness of their profession and in turn that will result in public protection.

Many thousands of women who give birth every year in our hospitals assume that they are being cared for by a midwife. That may not be the case if this Bill is passed. Midwives undertake a role not only in the delivery of a baby but also in the prenatal and post-partum stages of childbirth and patient care. The Government argues that midwives are using this Bill to assert their own autonomy and that this Bill is not the place to do that. However, what midwives are also asserting is the Government's responsibility to ensure that midwifery is regulated in a way which takes account of its uniqueness as a profession. They should not simply be lumped in with nurses because that is more administratively friendly or the easy option.

Mental health nurse practitioners also deliver care to some of the most vulnerable people in a unique and often dangerous setting. They provide not only basic nursing care such as showering but they need to have extensive specialist knowledge about mental illness. The Minister has been in the papers many times recently explaining away the sad state of mental health in South Australia, so I hope he appreciates that mental illness is on the increase in our society, with a 70 per cent increase in demand for psychiatric intensive care services; yet supply of these important services is continuing to decrease. Do we want to add another burden to sufferers and their families by creating more uncertainty for those in care? I would have thought not.

I believe it is important to retain separate registers for both midwives and mental health nurse practitioners as they are both distinct specialities. Similar to midwifery, many families who have someone with a mental illness assume that they are being taken care of by a nurse who has special expertise in the area of mental illness or who is being closely supervised by someone who has. I would not like to see the situation develop where, because of cost savings, general nurses are being coerced into practising in mental health settings. That situation would be unacceptable. Providing even the simplest of nursing care for someone with a mental illness such as manic depression or schizophrenia can turn into a nightmare if that care is being carried out by someone who does not have the intricate knowledge of the relevant illness.

I also understand the Government's need for streamlining the administrative nature of the registers. I indicate at this stage that I am looking at the possibility of reducing the number of registers from four to three, based on the Democrats' and Labor Party's amendments, and I ask members to look at the amendments that I have placed on file in regard to this issue. Put simply, midwifery and mental health nursing are specialist areas of practice distinct from general nursing or other areas of specialist knowledge such as geriatrics or intensive care. However, there may be some contention with that assertion.

I support the retention of separate registers for mental health nurses and midwives. At the end of the day, I submit that public interest must come first on this issue. I also appreciate that many specialty areas of nursing, such as intensive care, for example, have to date been excluded as special areas of care. They too should be included on a register but they could be included on the general nurses register, for example. A distinction needs to be drawn between nurses who practise only in the specialist areas of midwifery and mental health and nurses who have specialist knowledge but who also practise as general nurses. I believe that having separate registers achieves that.

I have also lodged another amendment, which I have circulated to interested parties. It concerns the election of representatives for the Nurses Board. I am aware that regulations set out how that ballot should take place, and I understand that they are regulations under the Nurses Act 1984 (No. 159 of 1985). Those regulations set out how the nominations are to be called, how the ballot is to be conducted, how the advertisements must appear in the paper, when nominations can go in, etc., right down to the appointment of a returning officer. I have no desire to insert lengthy amendments regarding the conduct of such elections into the Bill. They can be dealt with adequately by the Nurses Board because, as I understand it, it will be the Nurses Board in

conjunction with the Government that will set out the conditions, rules or regulations under which this ballot will take place.

The amendment that I have placed on file will not interfere with that process but it will mean that any ballot for representatives on the Nurses Board must be conducted in accordance with the principles of proportional representation. As I understand it, everybody who is registered and enrolled is entitled to vote in that election. My amendment will allow the Nurses Board to draw up all the regulations under the Nurses Act for the conduct of the ballot, but the ballot will have to be conducted under the same principles as the ballot for this Legislative Council. That is, if the board conducts a ballot for five, seven or nine positions, proportional representation will apply.

I would like to indicate my thinking on this issue because I have only put in my amendment at a late hour. A number of submissions were put to my office that, under the current system, midwives or mental health nurses do not end up on the board. It was also put to my office that, because the ballot for the Nurses Board is first past the post, tickets are organised, and the nurses who end up on the Nurses Board have been ticked off by the ANF on its ticket.

**The Hon. A.J. Redford:** They wouldn't do that.

**The Hon. Sandra Kanck:** It is a numbers game, of course.

**The Hon. T.G. CAMERON:** It is a numbers game, so I guess it would. The argument that has been put to my office is that nurses want a ballot that will allow everybody to have a say. I must confess that I am only a reasonably recent supporter of proportional representation.

*Members interjecting:*

**The Hon. T.G. CAMERON:** That seems to have caused a great degree of mirth to the Hon. Angus Redford, so perhaps I had better explain.

**The Hon. A.J. Redford:** Self-interest, that is what you were going to say.

**The Hon. T.G. CAMERON:** No. Perhaps I had better explain why over the last four or five years I have become more and more a supporter of PR than I was before. I believe that the fairest way to conduct this ballot, to allow every nurse in the union to nominate if they want to, to have a say in the ballot and to be elected—

**The Hon. A.J. Redford:** Why do they have to be in the union?

**The Hon. T.G. CAMERON:** They do not have to be in the union, and I thank the honourable member for picking me up on that. I think that all registered and enrolled nurses get a vote. They get a vote whether or not they are members of the ANF, as I understand it.

**The Hon. A.J. Redford:** Are you tying to tell me that this new-found support for proportional representation is not as a result of self-interest?

**The Hon. T.G. CAMERON:** I will come to the Hon. Mr Redford's interjection in a moment, because I intend to explain which group convinced me.

**The Hon. A.J. Redford:** With a straight face?

**The Hon. T.G. CAMERON:** Yes, with a straight face. For many years the Australian Labor Party elected its executive by first past the post—that is, provided you get 50.1 per cent of people to vote the same ticket you could elect 20 or 14—and it has been various sizes—people with that 50.1 per cent.

I was a spokesperson for the Centre Left in those days and I used to argue that first past the post was fair and that you were not being disadvantaged, to look at how kind we were, that even though we could take the entire 20 positions we were giving you six or seven in accordance with the numbers that you have in the Party, and that we were good guys and girls and being very fair about all this. However, the Socialist Left used to complain bitterly to me as the Labor Party Secretary, that I was supporting an unfair and undemocratic method of voting.

Eventually the time came to pass and the Labor Party introduced proportional representation for the election of all multi-member ballots. I am not a recent convert to proportional representation: I can thank the Socialist Left for about 10 years of belting me over the head with how unfair first past the post is. The irony of all this is that I used to ask these Socialist Left secretaries why they did not have proportional representation in their unions for the election of their executives, and they said that it would not work in unions but it was the only fair way of electing multiple member ballots in the Australian Labor Party.

The Australian Labor Party became a devotee of proportional representation. We introduced it about four or five years ago, probably five or six years ago now—

**The Hon. A.J. Redford:** Did you support it?

**The Hon. T.G. CAMERON:** Yes, I did support it. In fact, I think you will find that I spoke in favour of it and voted for it on the national executive when the rules were introduced into South Australia. Be that as it may, I am not the only one who supports proportional representation for multi-member ballots. The Socialist Left campaigned for years in the ALP until it had proportional representation ballots for all vacancies of two or more.

The Socialist Left unions and the Socialist Left in the ALP converted me to proportional representation. It seems to me that a lot of the concerns that were expressed by nurses about this ballot and the unfairness of it could be resolved by having a proportional representation ballot. That would enable everybody, whether in the union or not, to nominate for it. I do not believe anybody is arguing that proportional representation is not fair, so I would ask members to give serious consideration to the amendment because it will allow the most diverse representation from the rank and file of nurses in South Australia to be represented on the board rather than a ticket that was ticked off by the union.

To conclude, I reiterate my comments that I made at the beginning of my speech. This Bill is important for the future of nursing and midwifery practice in this State as it will ensure that standards of competence and conduct are regulated and maintained. I urge members to respect that and to put Party politics aside in their deliberations. We have been promised that the Committee stage of the Bill will be complex and lengthy. However, we must deliver to the public the knowledge that they will receive the highest standard of nursing care available by a highly competent nurse, whether they be an enrolled nurse or a registered nurse, and by the midwifery professional. I support the second reading of the Bill but do not look forward to the Committee stage.

**The Hon. NICK XENOPHON:** I rise to briefly indicate my support for the second reading of the Bill. I will not go through it clause by clause because I propose to make a fulsome contribution during the Committee stage, particularly to those clauses that are in contention. I congratulate the generally constructive nature of this debate in terms of the contributions of the Government and the Opposition, and in particular the contributions of the Hon. Sandra Kanck from

the Democrats and the Hon. Terry Cameron, who I think made a very significant contribution to improving the Bill in many respects. There are some differences between the two but I propose to speak to those amendments in due course.

One aspect I wish to comment on is that of competition policy being the basis for the Bill. Competition policy is one of the hoary chestnuts that Governments seem to wheel out to fulfil their aims from time to time. We saw the Premier, Mr Olsen, do that last week in the context of the proposed ETSA sale. The guiding principle ought to be not competition policy, not an ideological approach, but what is best for the community and what guarantees the highest level of service for the public. In many respects this Bill goes some way to achieving those objectives, but let us not use competition policy as some sort of pathetic smokescreen in this regard. As I said, I propose to contribute more fully at the Committee stage.

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I will conclude the debate by taking a hint from the Hon. Mr Xenophon in terms of keeping my comments brief because the Committee stage may be the time for further debate on specific issues. I thank all members for their contributions to the debate. This is a particularly significant piece of legislation, as all members have recognised. I would like to add my voice to those who have spoken expressing appreciation to the nursing profession generally for the work that they undertake on a daily basis and for their enormous contribution to health care.

I know that the Minister in another place has recorded his appreciation for the outstanding support nurses give to our public hospitals system. As he has indicated, they have borne the pressure of an enormous increase in demand on the public health system and they have done so with professionalism and commitment.

This legislation has been long awaited. It has undergone an extensive process of consultation from the conceptual stage to this stage, and that consultation has continued during the process through the Parliament to date. I believe that there is substantial support for the Bill across the profession. That is not to say that everybody agrees with every aspect of it but its broad thrust is supported, and that has generally been recorded by members who have spoken in this place.

I would like to acknowledge the constructive manner in which members of all Parties have acknowledged the features and changes of the legislation and the way in which they have participated in the debate so far. There are quite a number of amendments on file—in fact, an overwhelming number of amendments on file would be my contribution in summing up this debate. So, rather than attempting to canvass all the points that members have made so far I believe that it might be constructive to deal with them in Committee.

Bill read a second time.

In Committee.

Clause 1.

**The Hon. SANDRA KANCK:** I move:

Page 1, line 14—After 'Nurses' insert:
'and midwives'

This would quite clearly change the name of the Act when it is finally proclaimed from the Nurses Act to the Nurses and Midwives Act. This is quite an important amendment for many of the women in this State who are midwives. I think I made the point in my second reading contribution that many of these midwives do not regard themselves as nurses.

**The Hon. A.J. Redford:** Why is that?

**The Hon. SANDRA KANCK:** Because they see themselves, in many ways, as what they call a peri-natologist. Given the current state of play, for the most part, they are trained as nurses for three years and then they have to do an extra two years training. They are five year trained nurses at this point, which puts them only one year behind doctors. They work very much with the obstetricians and, in many cases, they work by themselves and do basically all that an obstetrician can do. They are not your normal run of the mill nurse. It is important to recognise that, although some will argue that changing the title to 'nurses and midwives' is a perceptual thing, it is much more than that because it is about the role that these women play with other women. Again, the word 'midwife' means 'with women'. They are not about medical intervention as doctors are, for instance.

An Act in the United Kingdom includes midwives in the title, and in New Zealand a Nurses Act includes midwives in the title. I must assure members that the world has not fallen apart as a consequence of that.

**The Hon. A.J. Redford:** Are there any male midwives?

**The Hon. SANDRA KANCK:** I have not been acquainted with any, but who knows?

**The Hon. Diana Laidlaw:** Yes, there are.

**The Hon. SANDRA KANCK:** Ask the Minister; she knows. The other thing that is a factor in my deciding that we ought to rename the legislation the Nurses and Midwives Act is the issue of direct entry midwifery, to which I think all speakers have alluded so far. Last Friday I spoke with a woman who lectures in nursing, and she said that the first intake will be probably in the middle of next year. At the moment, we are talking about only a half a dozen women in South Australia who have done direct entry midwifery in other countries. We are not talking about many at the moment, but as the women who choose to go down the path of direct entry come into nursing—and I use the word 'nursing' because we are still operating in the current environment with the Nurses Act—we will find a group of women who have not been trained in normal nursing procedures.

They have given examples to me of, for instance, a midwife who works for an agency coming in and being asked to work on a cardiology unit when they have no expertise in that area at all. Because they are a registered nurse, they are in a situation where they are giving instructions to enrolled nurses when they believe that they are incompetent in that situation. When we go down the path of direct entry midwifery, that situation will be exacerbated. So for all sorts of reasons—the direct entry midwifery and acknowledging the training and the level of expertise of the women who are midwives—I believe that this is a very worthwhile amendment.

**The Hon. DIANA LAIDLAW:** The Government opposes this amendment. For the information of members I advise that there are 4 698 registered midwives in South Australia, and of this number 4 696 are also registered nurses. Of all the registered midwives only two are not also registered nurses. I think that overcomes some of the difficulty that one may have had from listening to the honourable member's discussion about the different nature of midwifery compared with the work of registered nurses.

I would also like to put on the record that I would not want any honourable member to misunderstand, having heard the Hon. Sandra Kanck speak, that the issue of the introduction of direct entry education has been confirmed by the univer-

sity. My advice is that in December 1998 the School of Nursing at the University of South Australia advised the Nurses Board of its intention to develop a direct entry, three year undergraduate midwifery program. The board has also advised that the introduction of this program is still subject to university approval.

University approval includes stakeholder opinions about market demand. The Nurses Board approval of the course is subject to the course meeting agreed standards and criteria endorsed by the board. The School of Nursing has acknowledged that the direct entry program will address standard 2, which states that the curricula must provide evidence that the primary focus of the course is nursing and that it will address criteria so that the content reflects contemporary theory and practice. These standards were developed through consultation with nurses, midwives, tertiary education providers and employers. So, we do not yet have the direct entry course. We have only two registered midwives who are not also registered nurses.

I am also advised that the title as presented in the Bill reflects agreed terminology and occupational regulation. It is not appropriate to use the title to recognise professional status. Introducing the title 'midwife' into the title of the legislation and the restrictions that flow from such an inclusion could potentially produce overt competition between nurses and midwives for the aspects of—

*The Hon. Sandra Kanck interjecting:*

**The Hon. DIANA LAIDLAW:** I do when it comes to buses, but I am not so keen when it comes to antenatal and postnatal care. It is care particularly in terms of women having babies at this stage, so I do not want us to be overtly setting up such competition. It is important that the proposed legislation does not jeopardise the high degree of cooperation and limited competition between nurses, enrolled nurses, midwives and mental health nurses which currently distinguishes this group in the health care system at the present time. We would argue that—not deliberately for any reason other than that the honourable member means well—it would have repercussions that would not be desirable.

**The Hon. P. HOLLOWAY:** The Opposition will not support the Hon. Sandra Kanck's amendment to change the name of this legislation. During the long period in the lead-up to this Bill—and members should recall that it was introduced into the House of Assembly last December—there was considerable time before the Bill was introduced into this Parliament and even since it finally reached this stage in the Legislative Council to listen carefully to the views of the Australian College of Midwives and the Midwives Action Group. We have supported most of the requests of those groups. We showed our commitment to their requests in terms of the amendments which we moved in the House of Assembly last year. Of course, those amendments were defeated by the Government, the minor Party and the Independent members in that Chamber. Also, we have shown our commitment in terms of the amendments which are on file in my name and which we will move later.

The concerns that we have supported—and we are showing our support through the amendments we are moving—are, first, a separate register for midwives. We will be supporting that provision when it comes on shortly. We support the scope of practice definition in the legislation, which means that a definition of 'midwives' and 'midwifery' will be placed in the legislation. We will require specific qualifications. We recognise specialist practice areas, which include midwifery, in the legislation. We will also support changes to the Nurses Board to ensure that the five nurse representatives are elected from the body of nurses themselves. This provides the capacity for midwives or any other group of nurses, if they wish to organise themselves, to have suitable representatives from their numbers elected to the board. Also, the other request of the midwives that we support is that a medical practitioner not be specifically designated to the board. I will have more to say about that when we consider clause 5.

The point is that through our amendments we are supporting most of what the midwives have requested. The only two areas which we have been asked to support but which we will not are, first, this amendment, which proposes to rename the legislation the Nurses and Midwives Act, and, secondly, the amendment to reserve a place on the board for a midwife. The reasons for our position are this: if you call the Act the 'Nurses and Midwives' Act, you implicitly accept the proposition that nursing and midwifery are separate professions. We acknowledge that the College of Midwives and associated groups believe this to be the case. They have certainly argued their case passionately to us. However, there are significant stakeholders who do not agree with this position at this point. They include a significant portion of nurses within a midwifery specialty who see themselves as part of the nursing profession and who choose to stay that way. Many of them prefer a multiple qualification to give them greater choice and flexibility for employment. Also, bodies such as the Nurses Board, the Australian Nurses Federation—both at State and Federal level—and the Royal College of Nursing support that position, namely, multiple qualifications.

The issue is that within the nursing profession itself and amongst midwives there is significant debate as to whether midwifery is a separate profession. The Opposition's view is that this issue needs to be resolved within the profession itself. I have the permission of the shadow Minister for Health, Lea Stevens, to give an undertaking to consider this issue again, that is, the recognition of midwifery, in a few years when we have had a chance to see what has happened in relation to the direct entry midwifery courses. The Minister referred to those a few moments ago and indicated how we are just waiting for universities to approve them.

It is a matter that can be revisited in the future when the future of those courses has been settled and when midwives themselves have been able to further progress this issue through their appropriate professional organisations. That really is the correct position for us as an Opposition to take. While there is still dispute within the profession itself, let those in the profession settle that matter. Let the events such as the direct entry issues be resolved and, if necessary, we can revisit the issue. However, at this stage we do not support the amendment.

**The Hon. NICK XENOPHON:** I support the Democrats' amendment in this regard for the reasons set out by the Hon. Sandra Kanck. I have been persuaded by the force of logic of her argument. This is an amendment with some foresight, considering the direct entry midwifery scheme. On balance, I believe that the Hon. Sandra Kanck's amendment ought to be supported.

**The Hon. SANDRA KANCK:** I am disappointed but not surprised to hear the Opposition's response, because we have had some private conversations about this. I find it quite surprising to hear the Hon. Paul Holloway talk about a significant proportion of midwives who do not want this. I am wondering where they are. We have had 3½ years of lobbying

on this. I have been to numerous meetings attended by midwives. I have been to about eight different meetings that have been organised either by the Midwives Association or the Australian College of Midwives. At no point in any of those meetings did any midwife stand up and give me an indication that they lacked confidence in their executive. At no point did any midwife in any of those meetings stand up and say, 'We disagree with the position that our executive is taking on this.' In 3½ years I have not received a single letter or a single telephone call from a midwife saying that what their representative bodies were asking for did not represent their needs.

Yet the Opposition says that there are midwives who do not want this. I challenge the honourable member to show me where they are. The fact is that Opposition members are doing the ANF's bidding on this, and I really wonder why they are here in the Parliament in that case. They should be here to make sure that we get the best health outcomes—not to represent a union. The Opposition's performance is extraordinarily disappointing. We began this process 3½ years ago. I know that the Midwives Association lobbied the Opposition quite strongly. Right up until this Bill was dealt with in the House of Assembly last December, the midwives believed that the Opposition understood their concerns. Only at that point when they saw the very weak job that they did then did they know that the Opposition was not capable of representing their concerns. When the pressure was put on, the ALP went to water simply because they are doing the bidding—

**The Hon. Diana Laidlaw:** Pressure put on by the unions.

**The Hon. SANDRA KANCK:** Yes. When the pressure was put on, they went to water. The Midwives Association was so convinced that the Opposition understood its concerns that it even went to the length of talking with the shadow Minister about introducing legislation to set up a separate midwives Act. That is how well the Opposition conned the midwives. It is time that the con was revealed. The ALP spent 3½ years leading these women to believe that it was supporting them and now, when it has come to the real crux, the thing that is really going to make a difference to their professional standing, the ALP sells out. I am extremely disappointed at this, and I will be dividing on it.

**The Hon. P. HOLLOWAY:** Of course, that contribution from the Hon. Sandra Kanck was nothing short of what we would expect. We know that the Hon. Sandra Kanck has been grandstanding on this issue for some time. However, in this case the honourable member does choose to misrepresent the Opposition's position seriously. The one thing the Hon. Sandra Kanck did not do is address the points of logic that I put forward. The fact is that all the bodies, such as the Nurses Board, the Australian Nurses Federation, the Royal College of Nursing, etc., have not settled this issue about whether midwifery is a separate profession.

The Hon. Sandra Kanck can say what she likes, but the fact is that it is not a settled issue at the moment. No other State has a separate Nurses Act and a Midwives Act. The Hon. Kanck also challenges us about where these people are from. Of course, groups of midwives have been set up to advance the course of particular midwives, and I think there are 200 or 300 of them in that group, but that is 200 or 300 out of some 4 696 registered nurses who have midwifery qualifications. Those 200 or 300 do feel passionate about their cause—and I accept that—but many other nurses who have midwifery qualifications work as either nurses or midwives in the health system; that is, the large silent majority do not necessarily support the position. Of course, they are sympathetic to their colleague midwives. However, that is not to say that they do not appreciate the benefits of having a general nursing qualification as well as midwifery qualifications. The Opposition is making the point that this matter is not resolved within the profession. Therefore, how can we in all sensibility, with all commonsense, take a decision along those lines when in fact the profession itself has not come down in favour of this measure?

But, there are other points that I want to make. The Hon. Sandra Kanck has attacked our stance over midwives. But, if we look at the amendments that are on file from the Hon. Sandra Kanck in relation to midwifery, we see some quite absurd things. One of the things that can happen under amendments in the Hon. Sandra Kanck's name is that an enrolled nurse can work without supervision in midwifery. In other words, under the Hon. Sandra Kanck's proposed amendment to clause 23 you could have an enrolled nurse working without supervision in a birthing unit. What an absurd proposition!

The Hon. Sandra Kanck is also supporting the continued presence of medical practitioners on the Nurses Board, not because they have a contribution to make in relation to the board but solely because they are medical practitioners. What a paternalistic attitude that is towards the nursing profession in general, let alone midwives. I am sure many midwives would be disappointed at the fact that the Hon. Sandra Kanck has indicated that she will support the continuation of a medical practitioner on the Nurses Board.

I suggest that if the honourable member wants to make some progress on this matter the best thing she can do is argue with logic rather than cast aspersions about our position. Let her explain how the nursing profession has settled this issue of midwifery as a separate profession. We know full well that the question of direct entry midwifery is still a matter that has not been settled. Maybe the day will come, and I indicated in my comments earlier that when this matter is settled the Opposition is prepared to look at the issue again. But, I believe that all the logic shows that it would be quite premature at this stage, when the profession itself is divided on this question, and when the question of direct entry midwifery has still not been settled, to support this amendment. That is why we are doing it: it is right that we should take that course of action.

**The Hon. T. CROTHERS:** I support my colleague's position in respect of this matter. I do not know a great deal about midwifery, but I know people who do know a good deal about it, who are members of the nurses union, who hold senior positions in hospitals and who have practising certificates as midwives. Under the old nursing code of training, when these people were being trained prior to the introduction of the new form of training for skilled nurses, a certificate stood on its own for a midwife in respect of training.

I know a lass who does not support the amendment. She is a triple certificated nursing sister with a degree from Sturt college. I might also add that she practises some of the later medicines and that the very large private hospital at which she works is now advertising her wares as a practitioner of therapeutic touch reiki and all the points that are salient to the new type of medicine.

It is not sufficient for the Democrats to get up time after time and take positions that they believe will advance them electorally, particularly when their arguments time after time

are based not on logic but, rather, on name calling and the running down of individuals. Of course, the Democrats are not on their own in that. We see that from time to time here. We rarely, if ever, see it from the Hon. Mr Gilfillan, who is, I suppose, apropros all the systems of this parliamentary House; again, we do not often see it from the Hon. Mr Elliott.

I do not want to get personal, but I must say that the Hon. Ms Kanck appears to be the master of trying to prove a point by entering into personal attacks on either individuals or the Party that they represent. In the history of my mental thought processes, that has never won a debate. What wins debates for me is the absolute logic of a position that is taken and perhaps refinements in logic.

I am disappointed that the Hon. Ms Kanck, whom I consider a personal friend, should do this in respect of that matter. However, as I have said, it has been par for the course from time to time for electoral enhancement by the Democrats. We saw a huge drumbeat announcement from the Leader of the Democrats yesterday in respect of another matter. He would purport to try to present himself to the press as, effectively, the Democrats' holding the balance of power in this House. That is not the case. It is the two Independents acting in concert who hold the balance of power in this House.

I just hope and trust that any future commentary made in respect to debate in this House on any Bill will be a matter of pure logic and of absolute commonsense on behalf of the speakers who enter into the debate. I support the position of my colleague, the Hon. Paul Holloway, and commend him for his forthright honesty when on his feet just prior to my speaking.

The Committee divided on the amendment:

AYES (5)

| | |
|---|---|
| Cameron, T.G. | Elliott, M. J. |
| Gilfillan, I. | Kanck, S. M. (teller) |
| Xenophon, N. | |

NOES (15)

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

PAIR(S)

Majority of 10 for the Noes.

Amendment thus negatived; clause passed.

Clause 2 passed.

Clause 3.

**The Hon. P. HOLLOWAY:** I move:

Page 1, line 20—Leave out 'roll of nurses' and insert:
nurses roll

This is a very minor amendment, but it has considerable implications for later clauses in the Bill. In many ways it is a test for clause 22. It is probably necessary for me to say something about my amendment to clause 22 so that the Committee can understand why I have moved this amendment. At clause 22, the Opposition will move an amendment to ensure that the Nurses Act retains three registers: the general nurses register, the midwives register and the mental health nurses register, as well as a register for any other area of nursing that is recognised by the board as being a special practice area.

That is an amendment to the Government's position, which is that there should be one nurses register. Because I will move that there should be three registers, it is necessary to move this consequential amendment at this stage. I understand that the Hon. Sandra Kanck has an identical amendment on file because she supports the concept of retaining the separate registers for mental health nurses, midwives and other specialist areas that might be identified in the future. This amendment will be the test for that clause, so I urge the Committee to support it. If we do that, that will signify the Committee's approval in principle that the separate registers for midwifery and mental health nursing be retained. I ask the Committee to support the amendment.

**The CHAIRMAN:** My advice is that this amendment does not relate to clause 22.

**The Hon. P. HOLLOWAY:** To clarify that, Mr Chairman, I understand that a group of amendments are necessary, and apparently this amendment has been agreed to by all Parties. Perhaps we should have our debate in relation to clause 22 on the next amendment, which relates to the definition of general nurse.

**The Hon. DIANA LAIDLAW:** I am very pleased to hear the honourable member's clarification because I was prepared to support it, but when I heard his explanation I was not. With the benefit of the honourable member's clarification, I too will support this amendment and I note that the Democrats have the same amendment on file.

Amendment carried.

**The Hon. P. HOLLOWAY:** My next amendment is in two parts, and I suggest that we take the two matters separately. Whereas there is some agreement on the definition of general nurse there are different amendments in relation to the registers. May I suggest that they be dealt with as separate parts?

**The CHAIRMAN:** Yes.

**The Hon. P. HOLLOWAY:** I move:

Page 1, after line 24—Insert:
'general nurse' means a person who is qualified in accordance with this Act to practise in all fields of nursing (other than in a special practice area) without supervision.

This can be taken as a test clause for clause 22, where we will deal with the question of registration. I will not repeat all I said in relation to the previous amendment, other than to say that, if we support this amendment to insert this definition of general nurse—and I understand that the Hon. Sandra Kanck has a similar amendment—we will support the need for a separate register for general nurses, midwives, mental health nurses and any other area of specialty that is identified. That is the principle at stake and that is why I have moved this amendment.

**The Hon. SANDRA KANCK:** We will use this as the test clause. As the Hon. Mr Holloway acknowledged, I have basically the same amendment on file. In the second reading debate I spoke about the Democrats' view that we need to maintain three separate registers. I understand that because of mutual recognition requirements there is some pressure for us to have a single register. There is no reason for us not to have a single register, but it simply means that on top of that single register we will have three separate registers and possibly more. I believe that will be better from an administrative point of view when hospitals are looking at the sort of qualifications of the nurses whom they want to employ.

**The Hon. DIANA LAIDLAW:** The Government does not support the amendment outlined by the Hon. Sandra Kanck about having a general nurses register. We believe in

one register. We made that clear at the outset and maintain that view. I highlight that tertiary prepared nurses have the education to deliver a very comprehensive scope of practice in a broad range of health care settings and we believe that that is the approach that should be taken increasingly in the future.

We will not make an issue out of this. I recognise that the majority of members of Parliament support both a general nurse concept being included in the Bill and the register. However, we will take strong exception to the register when we get to clause 22 later in the Bill.

Amendment carried.

**The Hon. P. HOLLOWAY:** I move:

Page 1, after the definition of 'general nurse'—Insert:
"general nurses register"—*see* section 22(1)(a)(i);

This will be a test case as to which model we adopt under section 22. If one thinks about it, there are four models. The Government's model is that we should have only one register for nurses. The amendments that I will be moving later on behalf of the Opposition to clause 22 provide that we should have three registers—a general nurses register, a midwives register and a mental health nurses register—and if in future the Nurses Board decides that there should be another specialty area we could have a register for that area as well.

The Hon. Sandra Kanck has indicated that she will move a slight variation of that to clause 22. It seems to me that the Hon. Sandra Kanck's amendment is fairly similar in effect. However, rather than having three separate registers the Hon. Sandra Kanck has parts to a single register. My understanding is that it would have the same effect in practice as the amendments moved by the Opposition. I indicate that if our amendment is not successful we will be supporting the Hon. Sandra Kanck's amendment.

We can use this amendment as a test case for which particular model of register we decide upon. I have moved our model. As I understand it, the Hon. Sandra Kanck's amendment refers to a different clause which reflects the different model she will be moving. The previous amendment has already decided the issue that we will have special registers, and the question now is which one of the various models we will have. I said there were four models but I left out the Hon. Terry Cameron's slight variation on the register model. We are now choosing between the three of them. I guess it is up to the Committee to determine which one it prefers.

**The Hon. DIANA LAIDLAW:** Of course I prefer the Government's model but I realise that the Democrats and the Labor Party want some form of multiple register—and I do not know where the Hon. Mr Cameron and the Hon. Nick Xenophon are going, but it would appear from amendments that the Hon. Mr Cameron has on file that he also wants some form of multiple register—and that the Government does not have the numbers. I indicate in that sense that while we do not like either of the other models, of the three that the Hon. Paul Holloway has outlined, if we had a preference, it would be the Hon. Sandra Kanck's.

**The Hon. SANDRA KANCK:** I move:

Page 1, after the definition of 'general nurse'—Insert:
"general nurses register"—*see* section 22(2a)(a);

I will not spend a great deal of time talking to my amendment at this time. I am delighted to hear that the Democrats' model is the preferred model.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. SANDRA KANCK:** All right, the least disliked model.

**The Hon. T.G. CAMERON:** Now that the Minister has clarified her position in relation to the Hon. Sandra Kanck's and my model we know where we are going. I will be seeking support for my amendments. Of the three other models that are available, we are closest to the Democrats' model.

**The Hon. NICK XENOPHON:** I do not support the Opposition's amendment. In due course I will support the Hon. Terry Cameron's amendment but I will speak on that later.

The Hon. P. Holloway's amendment negatived.

**The Hon. P. HOLLOWAY:** I indicate that, as our amendment has been defeated, we will support the Hon. Sandra Kanck's amendment.

The Hon. Sandra Kanck's amendment carried.

**The Hon. P. HOLLOWAY:** I suggest that I move each of these definitions individually, as there are several in this clause. In relation to the definition of mental health nurse, I notice that the Government also has a definition. I indicate that I will not move my amendment but that the Opposition will accept the definition which is proposed by the Government but is slightly different.

**The Hon. DIANA LAIDLAW:** I move:

Page 2, after line 7—Insert:
'mental health nurse' means a person who is authorised under this Act to practise mental health nursing;

I note that the Hon. Terry Cameron has exactly the same amendment on file. We differ from the amendments on file—

**The Hon. P. HOLLOWAY:** We accept yours.

**The Hon. DIANA LAIDLAW:** Yes, because the honourable member was talking about a person who is qualified, and we are talking about a person who is authorised. I thank members for their support.

Amendment carried.

**The Hon. P. HOLLOWAY:** The definition of 'mental health nurses register' was consequential. As the Hon. Sandra Kanck's model has been carried, I suggest that we accept her amendment. Therefore, I will not proceed with my amendment but indicate that the Opposition supports the Hon. Sandra Kanck's definition.

**The Hon. SANDRA KANCK:** I move:

Page 2, after line 7—Insert:
'mental health nurses register'—see section 22(2a)*(c)*;

**The Hon. DIANA LAIDLAW:** The Government does not support separate registers.

Amendment carried.

**The Hon. P. HOLLOWAY:** I move:

Page 2, after line 7—Insert:
'mental health nursing' means nursing care provided to a person in the field of mental health;

We believe that this Act should contain a definition that relates to mental health nursing. We will be setting up a separate register of mental health nurses, which we think is appropriate. We have also defined what a mental health nurse is. We also think that there should be a definition of mental health nursing to accompany that within this Bill.

**The Hon. T. CROTHERS:** I support the comments made by my colleague. I suppose this mental health clause would be dear to the hearts of some of the members in this place—and it is well understood by some of them better than it is by me. One must say in respect of all these definitions—and perhaps this encapsulates it—that the treatment of people who are ill has become a much more complex affair in respect of

the cost of equipment, and so forth. In my view, it will become even more complex, and it will certainly require new categories to be addressed as more and more of the nursing profession, and indeed the medical profession, slide into more complex skills which are required in order to fulfil the duties and obligations of particular specialties, whether they be in the nursing field or the medical field, relative to the ill health of people not only in this State but throughout our community. I think it would bear members well to understand that.

How many times can one go to one's general practitioner now and, whilst he can diagnose what he believes you are suffering from, inevitably he or she will refer you to a specialist. As it is with the medical profession, so then it is with the nursing profession in respect of getting proper definitions in this the last year of our second millennium AD and prepare ourselves for the greater complexities of skills required in the next millennium. I support the Hon. Mr Holloway's amendment.

**The Hon. DIANA LAIDLAW:** The Government opposes the amendment. The Committee has already agreed to the definition of 'mental health nurse', and the Government sees no need to add a reference to mental health nursing in the context of this Bill.

**The Hon. SANDRA KANCK:** I indicate that I have the same amendment on file. I think it is an important amendment. At a meeting that was organised by the Nurses Federation, which I attended, a mental health nurse talked about the concerns that she had that, when nurses who are not mental health nurses are working in mental institutions, there is always the risk that they carry with them the sorts of more prejudiced reactions that some in our community have to people with mental health problems. It is only by having nurses with that specific training that they are able to guarantee that people will treat these patients with the respect that they deserve. That simply is not guaranteed if we take a chance that a general nurse could work in these sorts of institutions. Therefore, it is very important that we have a definition such as this which describes what mental health nursing is.

Amendment carried.

**The Hon. DIANA LAIDLAW:** I move:

Page 2, after line 7—Insert:
'midwife' means a person who is authorised under this Act to practise midwifery.

**The Hon. SANDRA KANCK:** I move:

Page 2, after line 7—Insert:
'midwife' means a person who is registered under this Act and who is qualified in accordance with this Act to practise midwifery;

The difference between the two amendments with which we are dealing at the moment is that the Government's amendment uses the word 'authorised' while my amendment uses the word 'qualified'. That is a very important definition. As I have mentioned, the qualifications for midwives are very significant, and simple authorisation is not enough. We must ensure that the women—and it would appear at least one man—who are practising as midwives have appropriate qualifications.

**The Hon. T.G. CAMERON:** I move:

Page 2, after line 7—Insert:
'midwife' means a person who is authorised under this Act to practise midwifery.

The Hon. Diana Laidlaw's amendment carried.

**The Hon. P. HOLLOWAY:** I move:

Page 2, after line 7—Insert:
'midwifery' means care, assistance or support provided to a mother or child in relation to pregnancy or the birth of a child;

We think it is important to have a definition of 'midwifery' in this Act, just as we have for the general nurse and for mental health nursing. Later, we will also move amendments in relation to nursing care. We believe that these definitions which relate to nursing practice and care are central to this whole Act and that it is important that they be placed within the Act.

The Hon. Sandra Kanck has an amendment that is somewhat longer than mine, although I do not believe it contains anything that is not contained within my definition of 'midwifery'. The essential elements are there. I guess it will be up to the Government to decide which definition it wants.

**The Hon. DIANA LAIDLAW:** The Government does not see a need for any such amendment but, as we do not have the numbers, we will go with the Labor amendment.

**The Hon. SANDRA KANCK:** I move:

Page 2, after line 7—Insert:
'midwifery' means any of the following (when provided in a medical or health-care context, other than by a legally qualified medical practitioner):
(a) care, supervision or advice provided to a woman, in consultation with the woman, during pregnancy (in connection with the pregnancy);
(b) care and support provided to a woman during child birth;
(c) care (and any associated advice or support for the mother) provided to a mother and her child in the period following birth;

The Hon. Paul Holloway has observed that the Democrats' definition is a longer definition, deliberately chosen because these are the words that the midwives themselves regard as being part of what defines them. It is a much wider definition and goes further than the Opposition's amendment. For instance, as well as care and supervision, it is also about advice. It relates not only to pregnancy or the birth of a child but also to the period following the birth. Because it is that much wider definition that more correctly covers the work of midwives, I believe it is preferable.

**The Hon. T.G. CAMERON:** I move:

Page 2, after line 7—Insert:
'midwifery' includes any of the following (when provided within the context of this Act):
(a) care, supervision or advice provided to a woman, in consultation with the woman, during pregnancy (in connection with the pregnancy);
(b) care and support provided to a woman during childbirth;
(c) care (and any associated advice or support for the mother) provided to a mother and her child in the period following birth;

This amendment is similar to that moved by the Hon. Sandra Kanck but, if I can count, I think the Coalition has the numbers.

**The Hon. P. HOLLOWAY:** I point out that, in relation to clause 16(f), under the regulations, as I understand it, there will be scope later to define particular special practice areas. If it is at issue in relation to any of these special practice areas where we need definitions, it is my understanding that that will be included later in the regulations, anyway.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. P. HOLLOWAY:** Yes, it is in the Government amendment. As I understand it, we simply need the definition of 'midwifery' here to be consistent with the clause on special registers later. In other words, the definition refers to it in that context. In relation to the practice of midwifery within the

nursing profession, the definition will be included in regulations later.

The Hon. P. Holloway's amendment carried.

**The Hon. SANDRA KANCK:** I move:

Page 2, after line 7—Insert:
'midwives register'—see section 22(2a)*(b)*;

**The Hon. P. HOLLOWAY:** We support this consequential amendment.

Amendment carried.

**The Hon. SANDRA KANCK:** I move:

Page 2, after line 8—Insert:
'nurses roll' or 'roll' means the roll under section 22(1)(b);

Because this is consequential on earlier amendments, we support it.

Amendment carried.

**The Hon. SANDRA KANCK:** I move:

Page 2, lines 14 to 18—Leave out the definitions and note in these lines and insert:
'registered' means registered under this Act;

**The Hon. P. HOLLOWAY:** Given the decision we made earlier to support the Hon. Sandra Kanck's model for the registers, we support her amendment.

Amendment carried.

**The Hon. P. HOLLOWAY:** I move:

Page 2, lines 20 to 22—Leave out the definition of 'roll' or 'roll of nurses'.

This amendment is consequential on earlier amendments.

Amendment carried.

**The Hon. P. HOLLOWAY:** I move:

Page 2, after line 22—Insert:
'special practice area'—see subsection (6).

I think all members now agree that we should have special practice areas. However, my amendment is slightly different because it includes the words 'see subsection (6)'. My next amendment proposes to insert three new subclauses which define nursing practice and nursing care. So, this must be a test amendment for those proposed new subclauses. I agree that we should have special practice areas, but my amendment includes the words 'see subsection (6)'.

The other proposed amendments include the words 'see subsection (3)'. The reason for that is that the Opposition is proposing to insert new subclauses (3), (4) and (5). Perhaps I could use this opportunity to speak to those proposed new subclauses at this stage. Proposed new subclauses (3) and (4) in clause 3 define 'nursing practice' and 'nursing care'. I have already covered the arguments for this in an earlier clause, but they are worth repeating. The definitions of 'nursing practice' and 'nursing care' should be central to this Bill. This is, after all, the Nurses Bill, which will set up a new Nurses Act. Surely, this Bill should contain a definition of 'nursing practice' and 'nursing care'. We have defined the practitioners within the nursing profession; and we have defined the registers, mental health nursing and midwifery.

We also believe that, in a complementary way, it is necessary that we define 'nursing practice' and 'nursing care'. It is probably worth putting on the record what those later definitions provide because they encapsulate the whole spirit of this debate. The proposed new subclauses provide as follows:

(3) For the purposes of this Act, nursing practice means nursing care provided to an individual or a defined group within the community in order to assist the person or group to reach or maintain a particular goal associated with their health or wellbeing.

(4) A person may provide nursing care by observing, assisting, reporting, monitoring, diagnosing, planning, evaluating or intervening in relation to the health care of an individual or group and nursing care may include undertaking an associated responsibility for education, research or management.

We believe it is important that a Nurses Bill contain these important definitions that go to the heart of what nursing is all about. My present amendment depends on those clauses being inserted at a later time.

**The Hon. DIANA LAIDLAW:** SA First, the Democrats and the Government have the same amendment on file. Perhaps I can move my amendment. I move:

Page 2, after line 22—Insert:
'special practice area'—see subsection (3);

It would suggest that, because we all have the same amendment on file, none of us support what the Hon. Paul Holloway says—and I am not surprised. The definitions he has been talking about are clearly aimed at industrial coverage issues rather than effective regulatory mechanisms. I do not think we will advance some of those issues at this hour. We might dispose of this clause, and then report progress.

**The Hon. SANDRA KANCK:** I oppose the Opposition's amendment. It raises the question in my mind as to what families do when they are looking after somebody in their own home. I find it very restrictive to have this definition. The Minister might be able to tell me whether or not medical practitioners have a definition in their Act as to what 'medical practice' is.

**The Hon. DIANA LAIDLAW:** No.

**The Hon. T.G. CAMERON:** I indicate that I will not proceed with my amendment because it is the same as the Government's and the Democrats.

The Hon. P. Holloway's amendment negatived; the Hon. Diana Laidlaw's amendment carried.

Progress reported; Committee to sit again.

*[Sitting suspended from 6 to 7.45 p.m.]*

## WINGFIELD WASTE DEPOT CLOSURE BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 905.)

**The Hon. NICK XENOPHON:** I indicate my support for the second reading of this Bill, subject to a number of caveats that I will deal with shortly. At the outset, I disclose that I am a ratepayer of the City of Adelaide so, as such, there are some financial consequences with respect to this Bill that will impact presumably on the rates of the City of Adelaide. I think that should be said at the outset although it will become apparent that, if I was simply looking at my interests as a ratepayer, I would not be taking this course.

I note that the Bill deals with a number of important waste management issues and I commend the Government for bringing it before the Council. I note the fairly comprehensive analysis given by the Hon. Terry Roberts as to the history of Wingfield dump and waste management issues generally. This Bill is very much part of an integrated approach with respect to waste management. In terms of the areas of contention in the Bill, there are two specific aspects to it. The first relates to the height and the second relates to appeal rights.

With respect to height, I note that the Government is proposing a height of 29 metres with a subsidence of 20 metres. I understand that the Opposition's position is that of the Port Adelaide Enfield Council, which is 27 metres with

subsidence of 25 metres. The position of the Adelaide City Council is 35 metres subsiding to some 32 metres. I have spoken to representatives of the Adelaide City Council, including the Lord Mayor, Jane Lomax-Smith, and Jude Munro, the Chief Executive Officer of the city council, and I have spoken with Johanna McLuskey, who is Mayor of the City of Port Adelaide Enfield, together with executive officers of that council. I have also had discussions with the Minister.

There are a number of competing expert reports in relation to the appropriate height at which the dump should close. The City of Adelaide has relied on a report by Woodward-Clyde which supports its proposition. The Port Adelaide Enfield Council has relied on a report by B.C. Tonkin, and the Environment Protection Authority has relied on a report by Kinhill engineers. The reports of Kinhill engineers and B.C. Tonkin are similar in that they suggest a closure height of 27 metres with subsidence of 25 metres. The Government has proposed a height of 29 metres and I understand that has drawn some criticism from the Opposition in that the decision does not have a scientific basis and is inconsistent to some degree with the reports.

My view is that the height of 29 metres with subsidence of 27 metres is within the appropriate environmental range set out in the reports of Kinhill and B.C. Tonkin. It is not unreasonable and it allows for a degree of latitude in terms of any waste management plans that are to be implemented and, as such, I am persuaded by the weight of the reports of Kinhill and B.C. Tonkin rather than the report of Woodward-Clyde, which was commissioned by the City of Adelaide. For that reason I support the position of the Government rather than the position proposed by the City of Adelaide.

There is another issue in relation to appeal rights. This has been the subject of some significant concern by the City of Adelaide, and the view of Ms Munro, the Chief Executive Officer of the City of Adelaide, in correspondence to members of Parliament of 5 March 1999, is as follows:

> Clause 15 of the Bill should be deleted, as it removes all rights of appeal against the Minister's decision/EPA's advice or process considerations which the Adelaide City Council as the principal affected body should have the right to pursue, if the grounds are there. This Bill should not be about the protection of a regulatory authority's or a Minister's conduct, at the disadvantage of affected persons and at all costs.

I am inclined to agree with the position of the City of Adelaide in relation to this because it sets a dangerous precedent to remove rights of appeal, including rights of judicial review, in this case. I cannot support the Government's proposition. The Bill is already setting a deadline—a time frame—for the dump to close, as well as a height limit. To remove rights of appeal or rights of review with respect to the management of that process is onerous and unjust and, as such, I will not support clause 15 of the Bill.

There is a final matter to deal with and that concerns the issue of liability of the Adelaide City Council. As I understand it, the Adelaide City Council is concerned as to its potential liability in relation to leachate management if it is required to restrict the finished height to a landfill of 27 metres after subsidence and not the final height of 32 metres as suggested by the Adelaide City Council's engineers Woodward-Clyde.

I have spoken to the Minister about this and have received her assurance that the Government's legal advice is that the Adelaide City Council would not be liable under these circumstances and that there has been advice from the Crown in that regard. The Minister has provided an excerpt of that advice as follows:

> . . . it is implicit in Parliament's decision to restrict the height, that any liability the council might otherwise have incurred for failing to fix the finished landfill at a greater height, has been impliedly removed.

My support is contingent on the Minister making a statement to that effect to the Council and an undertaking to that effect in order that the issue can be clarified. I am satisfied with that undertaking. I believe that in the circumstances a good result will be achieved for the City of Port Adelaide Enfield in particular and for general principles of waste management in a strategic sense for the State of South Australia.

**The Hon. CAROLINE SCHAEFER:** I rise to speak to this because since the days I was on the Environment, Resources and Development Committee I have had an interest in waste disposal matters. There was an inquiry into waste disposal throughout the State when I was on that committee and I found it very interesting. One of the things that becomes apparent very quickly is that no-one wants a dump in their backyard but everyone generates waste. Therefore, this is something of an interesting debate in that the Adelaide City Council wants a dump because it generates some $8 million per annum of revenue for it but it does not want it in its backyard because, historically, it has been in the City of Port Adelaide Enfield's backyard.

Most of us would agree that waste disposal must be taken as far away from populous areas as possible and that inevitably the Wingfield dump must be closed. This legislation is a compromise, as much legislation must be. Originally the preferred height by the Adelaide City Council for the closure of the dump was some 40 metres and the preferred height by the Port Adelaide Enfield Council was 15 metres. As the Hon. Nick Xenophon said, unfortunately it has become necessary for the State Government to intervene because the two councils were obviously going to end up in the courts for many years to come.

This has compromised legislation which essentially allows until the year 2004 for the dump to close at a settled height of 27 metres. There has been some discussion as to whether that is the optimum height for drainage and safe environmental closure. I appreciate the efforts of the Adelaide City Council, the Minister and the City of Port Adelaide Enfield in briefing us as much as they could. In the end it became confusing because the more questions we asked the more varying the answers became. As such this appears to me to be legislation which is a compromise: while neither proponents necessarily will be delighted it is workable and environmentally sound. It gives the Adelaide City Council time to prepare for the closure of its dump and gives Enfield an end date.

I commend the Minister because from time to time Governments have to take decisions whether or not they are popular. This decision has been taken and I think it is, if not the best of both worlds, probably acceptable to all.

**The Hon. T. CROTHERS** secured the adjournment of the debate.

## TOBACCO PRODUCTS REGULATION (SMOKING IN UNLICENSED PREMISES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 949.)

**The Hon. CAROLINE SCHAEFER:** I am pleased that this Bill, which is an amendment to the original legislation, has been introduced. I have been lobbied strongly by people who live on or near the South Australian-Victorian border and who run roadhouses and places such as that. They have said that quite a number of trans-Australia drivers, particularly heavy transport drivers, smoke and were postponing their compulsory rest stop until they got across the border into Victoria so that they could enjoy a cigarette and a cup of coffee at the same time rather than have a cup of coffee this side of the border and then move across to Victoria.

I have said a number of times in this place that I will always be in favour of legislation that reflects commonsense. It seems to me that we want to discourage people who smoke tobacco and encourage people to smoke away from those who choose to eat without cigarette smoke. Nevertheless, I think we need to acknowledge that tobacco smoking is legal in Australia and that a number of people enjoy a cigarette with a cup of coffee. This legislation simply allows for non-licensed premises to have the privilege that licensed premises have, and that is the right to apply for an exemption in order that their patrons can smoke in some parts of the building where they are going to eat a meal or have a cup of coffee.

As I understand it, there must always be provision for those who do not wish to share their meal with a cigarette smoker and this legislation allows for those people who wish to do both to do so in both an unlicensed and licensed premises. Those people from the South-East who have lobbied me will be very pleased to see this amendment.

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I thank the many members who have contributed to the debate. It has been interesting to read and hear the contributions because a number of members recalled that when debating the Bill about two years ago they did express some of the concerns with regard to the impact of this legislation on cafes—

*The Hon. T.G. Roberts interjecting:*

**The Hon. DIANA LAIDLAW:** No, I kept very quiet, although I do recall that I supported the Minister of Health in this initiative at that time. Sometimes I have wondered why I did so.

**The Hon. Caroline Schaefer:** And I didn't and I don't smoke.

**The Hon. DIANA LAIDLAW:** And the Hon. Caroline Schaefer did not. As a smoker—and I declare that—I realise that there are a number of people, including many in my family, who cannot abide the sight, let alone the smell, of smoke during the eating of a meal. With my own family I have been outside for 25 years (I think) whenever I have wanted a cigarette. I have become used to the cold, the heat and the humid weather for a long time, and I have been out on the streets or in the garden for years.

*The Hon. T.G. Roberts interjecting:*

**The Hon. DIANA LAIDLAW:** I am not explaining any further. Therefore, I did not find this proposition difficult when the Minister for Health introduced it, but I accept the qualifications that many members expressed at the time and have focused on again in addressing this Bill. I want to say that I particularly respect the contribution by the Hon. Sandra Kanck—she is getting plaudits from everywhere tonight, isn't she?

**The Hon. Sandra Kanck:** It's a worry.

**The Hon. DIANA LAIDLAW:** It is a worry, yes. However, the honourable member certainly without qualification supported the Bill last time but has recognised and has written to the Minister for Health since, indicating that examples have been brought to her attention where the legislation, which we supported in this place, has had an effect on some cafes, and that certainly was not the intention of this place.

It has affected a number of cafes, as I mentioned, particularly in the city areas, but I know it is also the case in the instances that the Hon. Caroline Schaefer has mentioned on the border in relation to the trucking industry. I think the exemptions provided for by this legislation can be used with discretion and care by the Health Commission to fix a situation that is seen to be unfair and discriminatory in some instances now, while keeping the integrity of the legislation; that is, where people are eating others should not be smoking.

I thank members for their contributions and their responses generally to the issues raised in the community that this Bill is seeking to address and for dealing with the matter expeditiously.

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

## SUPPLY BILL

Adjourned debate on second reading.

(Continued from 10 March. Page 909.)

**The Hon. SANDRA KANCK:** Tonight in addressing the Supply Bill I want to talk about funding for the Julia Farr Services. On 4 March I asked the Minister for Disability Services a question about this, and I was not particularly impressed with his reply, I am afraid. At that point he said:

> There has been no cut to the monetary budget of Julia Farr Services in recent years. By the same token, there has been no substantial increase. . .

I guess maybe that is his way of telling us that we ought to be grateful for small mercies. A lot can be gleaned from Julia Farr Services' 1998 annual report, in which the Chairperson, Richard Krantz, said (and members can be sure that this has probably been tempered as well, knowing that this would have to be approved by a Minister before publication) the following:

> Julia Farr Services is under continual budgetary pressure and, whilst significant savings have been made in expenditure items, revenue shortfall has resulted in a loss being incurred for the year ended 30 June 1998. This makes the managing of finances more difficult in the 1998-99 financial year, as the shortfall has to be recovered as well as further savings made during the 1999 financial year. The board has only just been advised of its 1998-99 budget allocation which reinforces the difficult role the board has to adopt in managing its finances in a climate of continual cost pressures.

One can read a lot between the lines in that. Further, Chris Firth, the Executive Officer, says (and, again, this must have been tempered):

> The organisation performed exceedingly well again. Our concern with not being able to achieve the net budget was due to the inability to meet an unachievable revenue target. Our expenditure was well controlled with underexpenditure in excess of $600 000. Over the past five years we have been able to achieve savings in the order of more than 30 per cent, which is in excess of $11 million.

That is the figure I quoted on 4 March, when I addressed my question to the Minister for Disability Services. In terms of the use of volunteers I note that, despite the funding cutbacks, the annual report indicates that there are approximately 220 volunteers at both the Fullarton and Payneham campuses of Julia Farr Services. The report also reveals that 'families,

significant others and friends are important members of the rehabilitation team'.

The rehabilitation services section of this report indicates that they met budget targets with increases in the number of people in the programs. A total of 123 people entered the residential rehabilitation program in 1996-97, and this increased to 146 people in 1997-98. There were 146 participants in the community rehabilitation program in 1996-97 and 167 in 1997-98, with the average length of stay in the program reduced from one year to the next—from 9.1 months in 1996-97 to 7.8 months in 1997-98. This is really very efficient. If what the Minister had to say to me in his reply on 4 March is any indication, it has been done with no increase in funds.

The annual report indicates that the pharmacy department introduced an individual patient supply scheme. It also reports that this has freed up nursing time to the value of $120 000 but that it has led to a resultant pressure on the pharmacy activity for the residents, and that has increased by 78 per cent in the same time period. Again, the Minister should note, with a real magnificence, that the existing staff has coped with that 78 per cent increase in pharmacy activity without any extra pharmacy staff being employed. Again, Julia Farr Services demonstrates enormous efficiency in terms of savings being made for the budget.

The annual report indicates that a review had been conducted of the support needs for all extended care clients between April and August 1998. The review team found that Julia Farr Services has significantly higher support needs for its residents than other groups of people with disabilities. I wonder indeed what has been the Government response to that information. The Minister revealed that the savings of Julia Farr Services have been achieved by:

> . . . moving a large number of people out of the institution and into community settings.

This has created the need for a home support service, which started up in November 1997. Obviously, this is very needed, but the annual report reveals that Julia Farr Services is waiting for the Business Improvement Unit of the Department of Human Services to judge them before they can expand this service.

Respite Services closed at the Fullarton site in June 1998, as the report says, 'for the foreseeable future'. Amongst the other problems with which Julia Farr services has had to deal were a software program that the Health Commission in its wisdom decided was the only software program that Julia Farr Services could use for the financial trust and accounting system. The report states:

> Only after a great deal of time and effort by Julia Farr Services staff and the software vendor did it come to pass that the system was not appropriate for trust accounting and billing.

Again, this has been a very circumspect report. I cannot imagine how many staff hours were spent on that and at what cost to the budget. That is probably something we will never know. It is also important to recognise in all the questions about how much money goes to Julia Farr Services that the board members receive no remuneration whatsoever. Volunteers operate two thrift shops in order to bring in extra money for Julia Farr Services. Again, I stress that as an institution these people are not just sitting back waiting for hand-outs.

The operating statement to the year ended 30 June 1998 shows that the total cost of services in 1997 was $44.41 million. They were able to reduce that in 1998 to $36.34 million, and, again, that is very commendable and the Minister for Disability Services ought to give them a pat on the back.

Julia Farr Services is a community resource, and it was paid for by a bequest in the first place. With this in mind, the Minister's answers to my questions on 4 March about funding were not particularly sympathetic or helpful. In fact, today in Question Time the Minister answered a dorothy dixer about a story in yesterday's *Advertiser* where the words 'dipping into the M.S. McLeod bequest fund' were used. I am not afraid to use that word 'dipping', because that seems to be what the Minister was suggesting. I return to what the Minister said in his reply on that occasion:

> . . . there seems to be an attitude that the Fullarton site belongs to and is controlled by the board and that the M.S. McLeod millions of dollars belongs to the board and that is the board's business.

I think that is a quite outrageous statement. Those who read the story in yesterday's paper would have seen me quoted as saying that you could imagine what effect this would have if the money that people put into the Women's and Children's Hospital Foundation was to be used for the day-to-day running of that hospital. If that were to occur, you would find that donations would dry up very quickly. I am therefore very glad that there is a separate board of trustees for the M.S. McLeod moneys at Julia Farr Services so that the Government cannot get its hands on it.

There are guidelines for the use of those funds that were put in place at the time of the bequest, and they include their use for education and research—not the day-to-day running of the services. As it is, it is important to put it on the record that Julia Farr Services has spent $400 000 of that money buying equipment for people who are unable to afford it. So, the Minister's answer and his justification again today are just plain unfair.

The Minister's answer a couple of weeks ago was deficient in quite a number of other aspects. He referred to the Changed Management Strategy Committee, yet that committee has nothing to do with budget control. The Minister said that there are 220 residents at Julia Farr Services, when in fact there are 250, and that is quite a significant difference. The Minister says that the Government provides $25 million per annum but neglects to mention that this amount funds not only the 250 residents but also the three off-campus rehabilitation services.

The Minister criticised the management of Julia Farr Services for buildings on the Fullarton campus being vacant when Julia Farr Services advanced a conceptual plan two years ago and all it has got back from the Government so far is an agreement in principle. He also said that waiting lists for extended care are not yet a matter of grave concern. I would think that any waiting list in this situation is of concern; I guess it is a question of when it becomes grave. The Minister says that it is 10 people but, as I mentioned at that time, those people are in acute hospital beds and stay there at far greater cost to the State's budget bottom line. So, it must be of concern to us all.

I distributed the answer that the Minister gave to that question to a lot of people involved with Julia Farr Services and it has received quite a bit of feedback, including responses from people who read about it in the Messenger newspaper. There are some very angry people out there. I think it is very unfortunate because so much is given to Julia Farr Services in terms of time and effort by dedicated staff, volunteers and family. I think that the Minister ought to be aware that the very ingenuous response he gave me on 4 March to my

questions about funding for Julia Farr Services has not been appreciated by these people. I support the Bill.

**The Hon. L.H. DAVIS:** I support the second reading of the Supply Bill. This is a longstanding, necessary financial procedural device to ensure that the Government has sufficient moneys to carry it through the months before the next budget is passed. As members are aware, the 1999-2000 budget will be presented by the Treasurer to another place on 27 May 1999. It will be debated in Estimates Committee, and then it will be passed through the House of Assembly and the Legislative Council in June and July.

But, in the meantime, it is necessary to provide sufficient moneys to ensure that the Government can carry on until the budget is passed. The amount of $600 million is $100 million more than last year's Bill. There is nothing that one can say about the Supply Bill except that it does give an opportunity to members of the Council to make comments on matters of financial interest.

Today, I am still reeling from the statements made by the Australian Democrats with respect to the State debt. The naivety of the Australian Democrats and their recklessness with regard to indisputable facts is something which I have not seen in all my time in the Legislative Council. For the Leader, the Hon. Michael Elliott, to seize the main stage and take over as the Australian Democrats' spokesman on the ETSA debate was some source of bemusement, given that his colleague the Hon. Sandra Kanck apparently had done 1 000 hours of research on the subject—although, as we have seen on more than one occasion in this Council in the many months this matter has been debated, that 1 000 hours of research produced little accuracy and little sense. Be that as it may, the Hon. Mike Elliott—

*The Hon. Sandra Kanck interjecting:*

**The Hon. L.H. DAVIS:** If you don't want me to run through them and embarrass you in this place, I will not continue with that line of argument. But, the Hon. Michael Elliott, as was revealed by the Treasurer in this Council this afternoon, claimed that the State debt could be in balance within a decade. In other words, the Australian Democrats claim that the State debt, which is currently $7.4 billion, could be reduced to zero in 10 years.

It is worth reminding members that the Australian Democrats are always quick to attack the Government if it is not spending enough on health and education (and we have heard a recent travail from the Hon. Sandra Kanck on that matter), and all the other areas which require expenditure by State Government. The Australian Democrats fail to understand what options the State Government has in managing the finances of South Australia.

If a budget is going to be balanced, it may require taxes to be increased, expenditure to be decreased or a combination of both. It also means an examination of issues relating to revenue and expenditure on current items, such as salaries and wages which constitute, by far, the majority of the spending in a State budget. It also requires an examination of capital expenditure on projects such as the building of bridges, schools and roads—expenditure of a capital nature. The Government has to review all the competing priorities which it faces on an annual basis in framing its budget.

Heaven knows what the Australian Democrats do in respect of their household budgets. One can imagine the Hon. Mike Elliott saying to the Elliott household, 'Well, we have an overdraft of about $10 000 in the Elliott bank account but, if we just shut our eyes and grin and bear it, it will disappear over a few years without us making any other adjustments and maintaining our expenditure on the income that we can reasonably assume we will receive in future years.' Is that how the Elliott household budget works? Do they just shut their eyes and poke a pin at a number and hope it will work like that?

*The Hon. Diana Laidlaw interjecting:*

**The Hon. L.H. DAVIS:** I do not think there are too many voters in South Australia who operate a household budget like the Australian Democrats appear to in view of their press release yesterday. As the Treasurer explained in his cogent argument this afternoon, for the Australian Democrats to claim that the State debt will be eliminated within a decade, it would require a saving on the annual State budget of about $700 million each year. In other words, we would have to budget for a surplus of about $700 million on each State budget over a period of a decade. How would you budget for a surplus of $700 million?

The Hon. Michael Elliott has not told the media and I challenge him to come into this Council and explain to members how he would budget for an annual surplus of $700 million. The only options available, even to the Democrats who can dream up things no-one else would dare think about, are to increase taxation dramatically or to reduce expenditure dramatically or a combination of increased revenue and decreased expenditure. Let us put it into perspective. Our annual budget in South Australia is just a touch over $5 billion. So, a $700 million adjustment, as proposed by the Australian Democrats—we are not twisting the truth here; we are just quoting the words used by the Hon. Michael Elliott in his considered statement on television and in his printed media release yesterday—would require an adjustment of some 14 per cent in the State budget. That is what we would require.

When one remembers that salaries and wages are about 75 per cent of the total State budget, what are the Australian Democrats saying? They are saying, as the Treasurer said, 'Let us slash all the teachers in the schools.' You do not have to be numerate—and one might say that the Australian Democrats are not—to realise that 12 000 teachers at an average of, say, $40 000 a head is $500 million and $50 000 a head with on costs is about $600 million. That is the ballpark of the savings that we are talking about.

I can understand why the Treasurer was a little bit angry this afternoon—more than angry, beside himself—with disbelief. The Leader of the Democrats is supposed to be financially literate. He should have a basic understanding of this subject and he has been offered briefings by the Treasurer on the most serious legislation the Legislative Council has considered since the Roxby Downs Indenture Bill of 1982. For the Democrats Leader to claim that the State budget will have to be adjusted by $700 million a year to achieve what he says is possible within a decade, that is, nil debt, is beyond belief. There has not been a State Government in Australia this century that has done anything like that. Yet the Australian Democrats come in here with their cant and hypocrisy claiming that they have not got enough financial information on the proposed privatisation of ETSA and come up with an outrageous proposition like that!

After the Treasurer towelled them in no uncertain terms in Question Time this afternoon, what was the response of the Leader of the Australian Democrats? He accused the Treasurer of wasting the Legislative Council's time. I thought that the Treasurer was doing the Council and the community a service by exposing this cant and hypocrisy of the Aus-

tralian Democrats, who believe through their lentil soup economics that there are magic pudding solutions to serious financial problems. They do not seem to understand that the world is changing, that 10 years ago States had big debts, and those debts increased dramatically five or six years ago because of financial disasters in State commercial institutions in Victoria, Western Australia and, in particular, South Australia. The debt that we suffered in South Australia on a per capita basis was greater than any other State in Australia and I have never had contradicted my proposition that no other country in the world has suffered a greater per capita loss through a Government-owned financial institution.

This State, which certainly has economic disadvantages when compared with the more central States of New South Wales and Victoria, is competing with one arm tied behind its back as those States move quite rapidly to reduce and eliminate their State debt. It must be recognised that Queensland already has zero debt and, in fact, has moneys in the bank on which it is earning interest. Victoria is moving towards a situation where debt will be all but eliminated in the next year or two, particularly after the extraordinary billions of dollars that were earned through the recent sale of its gas assets. New South Wales, which has an innate strength as the largest economy in Australia, and which will have the benefit of the Olympic Games and the kick that the millennium will give that particular economy, and where if electricity assets are sold as is predicted, irrespective of which Party wins power—

**The Hon. R.R. ROBERTS:** Mr President, I draw your attention to the state of the Council.

*A quorum having been formed:*

**The Hon. L.H. DAVIS:** Irrespective of which Party wins power at the New South Wales State election this coming Saturday, there is a general consensus that electricity assets will be sold and that will mean that its debt will be eliminated entirely. South Australia, with a debt of $7.4 billion at present, which is forecast to reduce only minutely over the next few years and will still be above $7 billion in 2003 on the projections of Access Economics, will be competing against other States with zero debt.

The Hon. Ian Gilfillan, as an intelligent and thoughtful member of Parliament, would understand that, if he is running a business that is paying out 13¢ in every dollar of revenue raised in interest on debt, and is offering similar services to all the other businesses in the same street which are able to spend $1 of every dollar they earn on promoting their business, building up their business in research and development, and offering other services, his business will find it difficult to compete. That is the precise analogy of what will exist when South Australia faces Victoria, New South Wales and Queensland, which arguably will be debt free by the year 2003.

Psuedo economists such as John Spoehr, whose Labor allegiances are well known to all concerned, claims that debt really is not a problem. One can read the *Age* newspaper each day, in which left-wing columnist Kenneth Davidson has yet to admit that a problem was created when the State Bank fell over. It led to enormous debt that blew out to $31 billion until Premier Jeff Kennett took over the reins and, through a very aggressive policy, turned Victoria around. He has a majority in the Legislative Council and has reduced debt to almost virtually nothing. The economy in Victoria is looking good.

**The Hon. Diana Laidlaw:** Did he sell the electricity assets?

**The Hon. L.H. DAVIS:** He sold the electricity assets and he is also just selling the gas assets. That is a very good point. The Hon. Mike Rann did not know it at the time, but he was a pacesetter because he was part of the Bannon Government that decided to sell the gas assets in South Australia. The South Australian Gas Company was 82 per cent owned by the State Government, and the balance was owned in private hands.

*Members interjecting:*

**The Hon. L.H. DAVIS:** The Hon. Paul Holloway has fallen for it like a little insect running into a spider's web. He has a terrific habit of doing that, so let me tighten the web around him. Let me strangle that argument for him, but I will let him off lightly. Between 1991 and 1993 when the Labor Party announced publicly that it was going to sell off the South Australian Gas Company assets to reduce debt, as Premier John Bannon said publicly at the time, and which Treasurer Frank Blevins, good left winger that he is, said was good, if it believed passionately as it does now that ETSA should remain in Government hands, what could it have done about the Gas Company?

It could have nationalised the Gas Company. If it thought that it was such a good idea the Labor Government could have bought the other 18 per cent to retain core assets such as ETSA and the Gas Company in Government hands. It could have outlaid a very small amount of money: $100 million or so would have bought the Gas Company so that it would have been in public hands. But it decided to go the other way. Why did it do that? The Hon. Paul Holloway has suddenly been struck dumb. He has been strangled by a web of his own making. What is the difference—

*Members interjecting:*

**The ACTING PRESIDENT (Hon. J.S.L. Dawkins):** Order!

**The Hon. L.H. DAVIS:** What is the difference between selling gas assets and electricity assets?

*The Hon. P. Holloway interjecting:*

**The Hon. L.H. DAVIS:** Quite a lot! The answer is quite a few billion but the principle is absolutely the same. Gas is generated in many States of Australia, as even the Hon. Paul Holloway would know if he reads the papers—and I am not always sure about that point, but let us give him the benefit of the doubt. Victoria and Western Australia are in the course of privatising their gas assets—that is, selling off gas assets. Paul Holloway, to be consistent, will be arguing against that point now.

*The Hon. P. Holloway interjecting:*

**The Hon. L.H. DAVIS:** Yes, he would be; he would be arguing against that. He was a part of a Government that said it was a good idea back in 1991-93 to sell gas assets to Boral Energy. I stood in this Council—and it is on the record if you look in *Hansard*—and said on the day that the first tranche of shares were sold to Boral Energy that the Bannon Government had been naive and had been duped into selling it for too little a sum. That first 10 per cent went for 55¢ less than ultimately the Government received. How naive!

Why sell off 10 per cent—I think it was 19.9 per cent from memory—at a lower price to give Boral the inside running, given that Santos had been knocked out of the race by the ACCC, and then sell the rest for 50¢ more at a later date. Extraordinary! But that was the Bannon Government. It was extraordinary, was it not? It backed insurance on planes and goat farms. It lost a lazy $500 million on one building at 333 Collins Street. It believed in plywood cars. It was going to produce 2 000 Africars out of the plywood from the South-

East. From the State Government owned timber mill on the West Coast of the South Island of New Zealand it was going to float timber on pontoons across the Tasman, I think to Beachport—that was pretty logical stuff—and that was going to be part of the grand plan to make South Australia the timber capital of the world and make the Africar.

It was going to protect these cars against white ants, Paul; you should not have worried about that. What remarkable stuff! If I was not standing here saying this everyone would be thinking that I was dreaming. But all this is true. This is the Party to which you belong. This is the Party you support and these are the principles you uphold. If you were asked, 'Would you support the sale of gas assets in Victoria and Western Australia', you would now say 'No'.

He is not sure, he is nodding his head but it is in a circular direction. I am not sure what that means. You would be saying 'No' to that, yet your Government did it. Your Government also sold in principle the State Bank, and you did that without going to the people, without getting a mandate. You have the gall to stand up in this Parliament without any policy, without ever having debated it in your Caucus or at convention on the floor, and say that you are the Opposition Party. What a joke! What an insult!

You created the debt, the $4 billion with accrued interest of $1 billion that totals $5 billion big dollars which is still a lead weight for this State. You and the Australian Democrats, who believe that through lentil soup economics it can get rid of the debt in 10 years, have the gall to stand up and oppose what in every other State is accepted as the way to go. In New South Wales the private view of the Labor Party is that those electricity assets have to be sold and there is no doubt about that; and the very public view of the Liberal Party is the same, that those assets have to be sold.

There are people in your Caucus who are concerned about the fact that you have no policy and are running on empty, that the needle is below empty when it comes to policy on ETSA. You know this State is bleeding and it is competing against other States that do not have one hand tied behind their back. You are holding up the progress of this State. If this ETSA Bill goes down when eventually the vote is taken the householders of South Australia will cop a tax on average of $186 a year.

What are you going to say about that? Will you have the gall to stand up and say that it is the Olsen Government's fault, that we have created this monster, this tax? At the end of the day will the people believe that because our debt has blown out by $5 billion we are all better off? Are they really going to believe that? To compound that you have had the gall to suddenly beat up an issue out of Pelican Point, but let me leave that for another day and merely move support for the second reading of Supply.

**The Hon. CARMEL ZOLLO:** I indicate my support for the Bill and in doing so wish to raise a number of issues that affect the funding of services in the Public Service. I was pleased to hear the Minister for the Status of Women in this Council addressing the issue of funding for domestic violence—a concern which some may say has largely been ignored by Government women members until a recent, well-publicised case. The critical issue is the manner in which our court system treats women in our society who have been victims of assault, whether it be sexual or domestic violence.

Whilst never claiming to be a militant feminist in my Party I am pleased that I belong to a Party that has a long and proud history of policy in relation to domestic violence—that of zero tolerance. I am aware that since I have been in this place several pieces of legislation have already been looked at to assist women and this cause. I urge the Minister to continue lobbying her Cabinet colleagues for extra resources in budgets both to support women and bring about equitable changes to our laws.

We need further real and practical changes that will ensure that women are treated equally and not taken advantage of because of their sexuality. In relation to the case raised by the Minister, I have heard many members of the community question both the competence of the office of the Director of Public Prosecutions and the motive in the timing of the case in question. I was also pleased to hear this concern articulated on an ABC radio program recently by one of our state reporters.

It is very disappointing and of concern to continue to see women used as pawns in our society. Several months ago I attended the launch of Violence in the Home Has Many Forms, which is the second phase of the Multicultural Domestic Violence Radio Announcement Project. That project is a joint project of the Southern Domestic Violence Action Group and the Women's Health Statewide, together with the Migrant Women's Support and Accommodation Service and workers and women from individual ethnic communities.

**The Hon. Diana Laidlaw:** The Office for the Status of Women provided the project officer for that.

**The Hon. CARMEL ZOLLO:** Yes, I am pleased to see that this is a bipartisan issue and that the Government has directed resources to it. Also present at that launch were Michael Atkinson, who is the shadow Attorney-General in the other place, and the Hon. Sandra Kanck. The message that domestic violence is not acceptable and help can be obtained was launched in several languages. And we should never forget that domestic violence does not necessarily need to be physical. I know of women who daily live in constant anxiety of being trapped and mentally abused by their partners. Such emotional scars inflicted by dysfunctional bullies playing power games or trying to make up for their inadequacies or fears are not as visible as physical ones, but eventually they do take a toll on the physical well-being of many women.

I noticed from a newspaper report that we have had a two day domestic violence conference to which members on this side of the Chamber were not invited, and that Ms Sue Foster of the South Australian Domestic Violence Unit was reported as saying:

> The situation is still really appalling but we need to build on successes and do much better, without diminishing the pain and anguish people are still experiencing.

Whilst I commend the Minister for her vigilance, I encourage her to increase funding in all areas of women's needs. Regrettably, we still have a great deal that needs fixing.

The needs of people on waiting lists for so-called elective surgery has been brought to my attention on several occasions. I know that as politicians we try and sometimes succeed in assisting our constituents with queue jumping, but we all know that deep down it is not the answer and such action, apart from leaving one with a sense of guilt, solves nothing in the long run. Such elective surgery is often followed by the bare minimum of time in hospital and a lengthy healing process at home. The end product for many people, especially our elderly, is months of unnecessary pain to start with and a lengthier time for healing due to the condition having worsened in the waiting period. In the end, it just does not make too much sense financially that we are

not directing funding and better resources earlier to these fundamental services. The challenge of enough resources being directed to our aged services is one which will always be paramount on the mind of Governments of all persuasions.

I was pleased to visit the St Hilarion Nursing Home last week with the Hon. Con Sciacca, the Federal shadow Minister for Immigration and assisting the Leader Kim Beazley in Multicultural Affairs. I commend the management and staff of the nursing home on their commitment to their residents. It is a well run and managed home which offers a culturally sensitive atmosphere to their residents. Funding for ethnic specific nursing homes was introduced by the Hon. Peter Staples the then Minister for the Aged in the Hawke Government. Regrettably, such funding no longer exists and, even worse, $500 000 has been removed from the nursing home aged care budget by the Federal Liberal Government. When such funding is removed federally, obviously it puts more pressure on individuals and State Governments.

In a recent address to the Committee for Economic Development in Australia (CEDA), the Federal Leader of the Opposition announced that Labor would consider an innovative proposal which would extend existing superannuation accounts to allow workers to contribute to an aged care extension account, allowing individuals to build a pool of funds specifically for aged care after retirement. Given our rapidly ageing population, I am sure that our State Minister will agree that it is important to look at new ways of providing quality care for our older community.

Whilst the Opposition disagrees with a number of aspects of the Government's current immigration policy, the Hon. Con Sciacca also raised an issue which the State Government has had the foresight to resource in the past few years; that is, a State immigration policy. Both the Hon. Con Sciacca and the Hon. Kim Beazley have expressed the strongest support for a population policy that connects migration with Australia's regional development needs. Offering incentives and direction to prospective migrants who bring economic success particularly to regional Australia is a positive step and one which should be welcomed by the whole community.

I was pleased to read in a response I received to a question I asked in this Council concerning the Office of Multicultural and International Affairs that this Government is committed to:

> strategic improvements in South Australia's approach to immigration to meet the social and economic needs of this State and supported by a quality approach to provision of information about South Australia as a migrant destination.

And further:

> [a] distinct unit called Immigration (SA) has been established in the Department of Premier and Cabinet as part of State Development SA. The unit includes business, skilled migration as well as the successful regional sponsored migration scheme.

With South Australia having such a low profile in terms of a final migrant destination within Australia, it is important for us to take these steps in improving advertising and promotion to target potential migrants. The Labor Opposition has also retained a policy of family reunion, which, unfortunately, the Federal Government has made increasingly difficult. People who are welcomed for their skills also need the psychological and cultural support of their family and extended family to make a success in their home, an aspect which seems to go largely unnoticed by the Liberal Government.

In relation to education, I was pleased to see the opening of a vocational high school in Windsor Gardens recently. I believe that, the way in which our society is going, we will end up with more and more elite professionals in such areas as information technology but that they will be directing fewer and fewer people. Our society will always have a need and respect for people with the essential technical skills that greatly improve the quality of our lives. The concept that such training can commence and then continue at TAFE level is very welcome.

High school is a time when we lose many of our young people who may at that time feel inadequate in their academic performance. I would never agree that young people be directed into any area or study which does not suit them, or that they not be offered the full range of courses, but it is important to ensure that we have something else to offer to those young people who feel they are not interested in straight academic pursuits. Even more important, it will have the effect of keeping young people within the education system longer and empowering them with better work prospects. I know that my colleagues in the other place—the members for Kaurna, Reynell and Mawson—have been lobbying the Government for a similar school in the southern suburbs.

In the last sitting day of Parliament, the Labor Opposition had reason to point out the discrepancy in the change of policy by the Government in relation to the school retention age. A similar policy to raise the age promoted before the last State election by my colleague the Hon. Carolyn Pickles, who at that time was shadow Minister for Education, was ridiculed by the now Treasurer. Whilst the reality is that such a move will no doubt also assist the Government in fudging unemployment rates for our young people, it is nonetheless important to try at all levels to offer some hope of a fulfilled quality of life to our young people. The prospects of employment outweigh political expediency, and I would encourage the Government to increase funding in the vocational area.

As I previously indicated during the debate on the job exchange forums, the Opposition believes that a job summit would have been of more value, but nonetheless any resources aimed at trying to improve the unemployment rate are always welcome, and the Opposition is always ready to cooperate in a bipartisan manner. The Labor Opposition has also articulated many incentives to assist small businesses and encourage regional development.

A few weeks ago, the report 'Bush Talks' was released by the Human Rights Commissioner, Mr Chris Sidoti. It was a damning report on the conditions of many people in country Australia. In South Australia, I noticed that the commission had public meetings at Peterborough and Port Augusta, two cities in South Australia that are no doubt typical of the problems facing country South Australia. The report stated that both a cause and effect of the withdrawal of services from rural Australia is unemployment. The following is a quote that came from a meeting in regional Victoria, but it could easily be from South Australia. It states:

> I am worried by unemployment in the very small towns. If you speak with the people who are unemployed, you get the impression that they feel they are the ones who are being discussed as the problem. This calls not for schemes such as work for the dole, but for real mind shift within the country to say that there is a certain amount of work available and that it must be shared fairly. The market must not drive everything.

The Hon. Rob Kerin in the other place is reported as commenting that it is pretty easy for people to come up with problems but he hoped that the Commissioner has some solutions as well. My colleague the Deputy Leader of the Opposition pointed out the reality of privatisation particularly hurting regional areas. With the problem being so desperate

in many regional areas, one of the biggest tasks will be to lobby the Federal Government for increased funding to country South Australia.

Since being elected to this place I have noticed that the Government has been totally absorbed with the one issue of privatising or leasing ETSA and other various staged scenarios aimed at assisting it to go down this path. This has included something as petty as wasting Question Time, the concerted sleek media campaigns and pressure being brought to bear at various times by the media on members who do not agree. These are members, including myself, who were explicitly voted into this place on a platform of not selling our public utility.

Another major concern is that of resources for legal aid. Whilst I am aware that it is primarily a Federal responsibility, the situation in many areas has become critical. The Attorney-General recently organised a meeting for members to meet with the judiciary, and most members expressed the same concerns in relation to the denial of justice to so many low and middle income people who become frustrated and angry with a system that is not available to them when they need help. All members present that day agreed that the issue of funding has reached crisis point in the Family Court in South Australia—

**The Hon. Diana Laidlaw:** It is a big issue that you have mentioned in terms of needing extra funding.

**The Hon. CARMEL ZOLLO:** Well, this is a Supply Bill.

**The Hon. Diana Laidlaw:** That's right. The Government wants to provide extra funds but you won't let us sell ETSA.

**The Hon. CARMEL ZOLLO:** Oh, you really cannot come back to that with everything. Having people represent themselves because they cannot access legal aid funding is not desirable and further impinges on their human and legal rights. I support the second reading of this Bill, which will, I hope, assist in the continued funding of our public services.

**The Hon. CAROLYN PICKLES (Leader of the Opposition):** I support the second reading. I refer to an issue that is causing enormous harm in our community today, namely, drug addiction. It is something that Governments of any political persuasion will have to address. Unfortunately, we have a Prime Minister who has given us the benefit of his moral views on the issue of heroin in this country, and it is clear that the conservative 'just say no' approach to the issue of drugs and drug addiction has been a failure. Even Mr Howard's colleague the Victorian Premier, Jeff Kennett, is calling for heroin trials and has taken a very progressive stand on the issue.

In South Australia I congratulate the Premier, Mr Olsen, on taking a progressive stand on this issue. I have spoken to the Premier about this and stated that I do not think the issue of drugs should be Party political: it is something about which all of us should be concerned.

I note that the issue will be discussed further at the 9 April Premiers' Conference and that, along with his Australian Capital Territory colleague, Ms Kate Carnell, Mr Kennett has announced that he will approach the Federal Government formally to conduct heroin trials. But both Premier Kennett and Chief Minister Carnell have conceded that these trials will not proceed without the permission of the Prime Minister.

As the Premier mentioned in the other place a few weeks ago, both the Customs Act 1901 and the Narcotics Drug Act 1976 prevent a heroin trial proceeding; but permits could be issued to allow the importation and manufacture of heroin to be used in any proposed clinical trials. I welcome the Premier's comments that he would support and approach the Prime Minister to allow a State or Territory to hold such trials, but I fear that if the Prime Minister cannot be swayed by Mr Kennett he will not be swayed at all. Ms Carnell's argument for such a trial is persuasive. She told the *Age* newspaper on Saturday 6 March:

> This. . . is a proper clinical trial. . . that will give us . . . information to determine whether for a group of hard core addicts heroin (provided clinically) actually improves lifestyle, improves life expectancy and, of course, decreases crime.

I recall when I was on a select committee that was looking at illegal drugs in South Australia that a representative from the ACT discussed the whole issue of a heroin trial and detailed how it would be conducted. This morning the Labor Caucus received a briefing from Ms Lea Stevens, the shadow spokesperson on health, who has recently been to an international conference in Switzerland. The Australian Capital Territory clinical trial methodology was congratulated, so it would be very sad if we could not go ahead with something that would probably help a lot of addicts in this country.

I mentioned the *Age* article of Saturday 6 March. The next story in the *Age* was an article entitled 'Hospitals Missing Drug-addicted Babies', which stated that doctors have warned that in Victoria alone it is estimated that 400 drug-addicted babies are born each year. About 25 per cent of these infants are so seriously drug addicted that they are transferred to special care nurseries within public hospitals and treated with morphine to ease their withdrawal symptoms. They spend a month and often longer in hospital.

These figures are appalling. Anyone who has had anything to do with babies, as I have recently with two new grandchildren added to my family, would be horrified to think of babies being born with a drug addiction. When we read these figures and think about it, we often think in terms of what happens in the United States, but it is happening here in downtown South Australia.

I am very pleased indeed that the Lord Mayor, Jane Lomax-Smith, has established the Lord Mayor's committee to look at the whole issue of drugs. I have been invited to be on that committee, as has the member for Waite, the Hon. Mr Elliott and some other Labor members. Hopefully, we can encourage some more Liberal Party members. I know that there are Liberal Party members who have expressed an interest in this issue, some of whom are Ministers and would therefore probably not have time to participate, but perhaps they could keep an ongoing interest in what is occurring. I look forward to the results of the select committee in another place as it considers the whole issue of heroin trials.

One hospital alone, the Royal Women's in Victoria, last year delivered 110 heroin or methadone addicted babies. The article also said that, in a 1994 survey of 10 000 protection cases by the Victorian Department of Human Services, 21 per cent of child abuse notifications against parents were associated with alcohol or drug abuse. I would not like to guess what the statistics would be here in South Australia. Perhaps the Hon. Mr Lawson might be able to provide those at some stage. Although it is generally accepted that our drug problem is not in the same league as that in Victoria or New South Wales, we cannot ignore it. Evidence does show that many women are in prison in South Australia for drug-related crimes, and many of them have children. So, it is not a huge leap to believe that this problem does exist in our own State.

I refer to a report titled, 'Who's minding the kids?' and subtitled 'Developing coordinating services for children whose mothers are imprisoned,' which was released last year by the Social Policy Research Group of the University of South Australia—and it is a very sobering read. The report presents evidence that female imprisonment rates have increased dramatically over the past two decades and that these women are likely to be in their child-rearing years.

The researchers interviewed 24 women to look at issues related to their children. While I acknowledge, as do the authors, that it is a small sample, the evidence presented by the women is nonetheless compelling. Of the 24 women, 21 identified themselves as having an addiction to heroin, amphetamines or sedatives. Only two women were non drug users. So, it is not just the issue of the health problems for the addicts themselves that is causing terrible problems in our society: it involves the associated crime, the associated violence against children, the associated breakdown of families that mean severe, long-term deprivation for those addicts and their families, provided that they live that long.

I now turn to what I see as this Government's latest attack on some services for women. The plan by the Minister for Human Services to close the maternity services at the Queen Elizabeth Hospital is nothing short of misguided, if not downright negligent. What can be more fundamental than providing safe and, most importantly, accessible hospital services for women who are having children? In his 1998 budget the Treasurer promised more money for health so that hospitals could provide more services, but what we see now is a plan to cut services to the Queen Elizabeth Hospital. The plan of the Human Services Minister has recommended that only three hospitals in Adelaide provide maternity services: the Women's and Children's Hospital, the Flinders Medical Centre and the Lyell McEwin Health Service.

Then in an about-face the review admitted that because the Women's and Children's Hospital and the Lyell McEwin Health Service may not accommodate the workload a fourth maternity unit should be maintained in the north-east in the short term, probably at Modbury Hospital. All this comes just months after the Government's bizarre attempt to postcode women out of the Women's and Children's Hospital because it is crammed to the rafters.

I must say that my experience with a member of my family having a child at the Women's and Children's is a very happy one. It is a wonderful hospital and the nursing staff gave terrific service. I could not congratulate them enough, but they are very hard pressed. So, God forbid if you are a woman living in the western suburbs who is in labour under this Government. There will be no maternity section at QEH; you would have been barred from the Women's and Children's; and you will have to hike it out to Lyell McEwin Health Service or Flinders Medical Centre. Let us hope it is not a speedy labour. That is just one example of the mindset of this Government that services for women are expendable.

I now turn to the issue of the ETSA tax. I do not think we can call it anything other than a tax. I know that the Treasurer is desperately trying to avoid the three letter word because he knows he is in trouble if he uses it. I would like to relate a personal story about how privatisation of the power authorities in the United Kingdom has affected one of my family members. They live in a small cottage about seven or eight kilometres from a very large country town called Newmarket—which I am sure the Hon. Mr Roberts would know very well as a very famous horseracing area. It is hardly out in the middle of the Woop Woop. It is not particularly isolated. They are not connected to power and they have a generator that keeps the lights on. They have been told that if they wish to connect themselves to the mains supply it will cost them £10 000. I think in today's exchange rate that is about $A30 000. The adjoining landowner (a titled person) would prefer them to have a power connection that is underground so that it does not spoil his view and his amenity. That would cost them £20 000 to £30 000.

What the British know about privatisation applies equally here. In public transport, privatisation has certainly not translated to a greater demand for public transport. Instead, South Australians have witnessed a declining patronage on our public transport and increased fares such as the 7 per cent fare hike announced and implemented by the Government at the last budget. The environmental and economic benefits of increased patronage are so obvious that I would hope the Government might focus on the task of getting people out of their cars and onto trains, trams, buses and bicycles.

It is the same when it comes to the old ETSA. We now have the South Australian General Corporation (SAGC), ElectraNet, ETSA Utilities, ETSA Power, Flinders Power, Optima Energy, Synergen, and Terra Gas Trading. Do we have more electricity or cheaper electricity? No: in fact, the unit price for producing electricity under this desegregated regime will go up. More names, fewer jobs and fewer services to the public: that is the experience of privatisation in South Australia.

It is interesting that the reasons for the privatisation of ETSA keep changing. First, there was no plan to sell ETSA. At least, that is what the Premier was telling the public before the last State election. Then it became an economic necessity to pay off State debt. Then, miraculously, the debt problem seemed to be a side issue and the Premier was going to spend $1 billion from the sale of ETSA on extra hospital beds and all sorts of other things. Suddenly, the ETSA sale would mean pots of money for special projects. Then another twist. South Australians would be forced to pay a special levy on their ETSA bill if the sale did not go through to cover for the losses that ETSA would make because of the competition in the national electricity market.

This Government is now taking the entirely predictable tactic of saying, 'We could do such and such if only the Parliament would let us sell ETSA.' Let us not forget that this Government has been in power since late 1993 and has had more than five years to get its act together. Instead, it cannot decide on the reasons but is hell bent on selling our public assets such as ETSA. It must be disturbing for the Government to realise that the public does not buy this argument about the levy—the tax. They see it for what it is: blackmail and dummy spitting.

Before I conclude, I would like to say that I was reading a document today entitled *Artstate*. It is quite a nice little publication—another glossy advertising spiel for the Government which has interesting snippets in it about the arts. However, I must say that I was fairly appalled to find the Minister appropriating the words of one of the finest speeches of our time. It is a little message from the Minister for the Arts entitled, 'I have a dream'. I find it quite disturbing that she has used a moving and profound speech as an opportunity to justify the sale of ETSA. Perhaps if the Minister was a little more focused she would feel less of a need to piggyback on the achievements of others.

**The Hon. R.R. ROBERTS:** I support the Supply Bill, which seeks to appropriate the sum of $600 million from the

Consolidated Account for the Public Service of the State for the financial year ending 30 June 2000. These Bills come before us on a regular basis, and it has always been the practice in the past that all members support the appropriation of those moneys for expenditure by different public departments for the wellbeing of people in South Australia.

One of those committees that does get involved in this work is the Asbestos Management Committee. It oversees asbestos decontamination—in fact, identification—and, to some extent, has an inspectorate role in that it liaises with the Department of Administrative and Information Services, which looks after the hands-on monitoring of asbestos situations in South Australia.

Members would recall that in July last year I raised questions in this House in respect of the airconditioning ducts in the Adelaide Festival Theatre. I do not intend to go over everything that has happened since then step by step, but it is pertinent to identify the sequence of events. In July, I first raised the matter by way of a question, because I was advised that there might be a problem. The Minister assured me that there was not a problem and that what problem there was had been overcome. Unbeknown to me, on 16 October a PPK report which was entitled 'Asbestos Audit and Register for the Adelaide Festival Centre Complex' and which was commissioned by the Festival Centre Trust (as I understand it) was presented to the Minister.

I was not aware that had occurred, and I did ask questions on 25 November last year in respect of these matters. I had heard 'on the grapevine' that there had been indications of dangerous asbestos contamination within the Adelaide Festival Centre. In response to my questions of 25 November, I received an answer in early 1999 suggesting that there was not a problem and that PPK was doing some tests which indicated a failure to detect airborne asbestos, especially from the airconditioning systems within the Adelaide Festival Centre.

I was feeling reasonably confident at that stage until I was made aware that the PPK report was available. Having had the benefit of the response from the Minister for the Arts, who assured me that, in fact, everything was safe and above board, I felt reasonably comfortable until such time that I took the trouble to read the whole report. It was when I read pages 110 and 111 that my fears started to come to the fore. When one reads the executive summary, it does not present one with too many problems—although it identifies the presence of very friable asbestos within the airconditioning ducts, and it says that it ought to be removed as soon as possible.

I point out, for the benefit of those members still paying attention, that the PPK report was provided on 16 October 1998, which is over five months ago. That document identified over 300 sites where asbestos was present within the theatre and complex. In the section titled 'Conclusions', which starts on page 110, it states:

> The majority of products do not pose a risk from exposure to airborne fibres so long as materials are not disturbed or worked upon, ie, cut, sawn, drilled etc.

Appendix E provides a summary of the health risks of asbestos which PPK appended to its report, and I will refer to that later. At point 9.1 on page 110 it is stated that access to the area should be restricted; caution labels should be affixed; and it should be removed as soon as practicable. If members read the body of the report, they will see that this is generally followed by the two words 'check annually'. Some of the 300 odd sites were also decontaminated by McMahons in 1998. There are only three areas specifically mentioned and expanded upon in the conclusions with respect to those 300 sites, and they are found on pages 111 and 112 of the report.

Point 9.2 of the PPK report talks about a permit to work system. This talks about heavily contaminated areas with residual limpet asbestos ceiling spaces of the Festival Theatre and the Drama Theatre. Even though the authors recommended that a permit to work system should be developed as part of an overall asbestos management plan for the Festival Centre complex, one does not get a sense of urgency about the whole report. As I said, of the some 310 sites (I believe it was) most of the reports say that some asbestos has been identified, access ought to be restricted, caution labels should be affixed and that it should be removed as soon as practicable or when maintenance takes place. It is only two areas in particular where there appears to be any drama at all. They are in the airconditioning duct work in the Adelaide Festival Theatre, at point 9.3, and the airconditioning duct work in the Drama Theatre, at point 9.4. Both of these sites are similarly described. The conclusions are the same and were presented in October 1998.

PPK confirms, at paragraph 3 of 9.3, that varying amounts of residual asbestos contamination is present in the duct work of both the supply and the return systems of the airconditioning system. The report notes in paragraph 4 that this material is in poor condition and is very friable—not just friable but very friable. Those who are familiar with the terminology of this industry know that 'very friable' means that it is very dangerous. The report explains, in the last sentence of 9.3 at paragraph 5, that they took tests which resulted in a below detection limit of airborne fibres. The report does not explain precisely where the tests were taken—and it has to be remembered that there are thousands of metres of duct work and many outlets, so one must ask the rhetorical question: where does one choose to test within a five to seven kilometre duct work system? One also has to ask: were the tests taken on start up or after the system had settled?

Paragraph 6 goes some way to explain the test but emphasises, in the second sentence, that the tests do not provide definitive evidence of the absence of airborne asbestos. The last sentence of paragraph 6 is crucial, as it states:

> Given that the asbestos found in the airconditioning system Crocidolite—

which is blue asbestos and the material of greatest concern, as is pointed out in appendix D of the report, which deals with the health risks of asbestos—

> is a confirmed human carcinogen. Every reasonably practicable effort should be made to reduce the risk of airborne fibres to as low as possible.

In paragraph 7 the report warns that the risk from exposure to airborne fibres may increase if this material is disturbed by maintenance work being carried out. In paragraph 8 they say—and this is the most crucial part of the report:

> Therefore, it is our professional opinion [not just their opinion but their professional opinion] that remediation programs to clean and decontaminate the airconditioning system be developed and implemented as soon as possible.

They are four very important words, and they appear only three times in the whole of the report: once in the executive summary, referring to the airconditioning duct work, and at 9.3 and 9.4, which talk about the airconditioning duct work in the Adelaide Festival Theatre and the Drama Theatre.

One can understand why PPK would, in its professional opinion, recommend the implementation of this work as soon as possible, when one considers section 10 of its report, which is in respect of the legislative requirement. If one looks at paragraph 1, at dot points 1 and 2 and paragraph 2, at dot points 1, 2 and 3, the question one must ask is: given that nothing has changed in the area since 16 October (almost five months ago) is 'as soon as possible' reflected in the five months that have passed in terms of protecting the health of the public and the users of the Adelaide Festival Centre? Surely the answer to that question must be 'No.' Given that nothing has changed, I have to ask PPK: how could it say in a press statement of 25 February that the system was safe?

**The Hon. Diana Laidlaw:** It did say it.

**The Hon. R.R. ROBERTS:** I want to know why. What has happened? The Minister interjects and says that it did. What has happened since then, given that on 16 October PPK said that, in its professional opinion, it should be removed as soon as possible to protect the public's health? Then on 25 February, when the Minister was under pressure, there was a press statement which, if one reads it (and I do not have time to read it), says that PPK is a pre-eminent company. It could well have been written by one of the Minister's minders, but that may not be the case. PPK now has a $95 000 consultancy to oversee this project.

**The Hon. Diana Laidlaw:** But what are you suggesting?

**The Hon. R.R. ROBERTS:** I am suggesting that, since 16 October, nothing has changed except that the report has been received; we have got into a bit of public flak; and PPK now has a $95 000 consultancy, and it has spent $60 000 on air monitoring. The sum of $60 000 of taxpayers' money has been expended on air monitoring alone. This report identifies over 300 sites where asbestos was present, and only 20 photographs were attached to the report. There were only two photographs inside the duct work and, even though they are long range shots, they are damning. Anybody who has seen them—and I assume that the Minister has seen them—would know that there is friable asbestos laying on galvanised surfaces inside the airconditioning ducts. There are between five and seven kilometres of duct work in that system, and there have to be more photographs, given the prominence that the report gives to this area. We must ask: where are they? I have since found out where they are. They are being held, and I congratulate the Presiding Member of the Public Works Standing Committee on his examination of witnesses last week when he asked for those photographs. I understand that 12 other photographs are to be presented, and I am told that they are more damning than the two that were attached to the report.

I have put in an FOI request for copies and tapes of any of the photographs that were taken in that area. I have not asked the Festival Centre Trust but the Minister for the photographs. In the Westminster system it has always been my understanding that the buck stops with the Minister, and when I wrote to the Minister responsible for industrial relations, Dr Armitage, about a matter within the TAB, I received a very stern letter from him saying that I should not write to the statutory authority but that I should always write to the Minister, which was the protocol. I wrote to the Minister and I asked for the photographs a week before the Public Works Standing Committee sat to discuss this matter. I am now advised that the Public Works Standing Committee received its photographs last week and I have received what Paddy shot at: absolutely nothing. It might be a problem with the mail.

Kate Brennan's letter to Jack Watkins, of which I have a copy, said that they were interested in working to decontaminate the air-conditioning system within the Festival Centre, and I understand that was sent on 5 February 1999. I have already explained to the Council that Mr Jack Watkins, the UTLC delegate on the asbestos management committee, spoke to me about this matter because I expressed concerns at the PPK report. He said to me one Friday, 'Look, Ron, I am trying to work with the trust and the management to get the air-conditioning systems decontaminated as soon as possible and I am certain that on Monday I can persuade the committee to allocate the $300 000.' Unfortunately, history now shows that no formal application was made. Despite that, and out of respect for public health, the asbestos management committee, without an application from the Minister's officials, allocated $200 000.

When these matters were raised in the Council, the Minister got very upset with me and made a whole range of assertions and took some offence that I had commented that her attitude in respect of the Adelaide Festival Centre was a far cry from the attitude that she displayed as shadow Minister about the tourism building. Those remarks are recorded in *Hansard* in an answer to questions that were asked by the Hon. Julian Stefani at the prompting, undoubtedly, of the Minister who wanted to explain her position. I understand that. I only wish that she would go to Ministers training school and learn to make a ministerial statement. I am sure that the whole Council would appreciate it if at Question Time, instead of answering her own dorothy dixer questions, she made a ministerial statement.

I sought advice on the comments that were made, and my adviser states:

> In regard to Diana Laidlaw's replies to your questions in the *Hansard* regarding asbestos in the Festival Centre, it would seem going by her statement that she knows very little about the situation at the Festival Centre and far less about the use of such words as friable, unstable and airborne to describe the condition of *in situ* asbestos in the building. For example, Julian Stefani's question to Diana Laidlaw with regard to the presence of asbestos at the Festival Centre and the tourism building was, 'Will the Minister advise whether there are similarities between the asbestos problem in the two buildings?' The response given by Diana Laidlaw to the question was, 'I can assure the honourable member there are no similarities between the two circumstances.' (*Hansard*, 11 February 1999, page 635, paragraph 2).
>
> This statement by the Minister is both factually incorrect and misleading. Both the buildings have in the past undergone Government controlled asbestos removal smoke tests and failed. Both buildings had asbestos (crocidolite) in the following areas: risers, ceiling, foyers, lifts, wall and fascia cavities, airconditioning systems. Both buildings have also experienced airborne fibre readings on the premises when asbestos removal work was being carried out in the past.
>
> In *Hansard* of 11 February 1999 at page 635, paragraph 3, Diana Laidlaw's statement was, 'There is a great difference between stable asbestos in an airconditioning system and airborne asbestos.' This is again indicative of how very little the Minister appears to know about limpid asbestos in general and the health risks from the continued presence of friable asbestos in public and private buildings. The fact that loose and friable asbestos has been identified in most sections of the Festival Centre airconditioning system is in itself damning evidence that the asbestos is in an unstable condition and susceptible to the air movement in the ducting.
>
> The Minister's statements that the airconditioning system works well and there has been no need for mechanics to enter the system and dislodge or agitate the asbestos, and that therefore it is safe, fails to take into consideration the following comments made by PPK consultants in their assessment of the asbestos problems at the Festival Theatre, as follows:
>
> 'There is the potential for asbestos fibres to be released on the initial start up of the airconditioning system.'

*The Hon. Diana Laidlaw interjecting:*

**The Hon. R.R. ROBERTS:** This is your report. They also stated:

> Friable asbestos in the air-conditioning system represents a significant potential risk to health. . . Residual asbestos contamination which is present in the ductwork on both the supply and return system is in a poor condition and is very friable.

If the Minister wants to ask one of her officers what 'poor condition' and 'very friable' means, she would find it most instructive. My adviser also stated:

> The statement in *Hansard* (11 February 1999, page 635, paragraph 4) by the Minister in reference to the asbestos in the tourism building, that—

she made great play that day on the difference between the two—

> 'Because the air-conditioning system repeatedly failed, mechanics had to get into the system. When they got into the system they dislodged the asbestos, which was then agitated and got into the air flow,' is incorrect. First, the air-conditioning was too small for workers to gain access.

Unless they were midgets. The document continues:

> Therefore it is ludicrous for the Minister to suggest that the asbestos became airborne because of the workers entering the ductwork. Secondly, it was never established that the airborne fibres detected in the building came about because of maintenance work on the air-conditioning. It is incorrect to say that the air-conditioning system was always breaking down and in need of maintenance attention.

That is not true. My advice continues:

> Most of the maintenance work being carried out at the tourism building involved areas of the building such as lifts, doors, ceilings, toilets, lighting, plant rooms and office partitioning. Finally given the existence of an air plenum in the ceiling spaces of the Festival Theatre, which in the past was in very close proximity to exposed beams of asbestos, and in more recent times residual asbestos, it would have to be said that the Minister is treading on shaky ground with her inference that the asbestos contamination in the tourism building was more hazardous in the current situation than the asbestos in the Festival Centre.

This is the situation. When we have raised these matters in the Council the Minister has tried valiantly to justify the unjustifiable. What has happened since then? Because this Minister has failed in her fiduciary duties to carry out her responsibilities with respect to the funding matters involved—that is, she did not even know that she had to go to the Public Works Committee to get it approved and wasted weeks—

**The Hon. Diana Laidlaw:** We don't.

**The Hon. R.R. ROBERTS:** Well, why are you there now if you do not have to go? She told the Council that this work would cost $1.6 million and then she said, 'I am pleased to advise that yesterday Cabinet approved the sum of $1.8 million for this project to be undertaken at the Festival Theatre.' The sum of $200 000 does not sound much unless you are a worker, then it becomes a very significant amount of money. The total cost of the project has now gone from $1.6 million to $1.8 million which includes $95 000 to the principal consultant, $60 000 in air tests and $45 000 to the Department for Administrative and Information Services (DAIS) in disbursements. We have a situation where, on the one hand, the Minister and her advisers at the trust can throw away an offer of $300 000—

*The Hon. Diana Laidlaw interjecting:*

**The Hon. R.R. ROBERTS:** We know that you have been back and have got another $276 000, but when this matter was being processed you refused to make an application for $300 000. In a couple of weeks the cost of this work had blown out by $200 000. The main cost was $95 000 to the principal consultant, and we have spent $60 000 on air tests alone.

*The Hon. Diana Laidlaw interjecting:*

**The Hon. R.R. ROBERTS:** So we have to do this?

*The Hon. Diana Laidlaw interjecting:*

**The Hon. R.R. ROBERTS:** You go and have a look at the projected cost. It does not mention anything like $60 000 to do a couple of month's work. These people opposite now want us to appropriate $600 million for disbursements in this State. This is the cavalier attitude they have towards the use of public moneys and the disrespect they have for public interest. The public interest in this matter is the health of the public. In its professional opinion PPK knew about this on 16 October, and that was backed up by section 10 of the Act which talked about the need to remove as soon as possible airborne asbestos fibres. It attached to its report Appendix D which talked about the health risk of asbestos as follows:

> The highest health risk is associated with exposure to amphibole asbestos (amosite, crocidolite) with crocidolite being cited as the material of greatest concern.

This report is benign until one looks at the air-conditioning system and reads the next part which reinforces the fact that this matter ought to be attended to expeditiously. That is what it says—expeditiously.

This Minister has known since 16 October that a dangerous situation exists in that theatre. She stupidly suggested that I might pay for the loss of any funds that would be forgone by the Festival Centre. She should know—I will not say that she does knows—that this work is capable of being done without any serious disruption to the operations of the Adelaide Festival Centre. Here we are, over five months later, and the Public Works Committee still has not sanctioned the work.

What is fact is that there is friable asbestos contamination within the air-conditioning ducts at the Festival Centre, and what is also fact is that it still does not look like being removed for a couple of months. The Minister seeks to embarrass me by accusing me of saying something about PPK. Let me put it very clearly. This environmental consultant comes forward with a report and claims to be one of the foremost consultants as is stated in its press release which was sanctioned by the Minister and states on 16 October—and the decision was obviously made well before then because that is the day it presented the report—that, in its professional opinion, it should be removed as soon as possible.

How anybody five months later, in its professional opinion again I assume, can say that the situation is safe and that there is no real urgency is beyond belief. I ask the Minister to undertake her responsibilities as a Minister, because she has failed in them also. She has failed her Cabinet colleagues in that she did not even know the process involved in allocating the moneys to fix up the problem. She has tried to wheedle her way out of her responsibilities. She has drawn in extraneous arguments about the tourism building that have now clearly been blown out of the water. What she has left is the public interest at risk, and the public interest at risk is the health of the patrons of the Adelaide Festival Centre.

I will not be trite enough to talk about stopping the Supply Bill; that has never been done before and most members support it. I want this Minister to exercise her duties and responsibilities as a Cabinet Minister, as a manager, and to fix it up and stop all this rubbish and argy-bargy of ducking about, hiding and misrepresenting reports, and to get on with

the job of fixing the air-conditioning system not in three months time—it should have been done last October—but as soon as possible, which is the professional opinion of the people at PPK. I support the allocation of the $600 million to the Public Service.

**The Hon. R.D. LAWSON (Minister for Disability Services):** This Bill when enacted will provide funds to continue the provision of public services to the State of South Australia for the early part of the next financial year.

*Members interjecting:*

**The PRESIDENT:** Order! The Hon. Robert Lawson has the call. Other members will do their lobbying outside.

**The Hon. R.D. LAWSON:** This Supply Bill seeks $600 million, up 20 per cent from the $500 million allowed last year. It is a great pity that this State is not in the position where all our budget appropriations for next year will not be able to increase by 20 per cent. The challenge for the Government and the Treasurer is to meet the demands of the community and their expectations notwithstanding rising costs and a shrinking revenue base.

Given the debt overhang which is likely to make this State the debt capital of Australia in the very near future the challenges of this budget are considerable. This is not long-term debt but is debt most of which arose during the years in which Mr Bannon and those opposite were in Government. It is important to understand the business of this State and, if members look at our budget, which comprises total outlays in the current year of some $6.386 billion, about 34 per cent of that is spent in Human Services, about 30 per cent in Education, Training and Employment, about 12 per cent in Justice and about 11 per cent in Transport, Urban Planning and the Arts. Between them those portfolios account for 86 per cent of the total outlays by portfolio—

*An honourable member interjecting:*

**The Hon. R.D. LAWSON:** Human Services represents 34 per cent and Education, Training and Employment 30 per cent. So 64 per cent of the budget is allocated to these extremely important service areas. This State is in the business of providing services to the community. I think it is worth reminding ourselves of a couple of other financial elements which are described in the budget and which it is easy enough to forget in the months since it was so eloquently presented by the Treasurer. In relation to State liabilities, last year's budget papers showed that the declining real net debt as a proportion of the gross State product fell from 28 per cent at the end of 1992 to 19 per cent projected by the end of June this year. That in itself is a significant achievement and, as the budget papers noted, the sale of electricity utilities would see a further substantial reduction in debt.

When one looks at the tables and the trend lines, it is utterly obvious that the Hon. Michael Elliott's projection of wiping out the State debt by normal attrition, as it was, over the next 10 years is simply a fanciful notion. The Government has been steadily reducing the debt by appropriate measures. It has been reduced from 28 per cent of the gross State product in 1994 to a projected 17½ per cent in 2002. The only other matter I would mention from the budget papers concerns the rate of tax severity in South Australia. South Australia traditionally has been a State in which taxes, fees and charges per capita have been somewhat less than the national average.

Last year's national average was about $1 869, and this State was at $1 739—some $130 per head less in South Australia than the rest of the country. However, there is not much additional capacity to place additional burdens on the citizens of South Australia to meet the debt created by the Labor Party in the past and which it is refusing to address by any policy whatsoever. This makes it particularly difficult in an area about which I wish to speak, namely disability services. This year our budget for disability services in this State is over $150 million. Most of those funds are applied to non-government controlled organisations and entities. However, a good deal of it is disbursed through Government agencies.

*The Hon. T.G. Roberts interjecting:*

**The Hon. R.D. LAWSON:** Only a modest increase on last year was possible in view of the budgetary climate. The Intellectually Disabled Services Council is allocated some $66.9 million this year, and much of that is disbursed through non-government organisations. For example, Ain Karim, which is a disability residential service conducted through the auspices of the Catholic Church in the northern suburbs of Adelaide, provides accommodation to a small number of people with disabilities. However, it is extremely stretched in financial terms.

Leveda is another organisation which IDSC supports. It supports, in community settings, a number of people who were formerly in the institution known as Rua Rua, which everyone was glad to see closed because it was not meeting the aspirations of its occupants or their families and was simply not in accordance with the modern notions of civilised care for those with disabilities.

Julia Farr Services receives about $24.5 million this year and is one of the largest recipients of funds from the disability budget. I will say something more about Julia Farr Services in a few moments because in her contribution to this debate the Hon. Sandra Kanck chose to attack the Government in relation to Julia Farr Services. The APN Options Coordination (Adult Physiological and Neurological Options Coordination Agency) receives some $7.2 million, and Brain Injury Options Coordination receives some $4.4 million this year. Brain Injury Options Coordination is an interesting disability organisation. Until the establishment about 3½ years ago of options coordination there were no Government funded services for the brain injured other than through Julia Farr Services. However, the Government has introduced this options coordination which enables those with brain injury to be supported in the community rather than in an institutional setting.

Minda Incorporated, which has just concluded its very successful centenary year celebrations, receives $18.5 million of Government funds this year. Minda provides a terrific service from its Brighton campus but, more particularly, from many community homes which it maintains. It is an organisation which has received and will continue to receive substantial Government support. The sum of $6 million goes to the Community Accommodation Respite Agency (CARA) which grew out of the old Spastic Centre of South Australia. The Community Accommodation Respite Agency supports people in the community. The Spastic Centre closed its institutional facilities entirely and the people who previously occupied them are now in community settings.

The Community Access Service of South Australia also receives $1.3 million. The Crippled Children's Association receives some $6.7 million, and once again it is an institution which previously had as its residents a large number of children but who now have been returned to the community with much applause and the general approval of all concerned. These organisations are usually run by community

boards, and on this occasion I want to pay a particular tribute to the boards and the staff of these organisations.

Just as this State is under budgetary pressure, so, too, are organisations in the disability sector. It is difficult for us all to manage budgets, but I do pay a tribute to the work performed in all these organisations, for their dedication, their commitment and their desire to assist people with disabilities who in many cases are not in a position to assist themselves.

There are many other private providers in the disability sector—organisations such as the Guide Dogs Association, the Disability Information and Resource Centre, Community Living for the Disabled, the Arthritis Foundation of South Australia, the Muscular Dystrophy Association, the Neurological Resource Centre, and the like. The Paraplegic and Quadriplegic Association also receives some funds from the Government but in itself raises many funds from other sources, as does the SPARC Disability Foundation. The pressures and the challenges are many.

It is unfortunate that in her contribution and in an earlier press statement, the Hon. Sandra Kanck sought to bolster her position in the eyes of some by seeking to drive a wedge between the Government and the board of Julia Farr Services. The honourable member will not succeed in her attempt. In her contribution tonight the honourable member referred largely to the annual report of Julia Farr Services for the year ended 1998.

The honourable member said that the Chairman, Mr Richard Krantz, had written a report which she quoted. The honourable member said:

> Members can be sure that he has probably tempered these comments well knowing the publication would have to be approved by a Minister for publication.

The implication is that in some way the report has been censored because of some pressure either actual or implied from a Minister. Nothing could be further from the truth. The report of the Julia Farr Services is not vetted by any Minister. The report is a report of the board and of the staff. Any suggestion by the honourable member that any pressure was brought to bear on the Chairman by me or by anybody else is rejected. The Chairman, Mr Krantz, for whom I have the highest regard, says in his report (and the honourable member quoted him) the following:

> Julia Farr Services is under continual budgetary pressure and, whilst significant savings have been made in expenditure terms, revenue shortfall has resulted in a loss being incurred for the year ended 30 June 1998.

That is undoubtedly true. Julia Farr Services, as other services, is under budgetary pressure. I will mention a couple of the points about that in a moment. The honourable member also referred to the Chief Executive Officer's report and, once again, said that this must have been tempered, suggesting that the sinister hand of Government or some Minister was hovering behind the Chief Executive Officer when he commented on the performance of the organisation. Once again, there is not one jot of truth in the suggestion that any pressure was exerted. The Chief Executive Officer referred to the fact that Julia Farr was given what he described as an 'unachievable revenue target'. I do accept that the revenue target set by the department was too high in that it suggested that certain fees could be obtained from compensable patients. However, the budget of Julia Farr was adjusted downwards during the course of the year to accommodate that fact.

It has been suggested that there have been cuts to Julia Farr Services in a purely monetary sense. That is not true. I have previously said, but for the record I ought once again put on the record, that from 1996-97 when the figure was $23.9 million the allocation in 1998-99 has risen to $24.6 million. However, in addition, other allocations are made to Julia Farr Services as to other health units, for example, additional award funding of $769 000, and also the revised revenue estimates were adjusted downwards by $2.7 million, which, in effect, does result in an increase in the allocation.

I also agree that a savings requirement of $2 million was included in Julia Farr's 1998-99 allocation. That requirement related to savings which were identified in a report prepared by KPMG entitled, 'A Review of the Financial Performance of Julia Farr Services', which suggested that up to an additional $5 million of savings was potentially achievable by Julia Farr from 1996-97 onwards.

The intended use of these savings was not for return to the budget or to the central office of the Department of Human Services but for redirection into community-based services for persons who would otherwise be clients or residents of Julia Farr Services.

The honourable member says (and I certainly agree with her) that the board of Julia Farr Services, the staff, the volunteers and all associated with the organisation are to be congratulated. The board members receive no remuneration, and I pay a tribute to their dedication. The Chairman, Mr Richard Krantz, whom I mentioned a moment ago, an accountant in private practice, spends a terrific amount of time in the difficult task of ensuring that Julia Farr is appropriately managed.

I have met the board of Julia Farr Services as a board. On a number of occasions some of them have visited me to discuss various matters. I am always impressed by their concern and their sympathetic and intelligent approach to the problems facing them.

The Hon. Sandra Kanck, as I read her contribution, is really trying to suggest that the Government is not supportive of Julia Farr Services, that we do not appreciate its work, that the Government or I are unsympathetic to the board and that we seek to intimidate it in some way. As I said, nothing could be further from the truth. Members of the board have my utmost admiration for their commitment to the cause of those with disabilities. I believe that, as we move into the future, some of the initiatives which the board has been taking over recent years will result in vastly improved services.

This is not the time to get into the debate that is occurring nationally about institutional care, but it ought be said that there are those in the community who are strongly critical of institutional care of the kind that was traditionally provided at Julia Farr Services. I make absolutely no criticism of Julia Farr or any other of our institutional care providers in this State. For example, the IDSC provides accommodation services at Strathmont. These are vastly reduced services. Bedford Industries provides residential facilities at Balyana, and Minda, of course, provides services at its campus at Brighton. Between 1986 and 1988, the number of residential places (in very approximate terms) has fallen from about 1 885 to about 1 300.

Incidentally, I was criticised by the Hon. Sandra Kanck because I said that the number of residents of Julia Farr Services was 220. I made this statement in response to a question without notice. The honourable member informs me, and I accept from the latest figures, that it is about 251, although I must say in my defence that I took the figure of

220 from a letter dated December 1998 from the Chief Executive Officer of the organisation.

In conclusion, the Hon. Sandra Kanck after her 1 000 hours of investigation into the power assets of this State came up with the proposal that we do not seek to realise those assets for the purpose of retiring debt, thereby enabling additional funds to be released for services such as disability services. The honourable member really has no practical or positive solution to where we will get the money to provide additional funds for services such as Julia Farr. One might have greater sympathy for her claims if she was offering some alternative to the Government as to the manner in which these very important services can be funded into the future. I support the Bill.

**The Hon. T.G. ROBERTS:** I support the Bill and the provision of $600 million to the financing of the Government's targets. The Government has made major play of the fact that the sale of ETSA is critical to the healthy paying of debt and the overall health of the general budget. It is almost as if the Government has been in power for perhaps the first 18 months of its first term when, in fact, it has been in office now for more than five years.

The variations in the positions that have been put for the reasons for sale certainly do not give me and many other South Australians confidence that the reason for sale is a desperate one because of the unfortunate changed tactics by the Government in its quest to win over public sympathy. I think its advice in relation to what the public would accept seems to vary. At one point, we are told that the value of the sale of the asset will be paid off debt—and that is commendable. Then the position changed and a Christmas bag of goodies was to be paid to South Australians. A whole fist full of dollars was being offered for injection of funds into the public sector, into education and health, etc. One can therefore understand the public's being cynical about the reasons for selling the last of our major assets.

The Government, by way of Ministers' comments and interjections, has been critical of some contributions by members on this side of the House when they start to talk about better use of funds or an injection of funds in those socially acceptable ways in which Governments use funds to assist social justice budgets—as if the expenditure of the indicated amounts from members would be enough to break the Government. I know it is difficult for Governments to accept Oppositions which are critical of Governments being able to raise dollars in relation to either taxation revenue or the sale of assets and which then argue for more expenditure. We open ourselves up for criticism. But, I would argue that the fiscal balancing of the budget that the Government is doing at the moment without the sale of ETSA is enough for some modest expenditure increases in some areas that are critical to the State.

In these days of economic rationalisation and new federalism, small States such as South Australia and Tasmania will always struggle on the international and national playing fields compared with some of our richer cousins interstate. I have been speaking for a long time in this House about the movement of capital into the Eastern States where international capital certainly finds the markets more attractive. I have said that States such as South Australia would have to try a lot harder to attract funds from the Commonwealth to balance up the inequalities that are starting to exist in relation to heated parts of the economy in this nation, and that the Federal Government would have to be a little more sympathetic to equalisation of funding programs into States that cannot have the heated economies which exist in Queensland, New South Wales and Victoria, in particular.

Those Governments are not more efficient and they do not work any harder. However, their economies are much warmer than the South Australian economy and the Tasmanian economy, in particular, and, in some periods when commodity prices are low, the Western Australian economy struggles. It is therefore incumbent on this State Government to explain to its constituents that it is not the fault of South Australians that we struggle as we do for our State economy to run as efficiently as do some of our interstate counterparts.

If one analyses the efficiencies within the rural, manufacturing and mining sectors, one sees that they work as efficiently, as effectively and as hard, if not harder. Certainly, our dry land farmers and our isolated mining management and work assisted teams within the mining sector work harder than do some of our interstate counterparts.

Their economies have had the benefit of a large injection of funds via tourism. Certainly, Queensland has felt the impact of the Asian economic crisis and its tourism numbers have dropped. New South Wales, or the City of Sydney in particular, has had the fortunate benefit of the injection (depending on which economist you read, as it varies) of somewhere in the vicinity of $6 billion of funds for the Olympic Games—and that injection of funds will continue to grow. Also, South Australia has not had the benefit of anywhere near the number of major events that have occurred in Victoria.

We can look for assets to sell or we can cut our cloth to suit our needs and requirements. I believe that most South Australians accept that we must be frugal and that in competition with the other States we will not be able to cut it because of their natural advantages rather than our natural disadvantages. So, Governments then have to fill their constituents, or the people who live in the State, with some confidence. Although life is a bit of a struggle with respect to balancing the budget from time to time, you do not want to depress your citizens to the point where they all want to follow the sun and live in other parts of the nation.

That is exactly what the Government has done in its strategy of putting all its economic eggs into the sale of ETSA. The *Advertiser*, our single media reporting paper, has fallen into the trap of trying to get the Opposition, the Hon. Nick Xenophon and the Democrats to change their position in relation to the sale and, consequently, the media is entrapped in a process of depressing the citizens of this State by indicating almost daily that, if our major asset is not sold, the debt that we will have to labour under will be a burden forever and that new taxes will have to be raised to pay off this debt.

If you were starting to put together a PR package to try to attract either new migrants to this State or intrastate migration to at least balance some of the economic growth that is occurring in some of the Eastern States, certainly you would not be sending out those messages. You would be sending out the message that South Australia has an alternative way of framing its budget, that increased taxes are not a part of life and that, if ETSA is not sold, we will get on with entering the national market and making ETSA a profitable venture, a profitable organisation, with the Government getting behind it so that it is set up in a way that maximises the profits and returns to this State in a very difficult economic climate and a difficult operating climate in competition with the other States in selling electricity onto a national market. Unfortu-

nately, at the moment we do not have that economic climate operating. We do not have any PR people out there selling the State for its style and lifestyle. The best that I can see around the city of Adelaide are some numberplates stating, 'South Australia, what a great place to live and to work.' I see something a little different.

A number of people have pointed to the fact that South Australia is losing many of its skilled young people interstate. When the Government started to cut back the Public Service as ruggedly as it did four budgets ago, I predicted that a number of young people would move interstate to make sure that their financial independence and well being would be taken care of, not in Adelaide or South Australia but in Melbourne, Sydney or Queensland. Unfortunately, that is all starting to come true. Young South Australians are being educated in South Australia, attending secondary and tertiary institutions and moving through as fully trained, fully educated economic units, as business likes to see them—I like to see them as people. They are moving to other States to pursue their future. Unless the Government stops its fixation that, if ETSA is not sold we will all go off to hell in a handcart, South Australians will lose faith in the Government and the Opposition and in their ability to have a future in this State. I know that at this time of night the Legislative Council is not full of Ministers, or anybody listening too closely to what individual—

*The Hon. Ian Gilfillan interjecting:*

**The Hon. T.G. ROBERTS:** I know that the Hon. Mr Gilfillan is one of my fans, and the Hon. Carmel Zollo is another. I hope that the Government will take into account the message that I have just tried to put across in my introduction, Mr Acting President—and I am sure that you are listening.

There are a number of issues that I would like to raise in relation to the Supply Bill. One of them relates to a letter that I received from the Rural Doctors' Association of South Australia. Dr David Senior is the President of that association and Dr Catherine Pye is the Secretary. The letter states:

> Dear Mr Roberts,
>
> SA Mental Health Services.
>
> At a recent meeting of the Rural Doctors' Association of South Australia alarm was expressed by the meeting at:
>
> (a) the inadequate resourcing of community mental health services and
>
> (b) the proposed closure of Glenside Hospital in Adelaide.

The letter goes on to outline the reasons for concern. I know that the Hon. Caroline Schaefer, who has resided in the country all her adult life and as a child, knows the problems that exist in regional and rural areas in relation to mental health services and counselling. This letter outlines a lot of the problems associated with the cuts in the mental health service area and the fact that there are no projected increases in the foreseeable future. The problem is becoming greater with respect to the identification of young people, in particular, with early mental health identified problems, but there is also a lack of treatment and follow-up services. Most people in rural or regional areas, after identification of a particular problem, generally need to reside temporarily—or, in some cases, permanently—in the metropolitan area. That places a lot of pressure on their families, and their extended families, and it also places pressure on GPs and other doctors who, in many cases, are not trained to handle mental health services problems.

The Nurses Bill, which is on the Notice Paper at the moment, takes into account certificate nurses who may or may not supervise other nurses working alone. This may be all right in the metropolitan area (and I am not even sure whether that is the case) but, with respect to country areas, I have been made aware of a few recent cases in the South-East where not only nurses but also doctors have been placed under pressure by mental health services patients who have made threats and who have made life very difficult for people in regional and rural areas, where hospitals have to maintain services throughout the night and with a small number of staff.

There have been a number of cases where drug or alcohol affected patients or visitors have caused trouble in hospitals where the staff numbers are very low. It is not a problem that is picked up by the press as a major issue but, for servicing nurses and doctors in small rural hospitals and regional hospitals in isolated areas at night without immediate police protection to be confronted by drug or alcohol affected patients or visitors who turn violent, it is a situation that should be avoided. Police are generally available by telephone and are usually 15 to 25 minutes away.

One of the ways that can be avoided is to raise the levels of funding for drug and alcohol counselling and for mental health services and, in those regions where there has been a rationalisation of police numbers, to maintain police numbers. At this stage, it seems to most people that services for mental health treatment are diminishing. The ability to attract doctors into regional areas to maintain hospital services is also diminishing. Turning hospitals over to nursing homes is the increasing trend, and the number of police in regional areas is starting to drop back. The letter states:

> Rural general practitioners are often the first point of contact rural people have with the health system and frequently there is no one else within a small town to offer support to those with a mental illness. In recent years there has been a well-recognised increase in mental illness within Australian society. The youth suicide rate in rural South Australia remains tragically and extremely high.

When added to the problems that I raised earlier, that is, alcohol and drug abuse, a lot of cases lead to temporary mental instability. We have a growth problem but we have diminishing services to deal with it. I have no faith in the budgets that I am seeing and the contributions that have been made by Ministers in relation to their own portfolios that these problems are going to get any better in rural areas.

A report has just been released that was a 24 hour wonder. It was a snapshot of rural Australia, and it showed that rural Australians were seen as being disadvantaged. Human rights organisations advocated in the report that Governments look at service provision for regional Australians but, as I said, it was a 24 hour wonder. The *Australian* ran a few stories, and some regional and rural papers picked up the issue but, in the main, the report was tabled and I have not seen any recommendations from State or Federal Governments about extra commitments to deal with the problems that are emerging.

For people who live in rural areas, security of employment and the ability to hold together a family network are part of the pressures that are constantly knocking on the door of rural and regional people. The letter from the Rural Doctors Association of South Australia goes on say:

> The RDASA believes that a major political effort is required to redress this tragic statistic. There are not enough rural general practitioners or psychiatrists to provide the medical care to manage this increase in mental illness. Allied services are required to assist the management and follow up of an acute nervous breakdown or suicide attempt. Patients suffering chronic depressive or psychotic illness within the community require mental health case managers, support workers, occupational therapy programs, assisted employment and accommodation.

I pay a tribute to people who work in these areas of service in regional areas, and I also pay tribute to people who work in community welfare programs and the volunteers who assist in those programs in rural areas. They generally go unnoticed and unheralded. The letter continues:

In rural areas the only acute crisis mental health services that exist are GPs and country hospitals. Country hospitals currently are not funded to manage severely ill psychiatric patients. Consequently such patients are usually formally detained and transferred to closed beds in Adelaide. Community mental health services are hugely under resourced and completely incapable of meeting the demand. Most GPs have long since given up trying to obtain assistance for minor psychiatric problems and reserve their efforts for only the most severe cases. There is very limited supported employment in the country and virtually no supported accommodation for such patients in rural areas.

Although significant improvements were promised by the South Australian Government (through the South Australian Health Commission) in 1993, community mental health services remain grossly inadequate. The recommended mental health staff allocation for rural areas has not been achieved. The introduction of tele-psychiatry and the rural and remote triage 24 hour emergency lines have been welcome additions to the GP's set of tools over the last few years, but these resources are now overloaded. There is now a critical need for increased mental health nurses, social workers, psychiatric trained nursing staff and resident psychiatrists in rural centres. RDASA believes that a major injection of resources is required just to sustain South Australia's rural mental health services, let alone to improve the situation to a level where all those requiring assistance can access the help that they need.

The letter then goes on to outline the proposed closure of Glenside Hospital. I am sure that, if metropolitan based members were aware of the circumstances under which support service workers operate in rural areas, they would offer some sort of assistance. However, the fact is that people in regional areas are out of sight, out of mind. Unless local members raise these issues with the Government, I am sure that they are not debated in the Party room.

One other issue that I will raise quickly relates to a letter from the RAA entitled, 'Motorists tire of plugging State budget shortfalls'. The letter reads:

The State Government's performance has been called into question by RAA when it comes to road funding and revenue measures targeted at motorists. Costs associated with motoring are a significant expense item for the electorate. Those in the lowest 20 per cent of income earners spend around $73 per week owning and running their car or 22 per cent of their household expenditure. Middle income earners spend around $167 per week, or 24 per cent of their weekly household expenditure.

The State Government's reliance on motorists to plug budgetary shortfalls cannot continue. Yet it is increasingly difficult to hold Government accountable for transport taxes and expenditure with the move to accrual accounting, changes to budget formulation and the rationalisation of a number of portfolios into 'mega' departments.

The RAA's letter goes on with headings such as 'Lack of transparency and consistency' and 'State motorist receipts' and reads:

1997-98 saw an increase in registration and licence fee collections over 1996-97 of $12.2 million. This included a 122 per cent hike in administration fees for vehicle registration. However, this was more than offset by the decline in business fuel franchise fees. The net result was a reduction in State revenue allocated to roads of $9.2 million.

I sat on the rural road safety committee which took a brief from the Environment, Resources and Development Committee and one of the consistent pieces of information that we picked up through witnesses was the deteriorating state of some of our highways and roads in regional areas that were contributing to many of the accidents that were occurring.

The road funding situation as outlined by the RAA needs to be a major consideration taken into account by this Government. It is one of those issues that I would urge the State Government to take up with the Commonwealth Government. As I said earlier, I understand that State Governments are cash strapped. We do not continually have to raise the lack of sale of our major assets as a reason for not allocating funding to things and we do not have to use it as a central focus for raising new taxes. If we continue to do so we will finish up in a situation where our citizens have no faith in the State to be able to improve or maintain their standard of living and no faith in Governments to be able to increase funding programs that really count in relation to the stresses on their lives. As I said, if it continues there will be an exodus of young people into the other States where the economies are much warmer than ours, and if we cannot convince Federal Governments that there needs to be an equalisation of grants to kick start some of the smaller States then unfortunately the exodus will continue.

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

## CITIZENS' RIGHT OF REPLY

Adjourned debate on motion of Hon. K.T. Griffin:

That during the present session the Council make available to any person who believes that he or she has been adversely referred to during proceedings of the Legislative Council the following procedure for seeking to have a response incorporated into *Hansard*—

I. Any person who has been referred to in the Legislative Council by name, or in another way so as to be readily identified, may make a submission in writing to the President—

(a) claiming that he or she has been adversely affected in reputation or in respect of dealings or associations with others, or injured in profession, occupation or trade or in the holding of an office, or in respect of any financial credit or other status or that his or her privacy has been unreasonably invaded, and

(b) requesting that his or her response be incorporated into *Hansard*.

II. The President shall consider the submission as soon as practicable.

III. The President shall give notice of the submission to the member who referred in the Council to the person who has made the submission.

IV. In considering the submission, the President—

(a) may confer with the person who made the submission,

(b) may confer with any member,

but

(c) may not take any evidence,

(d) may not judge the truth of any statement made in the Council or the submission.

V. If the President is of the opinion that—

(a) the submission is trivial, frivolous, vexatious or offensive in character, or

(b) the submission is not made in good faith, or

(c) there is some other good reason not to grant the request to incorporate a response into Hansard,

the President shall refuse the request and inform the person who made it of that decision. The President shall not be obliged to inform any person or the Council of the reasons for that decision.

VI. Unless the President refuses the request on one or more of the grounds set out in paragraph V of this resolution, the President shall report to the Council that in the opinion of the President the response in terms agreed between the President and the person making the request should be incorporated into *Hansard* and the response shall thereupon be incorporated into *Hansard*.

VII. A response—

(a) must be succinct and strictly relevant to the question in issue,

(b) must not contain anything offensive in character,

(c) must not contain any matter the publication of which would have the effect of—

(i) unreasonably adversely affecting or injuring a person, or unreasonably invading a person's privacy in the manner referred to in paragraph I of this resolution, or
(ii) unreasonably aggravating any adverse effect, injury or invasion of privacy suffered by any person, or
(iii) unreasonably aggravating any situation or circumstance,

and

(d) must not contain any matter the publication of which might prejudice—
(i) the investigation of any alleged criminal offence,
(ii) the fair trial of any current or pending criminal proceedings, or
(iii) any civil proceedings in any court or tribunal.

VIII. In this resolution 'person' includes a corporation of any type and an unincorporated association.

(Continued from 11 March. Page 919.)

**The Hon. M.J. ELLIOTT:** I rise to support the motion. On previous occasions the Democrats have expressed support for the notion of the ability to allow members of the public to respond when they feel that perhaps they have been wrongly represented or whatever within the Parliament. The first occasion I became involved in such an issue that I am aware of—and it was a significant issue—was in relation to the Christies Beach Women's Shelter. There are some members of this place who were in the Parliament at that time and who will remember that allegations were made in this place that were subsequently repeated outside. I think it was on the front page of the newspaper and on television and so on and made some very serious allegations about individuals.

I recall at the time being approached by some people about whom such allegations had been made and they protested most strongly their innocence. There really was no forum available to them to respond to the allegations. They found it incredibly difficult at the time to put their side of the story through the media.

As it turned out, ultimately a select committee was established and I think it is fair to say that when the committee got to the end of its proceedings its members believed that the allegations that had been made were very difficult to substantiate, and yet, as I said, those allegations had been made in the Parliament. I think it is a very small step for this Parliament to at least give a right of reply to people. I note that protections are offered to Parliament itself as well in so far as that right of reply should not be frivolous, vexatious and so on, and it seems to me that the procedure the Attorney-General is proposing in his motion seems to be fair and reasonable.

I note that within that process notice will be given to the member who made the original allegation. I am not sure what the intent of that is. It might be something worth exploring a little further because I would hate to think that in notifying that person that in some way that person is put in the position of trying to persuade the President that it is not a good idea that that right of reply is offered—although that is not the intention of the motion.

It appears to me that the right of reply is something that is not really negotiated in any sense other than that the President satisfying himself or herself that it is not vexatious or frivolous—and there are a set of rules there—and that it would be reasonable to notify a member before the actual response is tabled. However, the way I read the motion it appears to me that very early in the process the member is being notified, and it then appears to me to be giving a right to place pressure on the President not to publish. I think that that should be a consideration of the President alone, particularly since this right of reply is quite limiting in terms of what can be included in it.

I suppose it is fair to say with all the best intention in the world that from time to time any member of this place may wrongly represent somebody or at the very least the person about whom the accusation has been made feels that they have another side that deserves to be put. There is already a similar process in the Standing Orders of the Senate, and my advice, when I first looked at this issue a couple of years back, was that although it had been in place it was not being exercised. I think that that would be a fair indication that we will not be flooded with people demanding this right. But so far as individuals from time to time want it, I think it is reasonable that they should have it. With those few short remarks, I support the motion.

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

## SOIL CONSERVATION AND LAND CARE (APPEALS TRIBUNAL) AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

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

Leave granted.

Current provisions for the handling of appeals under the *Soil Conservation and Land Care Act 1989* have not proven to be sufficiently flexible to allow for the ongoing operation of the Tribunal in certain circumstances.

This Bill proposes amendments that will ensure the timely and effective convening of the Tribunal and minimise the risk of potential conflicts of interest.

The Tribunal is currently comprised of three members, of whom two are appointed by the Governor and the other being a District Court Judge. Should one of the appointed members not be available for service, then the Tribunal cannot be convened. A recent example was the disqualification of the PIRSA member of the Tribunal through a perceived conflict of interest. Without this member the Tribunal could not convene and the appeal cannot be heard.

It is therefore proposed to establish two panels of lay members, one panel made up of persons with practical experience in land management, and the other of persons with formal scientific training. Panel members who are available at the relevant time will be selected by the Judge to sit on the Tribunal for a particular appeal. To deal with deadlocks caused by the non-availability of a lay member once a Tribunal has commenced to hear an appeal, the Bill provides that the Tribunal may continue with the Judge and the remaining lay member, providing that the Judge so allows.

Other provisions deal with the issue of conflict of interest and allow persons to be appointed to panels despite being past or present Public Service employees engaged in the administration of the Act, or past or present members of certain bodies.

It is also proposed that the Presiding Member, who is a Judge, be able to determine certain procedural matters while sitting alone. This is currently not provided for.

A transitional provision will allow the current appeal before the Tribunal to proceed once the Bill is assented to.

I commend the Bill to honourable members.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

This clause provides that the Act will come into operation on assent except for sections 3 and 4, which will be brought into operation by proclamation.

*Clause 3: Amendment of s. 47—Constitution of the Tribunal*

This clause provides for the Soil Conservation Appeal Tribunal to be constituted of a District Court Judge (as at present) and two other

members selected by the Judge (the presiding member), from each of the two panels to be established by the Minister. One panel will be comprised of persons with appropriate tertiary qualifications and the other of persons with extensive practical experience in soil conservation or land management. As far as it is practicable to do so, there is to be a reasonable representation of both men and women on the panels. Public Service employees (past or present) engaged in the administration of this Act are not debarred from being appointed to a panel, nor are past or present members of the Soil Conservation Council or of a soil conservation board. A panel member is disqualified from sitting on the Tribunal for a particular appeal if he or she has a direct or indirect interest (personal or pecuniary) in the matter. If the presiding Judge allows, an appeal may be completed by the Judge and one member if the other member dies or is for any other reason (e.g., illness or disqualification) unable to continue. The presiding Judge is empowered to deal with certain non-substantive matters (e.g., adjournments) while sitting alone.

*Clause 4: Amendment of s. 48—Determination of questions*

This clause is a consequential amendment.

*Clause 5: Transitional provision*

This transitional provision enables the current Tribunal to complete any part-heard appeal with only two members, if the Judge so allows.

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

## BARLEY MARKETING (MISCELLANEOUS) AMENDMENT BILL

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

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

*That this Bill be now read a second time.*

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

Leave granted.

The Victorian and South Australian Governments commissioned, in 1997, independent consultants to conduct a public benefits test of the Barley Marketing Acts of South Australia and Victoria under National Competition Policy (NCP) principles.

The consultants recommended that the domestic markets for feed and malting barley in South Australia and Victoria be formally deregulated, and that the Australian Barley Board (ABB) retain its single desk for export barley sales for the shortest practicable transition period. They also recommended that all markets for South Australian oats be deregulated.

Since the release of the NCP review report in December 1997, the Government has consulted extensively with the Victorian Government and the grains industry on the outcome of the review and the marketing arrangements which will best serve all South Australian and Victorian barley growers in the future.

In a joint government response to the review, two key objectives were specified as being needed in future marketing arrangements.

The first objective was to achieve a fully commercial approach to marketing through the early establishment of a grower-owned commercial entity to take over the marketing responsibilities of the ABB.

The second objective was to protect the current value of the ABB by providing an appropriate period of transition to a fully deregulated market. The ABB is a valuable entity which has an enviable reputation and goodwill, and holds substantial grower assets.

The two Governments determined that a grower-owned commercial company to succeed the ABB would be established by a committee, with representatives from the South Australian Farmers Federation, the Victorian Farmers Federation, the ABB, the South Australian Department of Primary Industries and Resources, and the Victorian Department of Natural Resources and Environment.

The restructure committee is to be highly commended for its excellent work in developing and gaining grower support for the structure of the companies and in meeting the tight deadlines set by the two Governments.

Two grower-owned companies have now been established to succeed the ABB: ABB Grain Ltd, which will receive the non-barley assets and liabilities of the ABB; and ABB Grain Export Ltd, which will receive the existing stocks of pooled barley and be granted the statutory marketing powers.

- ABB Grain Ltd will be an incorporated company based on the dual share class model.
- A class shareholders will be current growers who will elect the majority of the board of the company.
- The capital value of the company will be represented by B class shares which will be distributed to persons according to their contribution to the general reserves of the former ABB.
- ABB Grain Export Ltd will be wholly owned by ABB Grain Ltd and will be required by its constitution to maximise export returns to growers.

The two company structure is intended to ensure transparency between the export and domestic markets through:

- ABB Grain Export Ltd, with statutory marketing powers, operating the export pools;
- ABB Grain Ltd conducting domestic trading and other functions;
- trading rules for both companies will ensure that all grain sales and grain swaps are transparent and auditable.

With the domestic market for both feed and malting barley deregulated, all parties concerned will have an opportunity to observe market conduct and performance by the new grower-owned companies and by other market participants in these changed marketing arrangements. These observations, along with consultation with the Victorian Government, with growers and with barley markets, will help shape future decisions regarding the status of the 'single export desk' for barley in South Australia. Single desk powers are likely to continue in this State until it can be clearly demonstrated that it is not in the interests of the South Australian community to continue the arrangement.

The Minister for Primary Industries and Resources will consult with the Victorian Minister for Agriculture and Resources regarding any changes in the future to the barley marketing arrangements. The Ministers will also consult on the appropriateness of continuing any statutory marketing arrangements in the event of a merger, joint venture, acquisition or substantial corporate restructuring involving one or both of the successor companies and one or more other commercial entities prior to 30 June 2001.

Deregulation of the domestic feed barley market in South Australia was accomplished prior to the 1998 harvest. The *Barley Marketing (Deregulation of Feedstock Barley) Amendment Bill 1998* was passed in July 1998 and came into operation on 15 October 1998.

I now turn to the main provisions in the Bill now being introduced.

The Bill amends the *Barley Marketing Act 1993* to:

- deregulate the domestic malting barley market;
- deregulate all oat markets;
- transfer the assets, liabilities and staff of the ABB to the grower-owned successor companies;
- confer on ABB Grain Export Ltd marketing arrangements similar to those currently held by the ABB; and
- dissolve the ABB and the Barley Marketing Consultative Committee.

Once the law is in force, the domestic market for barley sold for malting and other processing purposes in Australia and all markets for oats will be deregulated.

The Bill confers on ABB Grain Export Ltd the single export desk marketing arrangements until 30 June 2001 through minor amendments to the existing restrictions on the sale, delivery, transport and purchase of barley harvested in South Australia.

To assure minor niche markets overseas are served, trading and transport of barley in bags and containers of capacity of up to 50 tonnes will be exempted from the marketing restrictions. The exemption for bags and containers is subject to any other requirements that may be prescribed in regulations from time to time in relation to the quality, quantity and description of barley packed in that manner.

The export of barley by ABB Grain Export Ltd and anything done by the company under the Act in connection with barley exports are specifically authorised for the purposes of section 51(1) of the Trade Practices Act 1974 of the Commonwealth and the Competition Code to ensure that the legislated activities of ABB Grain Export Ltd do not breach Part IV of the Trade Practices Act.

The Bill inserts a new Part 11 in the Act to transfer the business of the ABB to the successor companies and facilitate the transfer of shares to eligible growers.

Provision is made that the property, rights and liabilities of the ABB are transferred to ABB Grain Ltd and ABB Grain Export Ltd on a date to be proclaimed or, if the date is not proclaimed, on 30 June 1999.

The Bill provides that, immediately before the date on which the property of the ABB is transferred, A and B class shares in ABB Grain Ltd will be issued to the ABB in consideration for the transfer to ABB Grain Ltd of the board's property. The numbers of shares will be equal to the total number of shares to which growers are entitled in accordance with an arrangement determined by the South Australian and Victorian Ministers and published in the Government Gazette. The A and B class shares will then be vested in eligible growers and these growers will become shareholders of ABB Grain Ltd. Following the distribution of shares, the ABB will be dissolved.

The Bill provides for the repeal of various parts of the Act dealing with the establishment or operation of the ABB which are no longer required after the ABB is dissolved.

The Bill makes the two companies the successors in law of the ABB through a number of provisions relating to agreements and legal proceedings.

The Bill provides that no stamp duty is chargeable in respect of any act or transaction that needs to be carried out by reason of the Act.

Provision is made for the transfer of employees of the ABB to ABB Grain Ltd on the basis that the employees' rights and entitlements are preserved and that they are not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the ABB.

The Bill provides that ABB Grain Ltd must provide to the Minister and the Victorian Minister a copy of its annual report under the Corporations Law together with such additional information about the operations of the company or ABB Grain Export Ltd as the Ministers require.

Explanation of Clauses

*General comments*

The general purpose of the Bill is to deregulate the market for oats and the domestic market for malting barley and to dissolve the Australian Barley Board (the Board). The Board's assets and liabilities will be transferred to ABB Grain Ltd (a company registered under the Corporations Law) the shares of which will be issued to the Board which will then transfer those shares to persons in accordance with an arrangement determined by the South Australian and Victorian Ministers. It is proposed that ABB Grain Export Ltd (a subsidiary of ABB Grain Ltd) will assume the function of exporting barley.

*Clause 1: Short title*

*Clause 2: Commencement*

These clauses are formal.

*Clause 3: Amendment of s. 3—Definitions*

Amendments are proposed that are consequential on the general purpose of the Bill. For example, definitions of ABB Grain Ltd and ABB Grain Export Ltd are inserted and definitions made obsolete by the amendments to the principal Act are deleted. All references to "oats" are deleted.

*Clause 4: Substitution of ss. 4 and 5*

Current section 4 is no longer required as the principal Act (as amended) only deals with the marketing of barley.

New section 5 extends the application of Part 4 of the principal Act to barley harvested in each of the seasons until the end of the season commencing 1 July 2000.

*Clause 5: Repeal of Parts 2 and 3*

Part 2 provides for the establishment and constitution of the Board. Part 3 sets out the objectives, functions and powers of the Board. This clause provides for the repeal of these Parts.

*Clause 6: Amendment of s. 33—Delivery of barley*

Section 33 provides for the current marketing scheme for barley and oats. Currently, subsection (1) provides that a person must not sell or deliver barley or oats to a person other than the Board and subsection (2) provides that a person must not transport barley or oats sold or delivered in contravention of subsection (1) or bought in contravention of subsection (4).

The marketing scheme for oats is to be completely deregulated and, as a consequence, it is proposed to delete all references to "oats" occurring in the section.

References to "the Board" are substituted by references to "ABB Grain Export Ltd" and the other amendments proposed achieve the deregulation of the domestic market for barley.

Subsection (6) containing the penalty provision is amended to remove the differences in penalties between natural persons and bodies corporate and to increase substantially the penalties for a contravention of this section (to $500 000 for a first offence and $1 000 000 for a subsequent offence).

*Clause 7: Insertion of new section*

*33A. Authorisation*

New section 33A provides that, for the purposes of Part IV of the *Trade Practices Act 1974* of the Commonwealth and the Competition Code, the following are specifically authorised:

- the export of barley by ABB Grain Export Ltd;
- anything done by ABB Grain Export Ltd in connection with the export of barley.

*Clause 8: Substitution of s. 34*

*34. Property in barley passes to ABB Grain Export Ltd on delivery*

New section 34 provides that on delivery of barley to ABB Grain Export Ltd, unless it is otherwise agreed or the barley does not meet the standards determined by ABB Grain Export Ltd—

- property in the barley immediately passes to ABB Grain Export Ltd; and
- the owner of the barley is to be taken to have sold it to ABB Grain Export Ltd at the price for the time applicable.

This amendment is consequential on the amendments proposed to section 33.

*Clause 9: Amendment of s. 35—Authorised receivers*

These amendments are consequential on the amendments proposed to section 33.

*Clause 10: Amendment of s. 36—Declaration of season of barley delivered to ABB Grain Export Ltd*

As well as making amendments that are consequential on the amendments proposed to section 33, the opportunity has been taken to increase the maximum penalty for breach of this section to $10 000.

*Clause 11: Amendment of s. 37—ABB Grain Export Ltd to market barley*

These amendments are consequential on the amendments proposed to section 33.

*Clause 12: Repeal of ss. 38 and 39*

The repeal of these sections is consequential on the amendments proposed to section 33.

*Clause 13: Amendment of s. 41—No claim against ABB Grain Export Ltd in respect of rights in barley*

These amendments are consequential on the amendments proposed to section 33.

*Clause 14: Repeal of Parts 5 to 9*

*Clause 15: Repeal of ss. 69 to 73*

Parts 5 to 9 (inclusive) and sections 69 to 73 (inclusive) of the principal Act are otiose as a consequence of the amendments proposed to section 33. Hence they are to be repealed.

*Clause 16: Amendment of s. 74—Regulations*

The amendment to the penalty provision of the regulation making power is to match current drafting styles and to increase substantially the penalty for a breach of a regulation (to a maximum penalty of $10 000).

*Clause 17: Substitution of Part 11*

It is proposed to repeal Part 11 of the principal Act (containing transitional provisions which are now exhausted) and substitute a new Part 11 to provide for the issue, and vesting of, shares in ABB Grain Ltd and for the transfer of property from the Board to the company.

*PART 11: TRANSFER OF PROPERTY*

*75. Transfer of property and dissolution of Board*

On the relevant date (*see s. 3*)—

- the property and rights of the Board, other than property and rights in pooled grain (*see s. 3*) or shares in ABB Grain Ltd, vest in ABB Grain Ltd;
- the liabilities of the Board (other than liabilities in respect of pooled grain) become liabilities of ABB Grain Ltd;
- the property and rights of the Board in pooled grain or which relate to pooled grain vest in ABB Grain Export Ltd;
- the liabilities of the Board in respect of pooled grain become liabilities of ABB Grain Export Ltd.

On the day after the relevant date, the Board is dissolved.

*76. Issue and vesting of shares*

Before the relevant date, in consideration for the transfer of property of the Board under new section 75, a number of A and B class shares in ABB Grain Ltd are to be issued to the Board.

The number of A and B class shares is to be decided in accordance with an arrangement determined by the Minister and the Victorian Minister and published in the *Gazette*.

On the day after the relevant date—

- a number of A class shares in ABB Grain Ltd are vested in the persons who are to have such shares vested in them in accordance with the arrangement determined by the Ministers, with each person receiving one share;
- a number of B class shares in ABB Grain Ltd are vested in the persons who are to have such shares vested in them in accordance with the arrangement determined by the Ministers, with each person receiving the number of shares determined in accordance with that arrangement.

Each person in whom a share is vested becomes a member of ABB Grain Ltd and will, for the purposes of the Corporations Law, be taken to have consented to be a member. This new section has effect despite anything in the *Corporations (South Australia) Act 1990*.

*77. Substitution of party to agreement*

If rights and liabilities of the Board under an agreement vest in or become liabilities of ABB Grain Ltd or ABB Grain Export Ltd—

- ABB Grain Ltd or ABB Grain Export Ltd (as the case requires) becomes, on the relevant date, a party to the agreement in place of the Board; and
- on and after the relevant date, the agreement has effect as if ABB Grain Ltd or ABB Grain Export Ltd (as the case requires) had always been a party to the agreement.

*78. Board instruments*

Each Board instrument relating to transferred property continues to have effect according to its tenor on and after the relevant date as if a reference in the instrument to the Board were a reference to ABB Grain Ltd or ABB Grain Export Ltd, as the case requires.

*79. Proceedings*

If immediately before the relevant date proceedings relating to transferred property to which the Board was a party were pending or existing in any court or tribunal, then, on and after the relevant date, ABB Grain Ltd or ABB Grain Export Ltd (as the case requires) is substituted for the Board as a party to the proceedings.

*80. Stamp duty*

No stamp duty is chargeable in respect of anything done under this new Part or in respect of any act or transaction connected with or necessary to be done by reason of this new Part.

*81. Staff*

A person who immediately before the relevant date was an employee of the Board—

- becomes, on the relevant date, an employee of ABB Grain Ltd with the same rights and entitlements as he or she had immediately before that date; and
- is not entitled to receive any payment or other benefit by reason only of having ceased to be an employee of the Board.

*82. Operation of this Part does not place a person in breach of contract, etc.*

To avoid doubt, the operation of this new Part is not to be regarded as—

- placing a person in breach of contract or confidence; or
- otherwise making a person guilty of a civil wrong.

*83. Annual reports*

ABB Grain Ltd must give to the Minister and the Victorian Minister a copy of its annual report under the Corporations Law together with such information about the operations of ABB Grain Ltd or ABB Grain Export Ltd under the Act or the Victorian Act as the Minister and the Victorian Minister require.

*Clause 18: Repeal of Schedule*

The Schedule of the principal Act is otiose as a consequence of the striking out of the definition of grain from section 3 and the repeal of section 4.

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

## STATUTES AMENDMENT (COMMUTATION FOR SUPERANNUATION SURCHARGE) BILL

Returned from the House of Assembly without amendment.

## LOCAL GOVERNMENT BILL

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

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** I move:

*That this Bill be now read a second time.*

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

Leave granted.

The reform program

The Local Government Act Review is a key element of the Government's Local Government Reform Program, complementary to the initiatives undertaken for boundary reform. As honourable members will be aware, the amalgamation of many councils in South Australia has resulted in achievement of considerable efficiencies and wide ranging benefits to local communities.

As we move into the next century, the capacity and responsiveness of Local Government will be crucial to retaining and enhancing South Australia as a preferred location in which to live and work.

The vision

The Government believes that in order for South Australia to compete in a global economy it needs the advantages of carefully controlled taxation and regulatory regimes, a sound and diverse regional economy, an efficient, effective and accountable public sector, and encouragement for individual and community enterprise.

Our vision for this State includes a stronger, more efficient Local Government sector which is able to play a key complementary role with the State in economic development and which is ready to meet the challenges of the twenty first century. To enable this challenging role to be played in the variety of ways needed in SA's diverse local communities, the new legislation must encourage an economically and socially effective system of Local Government. This system should provide a focus for personal involvement in community life, meet complex community demands for securing a better and wider range of local services and infrastructure, participate effectively in strategies for the regional economic development of the State, interact productively with other spheres of Government, and link local communities with broader resources.

Local Government has itself taken a leading role in the development of these Bills, with the dedication of significant time, energy and other resources to information sessions, workshops, and detailed discussions. The Local Government sector as a whole, through its peak representative body the Local Government Association, has welcomed the moves to rewrite the Act and has contributed very substantially to the present form of the Bills. The Government acknowledges and records that this Bill is the better for their input.

The legislative strategy

At present the Local Government legislative framework consists of some 40 Acts of Parliament, including the *Local Government Act 1934*. Some are common to all public sector agencies or officers, while others are more specific and relate to particular regulatory activities. It is therefore difficult to readily find the laws they need to know about.

The Local Government Act itself sets out the framework within which councils operate. During the past 60 years there have been many changes and additions to the Act, resulting in a complex and sometimes confusing legislative framework. Although large Parts have been reviewed and rewritten, there has been no single comprehensive revision of the Act until now.

One of the objectives for the review of the Local Government Act is that remaining Local Government Act provisions concerning regulatory regimes in which both State and Local Government have a role should, if the provisions are still required, be located in the specific legislation which deals with that function. The necessary relocations or transfers will rationalise the legislation without necessarily changing the scope of Local Government responsibilities. Some of these transfers are made in this legislative package and in the *Statutes Repeal and Amendment (Local Government) Bill 1999*, while some provisions will need to be retained in the *Local Government Act 1934* until such time as they can be addressed in impending reviews of their proposed host legislation.

This rationalisation process means that the new Local Government legislation focuses more clearly on the processes which characterise the system of Local Government.

While a core aim of the Review has been to make the new Local Government legislation easy to read and understand, inevitably there

remains some residual complexity in Acts which set out a framework for a whole system of government. In order to ensure that the new framework is as accessible as possible the Office of Local Government will work with the Local Government Association to produce implementation materials with guides, model codes and handbooks to assist the various people and groups who use the legislation to become familiar and comfortable with it.

The design of the new legislation assumes that changes will occur in the roles of State and Local Government in relation to particular functions; in structures of Local Government and forms of community participation; and in corporate organisation for local service provision. While it seeks to provide that level of certainty which is essential to good governance, the new legislation is designed to be flexible enough to accommodate change without a wholesale re-writing of the Act.

The legislation package

The package of Bills before Parliament will consist of—

- new constitutional, corporate, operational, taxation, law-making, and management procedures for the Local Government system, including the management of Local Government lands, in the *Local Government Bill 1999*;
- revised and clarified provisions for Local Government elections in the *Local Government (Elections) Bill 1999*;
- provision for the staged repeal of the *Local Government Act 1934* and the relocation of regulatory functions shared by both State and Local Government to other existing specific State legislation, in the *Statutes Repeal and Amendment (Local Government) Bill 1999*.

The aim of the package as a whole is to:

- recognise the fundamental importance of Local Government to the communities of South Australia;
- provide a modern operational framework for Local Government;
- assist in clarifying the roles of State and Local Government; and
- simplify and provide a more cohesive approach to regulatory functions.

The development of the legislation has been informed by many considerations, among them the broader international, national and state context in which we find ourselves and also, importantly, what the South Australian community, including Local Government itself, expects of Local Government and its legislation.

Consulting the community

In 1996, shortly after the Government decided to accelerate its Local Government reform program, an invitation was extended to councils, stakeholders and the public to identify issues which should be addressed in the review of the Local Government Act. Responses to this invitation were received and analysed, previous research and relevant enquiries and reports were reviewed and some specific studies were commissioned. In addition, systems in other States and countries were considered. From all this material Consultation Draft Bills and discussion papers setting out proposals for new Local Government legislation were prepared and released in April 1998.

For three months opportunities were provided for people to share information, debate key issues and make submissions on the Drafts. Many of the consultations, especially those with councils, were conducted in close liaison with the Local Government Association, and other key peak bodies also took part. The outcome of the discussions, the submissions and other material have been assessed and considered carefully in arriving at the Bills now brought to Parliament. Indeed discussions have continued throughout the period of preparation of the Bills to ensure that as far as possible the provisions brought to Parliament are agreed.

Competition principles

The Competition Principles Agreement was signed by all States and Territories and the Commonwealth Government in 1995. The Agreement requires the State to review all legislation for actual or potential restriction of competition and to remove provisions which may restrict competition in the market place unless—

- they are necessary to achieve the objectives of the legislation; and
- the community benefits outweigh the costs.

A component of the Local Government Act Review has therefore been the review of proposals contained in the Bills to ensure that the only restrictions on competition retained are necessary in the public interest, and that any regulatory powers contained in the Bills include processes to consider the effect any exercise of them may have on competition.

Areas identified as having a potential to restrict competition which have been included in the Local Government Bill after careful assessment of their costs and benefits to the community are—

- approval requirements for some uses of public land
- professional qualifications for valuers and auditors; and
- capacity for councils to give rate rebates to encourage business.

Processes for the adoption of by-laws in future will have to include examination of proposals for competition implications.

In each of these cases the Government is confident that the benefits to the community of engaging in the measures proposed outweigh the costs of the potential restriction on competition.

In addition, some matters proposed for transfer to other legislation are to receive further consideration in relation to their new host legislation, for competition policy implications as well as other matters. It is intended as a temporary measure that these will be held in a remnant *Local Government Act 1934*. They are—

- Provisions concerning lodging-houses;
- Provisions concerning cemeteries;
- Provisions concerning passenger transport regulation;
- Provisions concerning traffic management and parking control;
- Provisions concerning sale yards and bazaars.

The Local Government Bill 1999

The Local Government Bill embodies a new legal framework for the constitution and operation of the system of Local Government in South Australia.

The Bill contains fourteen chapters, covering the system and constitution of Local Government, powers of councils, the roles of elected members and chief executive officers, arrangements for council meetings, administrative and financial accountability requirements, finance, rates and charges, the care of community land, the making of by-laws, review of Local Government operations and decisions and miscellaneous matters.

Chapter 1—Preliminary

Chapter 1 sets out the objects of the new Local Government Act, and contains provisions relating to its interpretation including definitions of terms. The main changes from the current Act are the inclusion of objects for the Act and some new definitions.

Chapter 2—The system of Local Government

Chapter 2 sets out the scope of the Local Government system in South Australia. The chapter brings together and expands descriptions of councils' roles and general functions which are scattered throughout the current Act. Its aim is to provide necessarily broad but nonetheless clear statements about what part councils can be expected to play in community life and the functions they can be expected to perform.

The main changes from the current Act are:

- New provisions setting out the principal roles of a council based on statements of Local Government roles in s5A and s35 of the current Act.
- New provisions reflecting the function of councils in strategic planning at the local and regional level, in support for business and economic development; and in local environmental management and protection.
- The inclusion of common objectives for councils, including reference to councils' role in coordination and cooperation in a regional, State and national context.

Chapter 3—Constitution of councils

The Chapter covers the processes for making changes—

- to a council's 'external' structure, such as the creation, abolition, amalgamation, or change to the boundaries of, a council—these are defined under the Bill as 'structural reform proposals',
- to a council's 'internal' composition and representative structure, such as the number and type of members, ward structure, and ward boundaries,
- to other constitutional features, such as changes to a council's name.

An independent, representative body is retained with the functions of investigating and making recommendations on proposals for structural change put forward jointly by all affected councils or, in certain circumstances, developing proposals for boundary change or changes to the composition or representative structure of a council based on submissions from electors.

The main changes from the current Act are:

- a requirement for councils to review all aspects of their 'internal' representative structure at least once every six years, instead of seven, and to explain their reasons for not proceeding with proposals arising out of public consultation

- capacity for the Electoral Commissioner to require a council to conduct an earlier review if the number of electors represented by a councillor varies from the ward quota by more than 20 per cent
- capacity for electors to make submissions to the Panel that a proposal should be developed to bring an unincorporated area of the State within a council area, to alter council boundaries, or to alter the composition or representative structure of a council, provided they first make the submission to the council concerned to give it an opportunity to consider the matter and to initiate the necessary review or formulate the necessary proposal on behalf of the electors
- revised principles against which proposals are to be assessed, which should assist the Panel to balance the various council and community interests involved by recommending boundaries which give councils and local communities the best capacity to play a significant role in the future of an area or region in strategic terms.

Chapter 4—The Council as a Body Corporate

Chapter 4 brings together the features of councils which enable them to operate as Local Government corporations. Its aim is to confer on councils the powers, capacity and tools to perform council functions in a framework of strategic and prudent management with clear accountabilities.

Councils will continue to have broad powers to act for the benefit of their areas, including undertaking commercial activity, and can act outside the area to the extent necessary to perform their functions within the boundaries.

It is intended that committees will be able to be used with greater flexibility and clearer accountability requirements than in the past, with members drawn from non-council members as well as councillors. It is anticipated that most of the existing section 199 controlling authorities will continue as council committees under these reshaped provisions.

In other changes directed at the twin aims of flexibility and accountability,

- councils are required to separate regulatory from other activities wherever possible;
- councils are required to prepare and adopt policies on contracts and tenders and on consulting their communities;
- prudential requirements replace the former Ministerial approval requirement for major projects and also cover all commercial activities regarded as important by a council;
- councils are able, alone or in groups, to establish separately incorporated subsidiaries. A completely new tool is created for councils in the form of single council subsidiaries. The current 'controlling authorities' provisions of Sections 200 are replaced with updated provisions for regional subsidiaries. These provisions incorporate current standards of accountability in public sector enterprise, parallelling the *Public Corporations Act 1993*. They are intended to provide councils with a simple flexible tool for organising those activities which they believe should be managed separately, while securing appropriate management of any risks involved and ultimate control by elected bodies.

As a matter of public policy a general prohibition against councils forming or participating in companies established under the *Corporations Law* is retained.

Chapter 5—Members of council

Chapter 5 contains the provisions relating to the roles and responsibilities of elected members of councils. Its aims are to clarify the roles of principal and other elected members in relation to policy development, resource allocation and performance management; and to revise provisions relating to professional conduct so that these reflect best practice in the public sector.

Other accountability measures in this chapter include clarification of the right of access of elected members to council documents and a requirement for each council to develop a code of conduct covering such matters as standards of behaviour, which will be available to the public.

Provisions have been retained for payment of an annual allowance within prescribed limits, and reimbursement of expenses to elected members. The constraints of prescribed limits will extend to Mayors and their deputies.

Registers of Interest of elected members are open to public access, and provisions are included to protect against the misuse of information. These provisions reflect those applied to Members of Parliament.

Chapter 6—Meetings

Arrangements for council meetings contained in Chapter 6 include the frequency and timing of meetings, notices of meetings, agendas, the number of elected members that constitute a quorum, circumstances where the public can be excluded from meetings, and meeting and recording procedures to be observed. The aim is to consolidate provisions relating to meetings.

Provisions about the right of members of the public to attend council meetings, and to have access to relevant meeting documents, have recently been strengthened by the *Local Government (Miscellaneous Provisions) Amendment Act 1996*. The right of access to decision making processes is a very important factor in maintaining public confidence in councils, but the limited basis upon which the public may be excluded from meetings is retained in the Bill.

Chapter 7—Council Staff

Chapter 7 sets out the duties, powers and responsibilities of council employees. Its aim is to clarify the responsibility of the chief executive officer for personnel management, require senior officers to be engaged under performance-based contracts, and make appropriate provisions relating to conflict of interest of employees.

The provisions in the Bill are more detailed than in the current Act with the aim of helping to distinguish between the different roles of elected members, and the chief executive officer and council staff.

The role of the chief executive officer includes exercising responsibility for appointment, dismissal and determining salary and conditions of all other council employees, in accordance with the human resource policies, budgets, organisational structures approved by council and any relevant awards and industrial agreements.

Consistent with practice elsewhere in the public sector new appointments of senior council officers are to be on fixed term, performance based contracts.

A new provision in the Bill requires councils to prepare or adopt a Code of Conduct to be observed by employees of the council, in similar terms to the Code of Conduct applying to elected members.

The register of interests completed by the Chief Executive Officer and other selected employees is to be available to elected members, who have ultimate responsibility for all council decisions.

Chapter 8—Administrative and Financial Accountability

Chapter 8 sets out a clearly defined accountability framework and management cycle for councils, to facilitate both short and long term planning. Its aim is to set out clearly defined expectations of council management and to enable access to information by the community about what a council does and how its resources are used.

The Consultation Draft Local Government Bill proposed that councils implement a system of corporate planning based on prescribed documents.

This Bill achieves that aim without the imposition on councils of unnecessarily detailed provisions.

The Bill now includes provision for long term (3 to 5 years) and short term (annual) planning and budgeting by councils in ways that are suitable to their individual circumstances; for internal controls and external audit; for an annual report with a minimum set of contents (set out in schedule 3) and for access to information by the community.

The chapter captures current best practice in Local Government and sets new minimum standards for management accountability, in line with community expectations.

Chapter 9—Finances

This Chapter contains provisions relating to how councils may raise and spend money, and how money can be invested. Its aim is to update councils' investment powers and to optimise the capacity for councils to exercise prudent financial management, by allowing use of new financial products under specified conditions.

Revised powers of investment for councils reflect the approach of the recently revised Trustee Act, adapted to the Local Government environment.

A provision excluding the State Government from liability for the debts or liabilities of councils implements a recommendation of the Parliamentary Select Committee inquiring into the Stirling Bushfires.

Chapter 10—Rates and Charges

This Chapter sets out the provisions under which councils impose rates and charges. Its aim is to provide a clear and consistent legal framework with flexibility to enable councils to work out a rating system that encourages business and sustainable development and, at the same time, is fair for all ratepayers.

The system of rating set up by the Bill provides for the use of a rate based on land value, a fixed charge, or a combination of the two as the basis of the council's general rates declaration. There is no limit on the amount of rate revenue able to be obtained from the fixed charge.

The current range of rates and charges on land which councils may impose is retained, including general rates, separate rates, service rates and service charges. Councils are enabled to impose a service rate or charge for the collection and management of waste.

Councils are required to make a range of information about rates and charges, including their rating policy and its impact on business, available to the public, and to include a summary of the information with annual rate notices.

These are radical moves intended to locate the responsibility for decisions about the distribution of the rate burden more clearly with those who understand their local areas best, councils themselves, and to require these decisions to be clearly explained and justified locally.

A new basis is set out for the rebate of rates for land used by eligible community services organisations. These provisions too aim to provide flexibility for councils to respond to the needs of their local communities, but at the same time seek to achieve a measure of consistency across all council areas, especially for those charitable organisations operating on land in more than one council area. Councils will also continue to have discretionary powers to grant rate rebates in certain circumstances, including where it is considered there would be a benefit to the community, or where the rebate secures proper development of the area, or is related to preserving sites or items of historic significance.

Power to determine prices for services and works supplied by the council for purchase may be delegated by the council in future. Decisions about fees and charges for copies of documents and for regulatory activities will remain decisions for the elected body and must be fixed by reference to the cost to the council.

By the year 2001-2002 all councils will be required to provide ratepayers with the option of quarterly instalments for the payment of rates.

Chapter 11—Land

Chapter 11 contains provisions to replace the oldest parts of the 1934 Act. These measures form an innovative, streamlined scheme for Local Government lands administration which recognises and acts upon the importance of public land to the whole community.

The manner in which such land is currently classified is full of ambiguities and anomalies. The present Act makes a distinction between 'park lands' and 'reserves' but leaves it unclear whether the meanings of the terms overlap. The Act does not specify how a council goes about declaring or dedicating land as park land, and the question of whether a park or other land used for community purposes can be developed or disposed of may be answered differently depending on an examination of the history of the land. The method of acquisition of ownership or control of an area of land usually determines its legal classification. For example, freehold land which the council has developed as a park may not necessarily be subject to any legal restrictions on its use or alienation.

The Bill introduces the concept of classifying certain land owned or under a council's care, control and management as 'community land' which is to be retained and managed for the benefit of the community.

Land classified as community land cannot be sold unless the classification is revoked, and must be managed in accordance with the provisions in Chapter 11. On the commencement of the new Act most Local Government land is classified as community land and the council, in consultation with the community, has 3 years to exclude from this classification land which is not appropriate for that purpose. Land acquired after the commencement of the Bill is classified as community land unless the council specifically resolves otherwise prior to taking possession or control of it. The Bill enables a council to subsequently revoke the classification (with exceptions) subject to public consultation in accordance with the council's consultation policy and Ministerial approval.

The intention is to create a system which protects the interests of the community in the land, for which councils are the custodians, for current and future generations and builds community consensus about the future management and use of such land.

Particular attention has been paid to the special status of the Adelaide park lands and other lands protected by statute, to ensure their protection as community land in perpetuity.

A non-legislative program is planned, through the Local Government Association, to help smaller councils to bring the new scheme for community land into operation without excessive expenditure of resources.

This Chapter also comprehensively revises provisions relating to the management of roads under the control of councils to ensure that activities on roads are adequately controlled without unnecessary restrictions.

Chapter 12—Regulatory Functions

This Chapter is part of a complete overhaul of councils' own regulatory powers (powers to make by-laws and powers to make orders) which is designed—

- to ensure that regulation made by Local Government complies with the principles and features of good regulation now shared by Governments at the national, State and local level, including the avoidance of unnecessary restriction of competition
- to clarify the regulatory responsibilities of councils, particularly in areas in which other government bodies also have a regulatory role.

Chapter 12 provides councils with by-law making processes which apply to the making of by-laws under Chapter 11 in relation to Local Government land, and to the exercise of other more specific by-law making powers for other regulatory functions found in the Acts which cover those fields.

The current principles for by-law making are divided into principles and rules. Inconsistency with a principle will not form the basis for challenging a by-law in the courts, whereas a breach of a rule will. By-laws, like other subordinate legislation, are subject to being disallowed by the Legislative Review Committee of Parliament.

Rather than providing councils with extensive powers to make by-laws regulating activity on private land not covered by other State Acts, which might have the potential to encourage over-regulation of local activities or local restrictions of private rights which are not consistent with established public policy, councils are provided with the power to make specified orders which can target and resolve particular cases of local nuisance when they arise.

Procedures for developing policies for the making of orders, and providing rights of review, are included. A right of appeal against an order is also provided.

Chapter 13—Review Of Local Government Acts, Decisions and Operations

Chapter 13 establishes new methods for the review of the conduct of elected members and brings together provisions affecting review of actions, decisions and operations of councils, including a requirement for councils to put in place internal grievance procedures. There is no intention that the latter provision should impede in any way the right of citizens to approach other sources of remedy for illegal actions on the part of councils, whether the Ombudsman, under the Ombudsman Act, or the courts under their various jurisdictions, or the Minister responsible to Parliament for the administration of the Local Government Act. Nonetheless it is the intention of this legislation that councils should make every effort to deal with problems locally, including those arising from their own decisions and operations.

Provisions are included for disciplining members in certain circumstances, in the District Court's Civil Administrative and Disciplinary Division. In particular, those conflict of interest matters which do not fall within the public offences defined as criminal matters under the Criminal Law Consolidation Act are intended to be addressed in this way. At law the burden of proof to be applied in such disciplinary jurisdictions must be related to the seriousness of the offence and the penalty to be imposed, and the general law has therefore been left to take care of this matter. It is not the Government's intention to allow council members to be exposed to unnecessary criticism or unwarranted punishment and the power of the Court to dismiss frivolous, vexatious, or trivial complaints is made very clear. However the Court's power to apply penalties ranging from reprimands and required training to fines and disqualification will provide a wider range of remedies appropriate for breaches of different levels of seriousness and lead to an improved understanding of the standard of conduct required.

Following the expression of significant unease during the consultations about the scope of redrafted powers of Ministerial investigation into councils for alleged irregular or illegal activity under the Act, these provisions have been restored to their present formulation with the reasonable addition of a power for the Minister, on the basis of a report following an investigation, to direct that a council rectify an illegal or irregular matter. At present the Minister may only give directions to a council designed to prevent the recurrence of such a failure or irregularity.

Chapter 14—Miscellaneous

Chapter 14, the final chapter of the Local Government Bill, contains formal provisions that are necessary for the administration of councils but do not fit readily into other sections of the Bill. They largely mirror and update provisions of the current *Local Government Act 1934*.

The Government is aware of local government's desire to obtain statutory easements over existing septic tank effluent drainage scheme infrastructure and stormwater drains which are owned and managed by councils and located in private property. This Bill takes up an option from the Local Government Lands Legislation Review Report of 1996 which, commenting that providing statutory easements for stormwater drains was not a viable option, suggested that the 'powers of entry' provisions of the Act could be expanded. Clause 297 amends the powers of a council to enter private land as necessary for carrying out a function or responsibility of the council by incorporating the power to carry out work on infrastructure, equipment, connections, structures, works and other facilities located on or in the land. The Government recognises the difficulties faced by local government in this area and is committed to continuing work on the problems associated with this issue.

A general provision in relation to the making of regulations requires the Minister of the day to consult with the Local Government Association as far as is reasonably practicable, before a regulation is made under the Act.

Explanation of Clauses

CHAPTER 1

PRELIMINARY

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

The measure will be brought into operation by proclamation.

*Clause 3: Objects*

This clause sets out the objects of the legislation.

*Clause 4: Interpretation*

This clause sets out the definitions required for the purposes of the measure.

*Clause 5: Business purposes*

This clause makes it clear for the purposes of the Act that land maybe used for a business purpose even if it is not intended to make a profit.

CHAPTER 2

THE SYSTEM OF LOCAL GOVERNMENT

*Clause 6: Principal role of a council*

A council is established under the system of local government under this measure to provide for the government and management of its area at the local level.

*Clause 7: Functions of a council*

This clause sets out the primary functions of a council.

*Clause 8: Objectives of a council*

A council must fulfil various objectives in the performance of its roles and functions under the Act.

CHAPTER 3

CONSTITUTION OF COUNCILS

PART 1 CREATION, STRUCTURING AND RESTRUCTURING OF COUNCILS

DIVISION 1—POWERS OF THE GOVERNOR

*Clause 9: Governor may act by proclamation*

This clause sets out various matters relating to the creation, constitution and structure of councils in respect of which proclamations can be made under the Act.

*Clause 10: Matters that may be included in a proclamation*

This clause sets out various associated matters in respect of which proclamations can be made.

*Clause 11: General provisions relating to proclamations*

The Governor will not be able to make a proclamation under a preceding clause except in pursuance of an address from both Houses of Parliament, or in pursuance of a proposal recommended by the Panel, or in pursuance of a proposal recommended by the Minister.

DIVISION 2—POWERS OF COUNCILS AND REPRESENTATION REVIEWS

*Clause 12: Composition and wards*

A council will be able to take steps to alter its composition or ward structure. This provision is based on the review scheme presently applying to councils.

*Clause 13: Status of a council or change of various names*

A council will be able to alter its status as a municipal or district council, its name, or the name of its area or award or wards, after taking steps set out in this provision.

PART 2

THE BOUNDARY ADJUSTMENT FACILITATION PANEL AND REFORM PROPOSALS

DIVISION 1—THE BOUNDARY ADJUSTMENT FACILITATION PANEL

*Clause 14: The Panel*

The *Boundary Adjustment Facilitation Panel* continues in existence.

*Clause 15: Composition of Panel*

The Panel will be constituted by two members nominated by the Minister and two persons selected from a panel nominated by the LGA.

*Clause 16: Conditions of membership*

A member of the Panel is appointed on terms and conditions determined by the Governor. A member will not be able to act in a matter involving a council connected with the member.

*Clause 17: Fees and expenses*

A member of the Panel is entitled to receive fees and expenses determined by the Governor.

*Clause 18: Protection of information, etc.*

A member or former member of the Panel cannot use the position to gain a personal advantage or to cause detriment to the Panel.

*Clause 19: Validity of acts and immunity*

An act or proceedings of the Panel is not invalid by reason only of a defect in appointment or a vacancy in office.

*Clause 20: Proceedings*

This clause sets out the procedures to be followed by the Panel. Meetings will be open to the public unless the Panel is dealing with a matter that, in the opinion of the Panel, should be dealt with on a confidential basis.

*Clause 21: Staffing arrangements*

The Minister will determine the staffing arrangements of the Panel after consultation with the presiding member.

DIVISION 2—FUNCTIONS AND POWERS OF PANEL

*Clause 22: Functions of Panel*

This clause describes the functions of the Panel under this Chapter.

*Clause 23: Powers of Panel*

The Panel will be able to hold inquiries, receive evidence and submissions, and require a person's attendance. The Panel should seek to deal with a matter as expeditiously as possible.

*Clause 24: Committees*

The Panel will be able to establish committees after consultation with the Minister and the LGA.

*Clause 25: Delegation*

The Panel will be able to delegate its functions and powers. A delegation does not prevent the Panel from acting in a matter.

DIVISION 3—PRINCIPLES

*Clause 26: Principles*

This clause sets out various matters and principles that the Panel must take into account when formulating its recommendations under this Chapter.

DIVISION 4—COUNCIL INITIATED PROPOSALS

*Clause 27: Council initiated proposals*

Councils will be able to continue to submit proposals to the Panel for the making of proclamations under this Chapter.

DIVISION 5—PUBLIC INITIATED SUBMISSIONS

*Clause 28: Public initiated submissions*

This clause sets out a scheme for the formulation of proposals based on submissions made by eligible electors.

DIVISION 6—REPORTS TO THE MINISTER; SUBMISSIONS OF PROPOSALS TO THE GOVERNOR

*Clause 29: Reference of proposals to Minister and Governor*

This clause continues the scheme for the submission of proposals to the Governor for the making of proclamations under this Chapter, following consideration by the Panel and the Minister.

DIVISION 7—RELATED MATTERS

*Clause 30: Report if proposal rejected*

The Minister will be required to report to Parliament if a proposal of the Panel does not proceed to proclamation after the completion of all relevant procedures under this Act.

*Clause 31: Report if proposal submitted to poll*

The Minister will be required to report to Parliament if a proposal is submitted to a poll under this Chapter.

*Clause 32: Provision of reports to councils*

The Panel must provide a copy of any report to each council affected by a proposal to which the report relates.

PART 3

GENERAL PROVISIONS

*Clause 33: Ward quotas*

This clause sets out additional matters that must be specifically considered when considering a proposal that relates to the boundaries of a ward or wards.

*Clause 34: Error or deficiency in an address, recommendation, notice or proclamation*

This clause allows the Governor to address or correct certain matters, as is the case under section 29 of the current Act.

CHAPTER 4

THE COUNCIL AS A BODY CORPORATE

PART 1

FUNDAMENTAL FEATURES

DIVISION 1—COUNCIL TO BE A BODY CORPORATE

*Clause 35: Corporate status*

A council is a body corporate with perpetual succession and a common seal. A council consists of the members appointed or election under this Act or the *Local Government (Elections) Act 1999*.

*Clause 36: General powers and capacities*

A council has the legal capacity of a natural person, and the powers and capacities conferred by this or another Act.

*Clause 37: Provision relating to contracts and transactions*

A council may enter into a contract under this common seal, or an officer, employee or agent may enter into a contract on behalf of a council if authorised by the council to do so.

*Clause 38: The common seal*

The common seal of a council must not be affixed to a document except to give effect to a resolution of the council.

*Clause 39: Protection of members*

No civil liability attaches to the member of a council when so acting. Any liability attaches instead to the council.

*Clause 40: Saving provision*

An act or proceeding of a council is not invalid because of a vacancy in the membership of the council, a defect in the election or appointment of a member, or the fact that the election of a member is subsequently declared void.

DIVISION 2—COMMITTEES

*Clause 41: Committees*

A council may constitute committees for various purposes. A committee may (at the determination of the council) consist of or include persons who are not members of the council.

DIVISION 3—SUBSIDIARIES

*Clause 42: Ability of council to establish a subsidiary*

A council may establish subsidiaries for various specified purposes. The establishment of a subsidiary under this provision is subject to obtaining the approval of the Minister to the incorporation of the subsidiary. Schedule 2 also contains provisions relating to council subsidiaries.

*Clause 43: Ability of councils to establish a regional subsidiary*

Two or more councils may establish regional subsidiaries for specified purposes. The establishment of a subsidiary under this provision is subject to obtaining the approval of the Minister to the incorporation of the subsidiary. Schedule 2 also contains provisions relating to council subsidiaries.

DIVISION 4—DELEGATIONS

*Clause 44: Delegations*

A council may delegate a power or function under this or another Act. However, various matters cannot be delegated (*see* subclause (2)). A power or function delegated to the chief executive officer may be further delegated unless the council directs otherwise, and a power or function delegated to anyone else may be further delegated with the approval of the council. Delegations are to be reviewed on an annual basis.

DIVISION 5—PRINCIPAL OFFICE

*Clause 45: Principal office*

A council must maintain a principal office for the purposes of the Act.

PART 2

COMMERCIAL ACTIVITIES AND RESTRICTIONS

*Clause 46: Commercial activities*

A council is able to engage in a commercial activity or enterprise (subject to the operation of various provisions—*see* especially clauses 47 and 48).

*Clause 47: Interests in companies*

A council must not participate in the formation of a company or acquire shares in a company, other than for authorised investment purposes under the Act or in order to participate in the activities of a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.

PART 3

PRUDENTIAL REQUIREMENTS FOR CERTAIN ACTIVITIES

*Clause 48: Prudential requirements for certain activities*

A council will be required to obtain advice on various prudential issues before it enters into various projects specified by or under this clause.

PART 4

CONTRACTS AND TENDERS POLICIES

*Clause 49: Contracts and tenders policies*

Each council will be required to prepare and adopt policies on contracts and tenders. The policies must address the contracting out of services, the use of competitive tendering, the use of local goods and services, and the sale and disposal of land or other assets. The policies will address the circumstances where various steps will occur, such as the calling for tenders.

PART 5

PUBLIC CONSULTATION POLICIES

*Clause 50: Public consultation policies*

Each council will be required to prepare and adopt a public consultation policy. The policy must set out the steps that the council will take when required to following the policy under this Act, and may address other circumstances where public consultation will occur.

CHAPTER 5

MEMBERS OF COUNCIL

PART 1

MEMBERSHIP

*Clause 51: Principal member of council*

A council will be constituted of a mayor appointed or elected as a representative of the area as a whole, or a person (called a 'chairperson' in this measure) chosen by the members of the council from amongst their own number. A council may decide to use a title other than 'chairperson'. The mayor or chairperson is the principal member of the council. A council may also resolve to have a deputy mayor or a deputy chairperson, chosen by the members of the council from amongst their own number.

*Clause 52: Councillors*

The members of a council, other than the principal member, will be known as councillors. Councillors will be representatives of the area as a whole, or of wards, depending on how the council is constituted.

PART 2

TERM OF OFFICE AND RELATED ISSUES

DIVISION 1—GENERAL ISSUES

*Clause 53: Term of office*

The term of office of a member of a council is a term expiring at the end of the next general election after his or her appointment or election as a member of the council.

*Clause 54: Casual vacancies*

This clause sets out the various circumstances under which the office of a member of a council will become vacant. A member's office does not become vacant by reason only of the fact that, after election or appointment, he or she ceases to be an elector for the area.

*Clause 55: Specific requirements if member disqualified*

A member must immediately notify a council if he or she becomes aware of the existence of circumstances disqualifying the member to hold office, and must not act in the office after becoming aware of the disqualification.

DIVISION 2—SPECIAL PROVISIONS IF MAJORITY OF MEMBERS RESIGN ON SPECIFIED GROUNDS

*Clause 56: General election to be held in special case*

A general election for a council will be held if the membership of a council falls below a prescribed number (*see* subclause (3)) on account of resignations made on the express ground that the resigning members consider that relations within the membership of the council are such that the council can no longer continue to conduct its affairs in an appropriate manner.

*Clause 57: Restriction on activities during the relevant period*

Various restrictions will apply to a council pending an election under clause 56.

PART 3

ROLE OF MEMBERS

*Clause 58: Specific roles of principal member*

This clause describes the role of the principal member of a council. The principal member of a council is, *ex officio*, a Justice of the Peace (unless removed from that office by the Governor).

*Clause 59: Roles of members of councils*

This clause described the role of members of a council generally. A member of a council has no direct authority over an employee of the

council with respect to the way in which the employee performs his or her duties.

*Clause 60: Declaration to be made by members of councils*

A member of a council must make an undertaking in the prescribed form at or before the first meeting of the council attended by the member.

*Clause 61: Access to information by members of councils*

This clause makes specific provision relating to a member's access to relevant council documentation. The chief executive officer or other officer providing access may indicate to the member that information contained in the relevant document should be considered as confidential.

PART 4
CONDUCT AND DISCLOSURE OF INTERESTS
DIVISION 1—GENERAL DUTIES AND CODE OF CONDUCT

*Clause 62: General duties*

A member will have a specific duty to act honestly in the performance and discharge of official functions and duties and to act with reasonable care and diligence.

*Clause 63: Code of conduct*

A council will be required to have a code of conduct for members. The code will be reviewed within 12 months after each general election of the council.

DIVISION 2—REGISTER OF INTERESTS

*Clause 64: Interpretation*
*Clause 65: Lodging of primary returns*
*Clause 66: Lodging of ordinary returns*
*Clause 67: Form and content of returns*
*Clause 68: Register of Interests*
*Clause 69: Provision of false information*
*Clause 70: Inspection of Register*
*Clause 71: Restrictions on publication*
*Clause 72: Application of Division to members of committees and subsidiaries*

There will continue to be a Register of Interests for council members. The register will be up-dated on an annual basis by members lodging returns. A person will be able to inspect the register at the principal office of the council. It will be an offence to publish information derived from the register unless it constitutes a fair and accurate summary of the information and is published in the public interest, and an offence to comment on facts in the register unless it is fair and published in the public interest and without notice. A council may resolve to extend the scheme to committees and subsidiaries.

DIVISION 3—CONFLICT OF INTEREST

*Clause 73: Conflict of interest*
*Clause 74: Members to disclose interests*
*Clause 75: Application of Division to members of committees and subsidiaries*

These clauses continue the scheme relating to the requirement for members to disclose any interest in a matter before the council. A member must make a full and accurate disclosure. A member must not participate in any process relating to a matter in which the member has an interest and must withdraw from the room. Some qualifications will apply in appropriate circumstances. A member will be able, with the permission of the council, to attend an open meeting of the council in order to ask and answer questions (but must then withdraw from the room). These provisions will extend to council committees and subsidiaries. These provisions will principally be enforced under Part 1 Chapter 13.

PART 5
ALLOWANCES AND BENEFITS

*Clause 76: Allowances*

A member of a council will be entitled to receive an annual allowance from the council for performing and discharging official functions and duties. The allowance will be set by the council within minimum and maximum amounts prescribed by the regulations, and according to any prescribed formula.

*Clause 77: Reimbursement of expenses*

A member of a council will also be entitled to reimbursement of various expenses of a prescribed kind (although certain expenses will be reimbursed on the approval of the council, with the approval either occurring specifically or under a policy of the council).

*Clause 78: Provision of facilities and support*

A council may also provide facilities and other forms of support to its members.

*Clause 79: Register of allowances and benefits*

There will be a Register of Allowances and Benefits kept by the chief executive officer.

*Clause 80: Insurance of members*

A council must hold a policy of insurance insuring the member, and any accompanying person, against risks associated with the performance or discharge of official functions and duties.

CHAPTER 6
MEETINGS
PART 1
COUNCIL MEETINGS

*Clause 81: Frequency and timing of ordinary meetings*

Ordinary meetings of a council will be held at times and places appointed by resolution of the council. A resolution that is not supported unanimously should be reviewed at least once in every six months by the council. Ordinary meetings may not be held on Sundays or public holidays.

*Clause 82: Calling of special meetings*

Special meetings of a council must be called at the request of the principal member, at least three members of the council, or a council committee supported by at least three committee members who are also council members. Special meetings may be held at any time.

*Clause 83: Notice of ordinary or special meetings*

At least three clear days notice must be given for an ordinary meting, and at least four hours notice of a special meeting. Notice may be served personally, by delivery to specified places, by leaving the notice at the principal office of the council if authorised by the member, or by any other means authorised in writing by the member.

*Clause 84: Public notice of council meetings*

Notice of a council meeting is also to be given to the public in accordance with the requirements of this clause. The chief executive officer must ensure that a reasonable number of copies of any document or report supplied to members of the council for consideration at a meeting are also available for public inspection (unless the document or report relates to a matter that is, or may be, confidential under the Act).

*Clause 85: Quorum*

Half the number of members (ignoring any fraction resulting from the division), plus one, constitutes a quorum of the council. Provision is made for circumstances where a quorum is lost because of the operation of Division 3 Part 4 Chapter 5.

*Clause 86: Procedure at meetings*

This clause sets out other procedural matters for council meetings.

PART 2
COMMITTEE MEETINGS

*Clause 87: Calling and timing of committee meetings*
*Clause 88: Public notice of committee meetings*
*Clause 89: Proceedings of council committees*

These clauses relate to procedures for meetings of council committees. A council or committee must, in appointing the time for holding a meeting of a committee, take into account the availability and convenience of members, and the nature and purpose of the committee. Committee procedures will be determined by regulation or, if necessary, the council or, if necessary, the committee.

PART 3
PUBLIC ACCESS TO COUNCIL AND COMMITTEE MEETINGS

*Clause 90: Meetings to be held in public except in special circumstances*

A meeting of a council or council committee must, subject to this clause, be open to the public. The public can be excluded from a meeting in certain specified circumstances. The scheme is based on section 62 of the current Act. A new provision is included to make it clear that certain informal gatherings or discussions may be held in appropriate cases.

PART 4
MINUTES OF COUNCIL AND COMMITTEE MEETINGS AND RELEASE OF DOCUMENTS

*Clause 91: Minutes and release of documents*

Minutes must be kept of the proceedings of council and council committees. The minutes, and various other documents, will be open for public inspection, subject to specified exception involving confidential documents (or parts of documents).

PART 5
CODE OF PRACTICE

*Clause 92: Access to meetings and documents—code of practice*

A council must prepare and adopt a code of practice relating to access to meetings and documents. The code must be reviewed on an annual basis.

PART 6
MEETINGS OF ELECTORS

*Clause 93: Meetings of electors*

A council may convene a meeting of electors under this provision. The person presiding at the meeting must transmit any resolution passed at the meeting to the council.

PART 7
RELATED MATTER

*Clause 94: Obstructing meetings*

It will be an offence to intentionally hinder or obstruct a meeting of a council, council committee or electors.

CHAPTER 7
COUNCIL STAFF
PART 1
CHIEF EXECUTIVE OFFICER

*Clause 95: Council to have a chief executive officer*

Each council must have a chief executive officer.

*Clause 96: Terms and conditions of appointment*

A chief executive officer will be employed under a contract for a term not exceeding five years. The contract must comply with certain requirements.

*Clause 97: Vacancy in office*

A contract may be terminated on various grounds specified under this clause or in the contract.

*Clause 98: Appointment procedures*

A council must establish a panel to assist in making an appointment. The council makes the final appointment.

*Clause 99: Role of chief executive officer*

This clause sets out the various specific functions of a chief executive officer. The chief executive officer must consult with the council when determining, or changing to a significant degree, the organisation structure for the staff, the human resource management policies or practices for senior executive officers, the processes and conditions surrounding the appointment of senior executive officers, or the appraisal scheme for chief executive officers.

*Clause 100: Council may have a deputy chief executive officer*

The chief executive officer will, in determining the organisation structure for the council, in consultation with the council, determine whether to have a deputy. A deputy is appointed by the chief executive officer acting with the concurrence of the council.

*Clause 101: Delegation by chief executive officer*

This clause sets out the powers of delegation of a chief executive officer.

*Clause 102: Person to act in absence of chief executive officer*

This clause sets out a scheme for determining who will act in the absence of the chief executive officer.

PART 2
APPOINTMENT OF OTHER STAFF

*Clause 103: Appointment, etc., by chief executive officer*

The chief executive officer is responsible for appointing, managing, suspending and dismissing the staff of the council.

*Clause 104: Contract for senior executive officers*

Senior executive officers will be employed on contracts for terms not exceeding five years.

*Clause 105: Remuneration, etc., of other employees*

Remuneration and conditions of service of staff will be determined by the chief executive officer, subject to any relevant Act or industrial instrument.

*Clause 106: Register of remuneration, salaries and benefits*

The chief executive officer will keep a Register of Salaries containing certain information about employees.

*Clause 107: Certain periods of service to be regarded continuous*

Certain periods of service will be regarded as continuous if an employee transfers from one council to another council within 13 weeks of leaving the first council. 'Council' is defined to include a council subsidiary, or an authority or body prescribed by the regulations.

PART 3
HUMAN RESOURCE MANAGEMENT PRINCIPLES

*Clause 108: General principles of human resource management*

The chief executive officer must ensure that sound principles of human resource management are applied to employment with the council.

PART 4
CONDUCT OF EMPLOYEES
DIVISION 1—GENERAL DUTY AND CODE OF CONDUCT

*Clause 109: Interpretation*
*Clause 110: General duty*
*Clause 111: Code of conduct*

An employee (including a person working on a temporary basis) must act honestly in the performance of official duties and act with reasonable care and diligence. A council will prepare a code of conduct for employees. A council must consult with relevant industrial associations when preparing or revising the code.

DIVISION 2—REGISTER OF INTERESTS

*Clause 112: Application of Division*
*Clause 113: Interpretation*
*Clause 114: Lodging of primary returns*
*Clause 115: Lodging of ordinary returns*
*Clause 116: Form and content of returns*
*Clause 117: Register of Interests*
*Clause 118: Provision of false information*
*Clause 119: Inspection of Register*
*Clause 120: Restrictions on disclosure*

There will be a Register of Interests for the chief executive officer and other officers of a council determined by the Council. Access to the register will be restricted to members. Information on the register must not be disclosed unless the disclosure is necessary for the purposes of the preparation or use of the register by the chief executive officer, or is made at a meeting of the council, a committee or a subsidiary.

DIVISION 3—CONFLICT OF INTEREST

*Clause 121: Conflict of interest*

A chief executive officer must disclose an interest in a matter to the council. Other employees must disclose any interest to the chief executive officer.

DIVISION 4—PROTECTION FROM PERSONAL LIABILITY

*Clause 122: Protection from personal liability*

An employee does not incur a personal liability in acting under an Act. The liability lies instead against the council.

CHAPTER 8
ADMINISTRATIVE AND FINANCIAL ACCOUNTABILITY
PART 1
STRATEGIC MANAGEMENT PLANS

*Clause 123: Strategic management plans*

A council must develop and adopt strategic management plans in accordance with the requirements of this clause. The plans must be reviewed at least once in every three years.

PART 2
BUDGETS

*Clause 124: Budgets*

A council must have a budget that complies with the requirements of this clause, and with standards and principles prescribed by the regulations.

PART 3
ACCOUNTS, FINANCIAL STATEMENTS AND AUDIT
DIVISION 1—ACCOUNTS

*Clause 125: Accounting records to be kept*

A council must keep proper accounting records.

DIVISION 2—INTERNAL CONTROL AND AUDIT COMMITTEE

*Clause 126: Internal control policies*

A council must maintain internal control policies to ensure that activities are carried out in an efficient and orderly manner, to ensure adherence to management policies, to safeguard council assets, and to secure the reliability of council records.

*Clause 127: Audit committee*

A council may have an audit committee.

DIVISION 3—FINANCIAL STATEMENTS

*Clause 128: Financial statements*

A council must prepare various statements for each financial year.

DIVISION 4—AUDIT

*Clause 129: The auditor*

A council must have an auditor appointed by the council under this clause.

*Clause 130: Conduct of annual audit*

An annual audit will be undertaken. The auditor must specify in a report any irregularity in accounting practices or the management of the council's financial affairs identified by the auditor during the course of an audit.

*Clause 131: CEO to assist auditor*

The chief executive officer must assist the auditor.

PART 4
ANNUAL REPORTS

*Clause 132: Annual report to be prepared and adopted*

A council must have an annual report. A copy of an annual report must be provided to the Presiding Members of both Houses of Parliament.

PART 5
ACCESS TO DOCUMENTS

*Clause 133: Access to documents*

This clause deals specifically with access to council documents, as specified in schedule 4.

CHAPTER 9
FINANCES
PART 1
SOURCES OF FUNDS

*Clause 134: Sources of funds*

A council may obtain funds from various sources according to what may be appropriate in order to carry out its functions.

PART 2
FINANCIAL ARRANGEMENTS

*Clause 135: Borrowing and related financial arrangements*

A council may borrow and obtain other forms of financial accommodation. A council will require independent advice before it enters into certain financial arrangements.

*Clause 136: Ability of a council to give security*

A council may give various forms of security in accordance with this clause.

*Clause 137: State Government not liable for debts of a council*

The Crown is not liable for the debts or liabilities of a council. However, this provision does not affect a liability or claim that may arise by operation of the law.

PART 3
EXPENDITURE OF FUNDS

*Clause 138: Expenditure of funds*

A council may expend its funds as the council thinks fit in the exercise, performance or discharge of its powers, functions or duties.

*Clause 139: Council not obliged to expend rate revenue in a particular financial year*

Revenue raised from rates in one financial year need not be expended in that year.

PART 4
INVESTMENT

*Clause 140: Investment powers*

A council must exercise prudent care, diligence and skill in making its investments and avoid investments that are speculative or hazardous in nature.

*Clause 141: Review of investments*

A council must review the performance of its investments at least annually.

PART 5
MISCELLANEOUS

*Clause 142: Gifts to a council*

A council may receive gifts and, if a gift is affected by a trust, a council is empowered to carry out the terms of the trust.

*Clause 143: Duty to insure against liability*

A council must maintain insurance to cover civil liabilities to the extent prescribed by regulations made after consultation with the LGA.

*Clause 144: Writing off bad debts*

A council may write off bad debts in appropriate cases.

*Clause 145: Recovery of amounts due to council*

A council may recover fees, charges, expenses and other amounts as debs in a court of competent jurisdiction. A fee, charge, expense or other amount payable on account of something done in respect of property may, in certain circumstances, be recoverable as a rate.

*Clause 146: Payment of fees, etc., to council*

All fines, penalties and forfeitures recovered in proceedings commenced by a council before a court for an offence committed within an area must be paid to the council for the area.

CHAPTER 10
RATES AND CHARGES
PART 1
RATES AND CHARGES ON LAND
DIVISION 1—PRELIMINARY

*Clause 147: Rates and charges that a council may impose*

A council may impose various rates and charges.

*Clause 148: Rateability of land*

All land within an area is rateable, unless otherwise exempted. Subclause (2) provides various exemptions. Subclause (3) to (7) relate to strata and community units, lots and other land.

*Clause 149: Land against which rates may be assessed*

Rates may be assessed against any piece or section of land subject to separate ownership or occupation, and any aggregation of contiguous land subject to the same ownership or occupation. However, decisions about the division or aggregation of land must be made fairly and in accordance with principles and practices that apply on a uniform basis across the area of the council.

*Clause 150: Contiguous land*

This clause defines contiguous land for the purposes of this Part of the measure.

DIVISION 2—BASIS OF RATING

*Clause 151: General principles*

Councils must take into account the fact that rates constitutes a system of taxation for local government purposes.

*Clause 152: Basis of rating*

A rate may be based on various factors in accordance with the provisions of the Act.

DIVISION 3—SPECIFIC CHARACTERISTICS OF RATES AND CHARGES

*Clause 153: General rates*

Subject to this clause, a general rate may be based on the value of land, a fixed charge, or a combination of both.

*Clause 154: Declaration of general rate (including differential general rates)*

A council may declare differential general rates (unless the council has based its general rates on a fixed charge).

*Clause 155: Separate rates*

A council may declare a separate rate on rateable land within a part of its area for the purpose of an activity that is or is intended to be, of particular benefit to the land, or the occupiers of land, within the relevant part of the area, or to visitors to that part. A separate rate may be based on the value of land or, under or with the approval of the Minister, according to some other proportional method or an estimate of benefit. A separate rate may be declared for a period exceeding one year. A council may declare differential separate rates.

*Clause 156: Service rates and service charges*

A council may impose a service rate, an annual service charge, or a combination of both, for the provision of a specified or prescribed service.

DIVISION 4—DIFFERENTIAL RATING AND SPECIAL ADJUSTMENTS

*Clause 157: Basis of differential rates*

This clause set out the basis for differential rating by a council.

*Clause 158: Notice of differentiating factors*

A rates notice must specify any differentiating factor or combination of factors.

*Clause 159: Minimum rates and special adjustments for specified values*

Subject to this clause, a council may impose a minimum rate or adjust rates within a range of values determined by the council. However, these arrangements must not be applied to more than 35 per cent of assessments in a council area, or if rates have been based on a fixed charge or have included a fixed charge component.

DIVISION 5—REBATES OF RATES

*Clause 160: Preliminary*
*Clause 161: Rebate of rates—health services*
*Clause 162: Rebate of rates—community services*
*Clause 163: Rebate of rates—religious purposes*
*Clause 164: Rebate of rates—public cemeteries*
*Clause 165: Rebate of rates—Royal Zoological Society of SA*
*Clause 166: Rebate of rates—educational purposes*
*Clause 167: Discretionary rebates of rates*

These clauses set out a scheme for the rebating of council rates in specified circumstances.

DIVISION 6—VALUATION OF LAND FOR THE PURPOSE OF RATING

*Clause 168: Valuation of land for the purposes of rating*

A council must, before declaring a rate, adopt valuations that are to apply to land within its area for a particular financial year. The valuations may have been made by the Valuer-General for a valuer employed or engaged by the council.

*Clause 169: Valuation of land*

This clause sets out procedures associated with the valuation of land for the purposes of the Act.

*Clause 170: Objections to valuations made by council*

A person who is dissatisfied with a valuation may object to the valuation or appeal against the valuation to the Land and Valuation Court.

DIVISION 7—ISSUES ASSOCIATED WITH THE DECLARATION OF RATES

*Clause 171: Notice of declaration of rates*

Notice of the declaration of a rate or a service charge must be

published in the *Gazette* and in a newspaper circulating in the area within 21 days after declaration.

*Clause 172: Publication of rating policy*

A council must, in conjunction with the declaration of rates, prepare and adopt a rating policy in accordance with the requirements of this clause.

DIVISION 8—THE ASSESSMENT RECORD

*Clause 173: Chief executive officer to keep assessment record*

This clause sets out the requirements relating to the assessment record to be kept by the chief executive officer.

*Clause 174: Alterations to assessment record*

Application may be made to the chief executive officer for an alteration of the assessment record on grounds set out in this clause. A person may apply to the council if dissatisfied with a decision on an application. A person may apply to the District Court if dissatisfied with a decision of the council.

*Clause 175: Inspection of assessment record*

A person is entitled to inspect the assessment record at the principal office of the council during ordinary office hours.

*Clause 176: Duty of Registrar-General to supply information*

The Registrar-General must notify a council if an estate in fee simple or an estate of freehold in Crown land is granted to a person, or if a Crown lease is granted or transferred.

DIVISION 9—IMPOSITION AND RECOVERY OF RATES AND CHARGES

*Clause 177: Preliminary*

The term 'rates' is to include service charges for recovery purposes.

*Clause 178: Rates are charges against land*

Rates are charges on land.

*Clause 179: Liability for rates*

The concept of 'principal ratepayer' is retained. Rates may be recovered as a debt.

*Clause 180: Liability for rates if land is not rateable for the whole of the financial year*

There will be a proportional reduction in rates if land is not rateable for the whole year.

*Clause 181: Service of rate notice*

A council must send a rates notice to the principal ratepayer or, if relevant, the owner or occupier of land, as soon as practicable after the imposition of a rate or service charge, or a change in rates liability.

*Clause 182: Payment of rates*

This clause sets out the scheme for the payment of rates. A council must, from the beginning of the 2000/2001 financial year, offer its ratepayers the opportunity to pay rates in four equal (or approximately equal) instalments.

*Clause 183: Remission and postponement of payment*

A council may grant a postponement of payment of rates, or a remission of rates.

*Clause 184: Application of money in respect of rates*

Rates must be applied in accordance with this clause.

*Clause 185: Sale of land for non-payment of rates*

A council may take steps to sell land under this clause if rates are in arrears for three years or more.

*Clause 186: Procedure where council cannot sell land*

If land cannot be sold, the council may apply to the Minister for an order forfeiting the land to the Crown or the council (as appropriate).

DIVISION 10—MISCELLANEOUS

*Clause 187: Recovery of rates not affected by an objection, review or appeal*

The right to recover rates is not suspended by an objection, review or appeal.

*Clause 188: Certificate of liabilities*

A council may issue a certificate relating to rates or charges imposed against land to a person with an appropriate interest in the land (*see* subclause (2)).

PART 2
FEES AND CHARGES

*Clause 189: Fees and charges*

A council may impose various fees and charges under this clause.

CHAPTER 11
LAND

PART 1
LOCAL GOVERNMENT LAND

DIVISION 1—PRELIMINARY

*Clause 190: Crown as owner of land*

The Minister will for the purposes of this Part be taken to be the 'owner' of land not granted in fee simple.

DIVISION 2—ACQUISITION OF LAND

*Clause 191: Acquisition of land by agreement*

A council may acquire land by agreement.

*Clause 192: Compulsory acquisition of land*

A council may acquire land compulsorily with the Minister's approval, or for an approved purpose classified by the regulation. The *Land Acquisition Act 1969* applies to the acquisition of land under this clause.

*Clause 193: Assumption of care, control and management of land*

A council may in certain circumstances assume the care, control and management of land that has been set aside for the use or enjoyment of the public or a section of the public.

DIVISION 3—COMMUNITY LAND

*Clause 194: Classification*

All local government land, other than roads, is to be classified as community land unless excluded by the council from this classification in accordance with this clause.

*Clause 195: Revocation of classification of land as community land*

A council may, subject to various exceptions and qualifications, revoke the classification of land as community land if it complies with the requirements of this clause. The classification of the Adelaide Park Lands, land held for the benefit of the community under schedule 7 or another Act, or are instrument of trust, or land prescribed by regulation, as community land cannot be revoked.

*Clause 196: Effect of revocation of classification*

A revocation of classification as community land frees the land from a dedication, reservation or trust, subject to certain exceptions.

DIVISION 4—MANAGEMENT PLANS

*Clause 197: Management plans*

A council must prepare a management plan in accordance with the requirements of this clause if the land is specifically protected under these provisions, is to be occupied under a lease or licence, or has been specifically modified or adapted for the benefit or enjoyment of the community.

*Clause 198: Public consultation on proposed management plan*

A council must consult before it adopts a management plan for community land.

*Clause 199: Amendment or revocation of management plan*

A management plan may be amended or revoked in accordance with this clause.

*Clause 200: Effect of management plan*

A council must manage community land in accordance with any management plan for the land.

DIVISION 5—BUSINESS USE OF COMMUNITY LAND

*Clause 201: Use of community land for business purposes*

A person must not use community land for a business purpose without the approval of the council. An approval must not be inconsistent with the provisions of a management plan.

DIVISION 6—DISPOSAL AND ALIENATION OF LOCAL GOVERNMENT LAND

*Clause 202: Sale or disposal of local government land*

A council may sell or otherwise dispose of an interest in land subject to the operation of this clause.

*Clause 203: Alienation of community land by lease or licence*

A council may grant a lease or licence over community land. The council must follow its consultation policy before the lease or licence is granted, unless the lease or licence is authorised by the management plan and is for a term not exceeding five years, or the regulations provide for an exemption.

DIVISION 7—THE ADELAIDE PARK LANDS

*Clause 204: Interpretation*

This clause provides a definition relating to The Corporation of the City of Adelaide for the purposes of Division 7 Part 1 Chapter 11.

*Clause 205: Classification to be irrevocable*

The classification of the Adelaide Park Lands as community land is irrevocable.

*Clause 206: Management plan*

The Council must have a management plan for the Adelaide Park Lands in place within three years after the commencement of this Part.

*Clause 207: Leases and licences over land in the Adelaide Park Lands*

The maximum term of a lease or licence over the Adelaide Park Lands is to be 42 years. However, a lease or licence for a term exceeding 21 years will be submitted to the Environment, Resources and Development Committee for consideration.

*Clause 208: Constitution of a land bank to protect the area of Adelaide Park Lands available for public use*

This clause establishes a scheme to preserve the amount of Park Lands that is available for unrestricted public use and enjoyment after the commencement of this clause. Essentially, the Council or the Crown will acquire credits for land that it returns to a notional 'land bank', and then will only be able to take action to restrict public use of the park lands to the extent that it holds credits. Short-term activities will not be 'caught'.

*Clause 209: Constitution of fund to benefit the Adelaide Park Lands*

This clause provides for the constitution of a fund to be called the *Adelaide Park Lands Fund*. A fee (payable to the fund) will be charged on any development undertaken on land forming part of the Adelaide Park Lands. The fee will be calculated according to total anticipated development cost, essentially at the rate of $5 for each $1 000 in value, with the maximum fee with respect to a particular development will not exceed $10 000. Money standing to the credit of the fund will be able to be used by the Capital City Committee for the beautification, rehabilitation or restoration of the park lands, or for some other purposes which will benefit the park lands or improve public use and enjoyment of the park lands.

DIVISION 8—REGISTER OF COMMUNITY LAND

*Clause 210: Register*

A council must keep a register of all community land in its area.

PART 2
ROADS

DIVISION 1—OWNERSHIP OF ROADS

*Clause 211: Ownership of public roads*

All public roads (as defined in clause 4) in the area of the council are vested in the council in fee simple under the *Real Property Act 1886*.

*Clause 212: Ownership of fixtures and equipment installed on public roads*

Fixture and fittings remain the property of the provider of the relevant infrastructure.

*Clause 213: Conversion of private road to public road*

A council may declare a private road to be a public road in the circumstances specified in this clause.

DIVISION 2—HIGHWAYS

*Clause 214: Highways*

A council may only exercise its powers under this Part if the council is acting with the agreement of the Commissioner of Highways or under or in accordance with a notice under the *Highways Act 1926*.

DIVISION 3—POWER TO CARRY OUT ROADWORK

*Clause 215: Power to carry out roadwork*

A council is given specific power to carry out roadwork, subject to compliance with the provisions of this clause.

*Clause 216: Recovery of cost of roadwork*

If a council carries out roadwork to repair damage to a road, the council may recover the cost of the work from the person who caused the damage or the owner of relevant infrastructure.

*Clause 217: Contribution between councils where road is on boundary between council areas*

A council that carries out roadwork on the boundary with another council is entitled to a reasonable contribution from the other council.

*Clause 218: Special provisions for certain kinds of roadwork*

Certain roadwork must comply with the requirements of this clause. For example, a change in the level of a road must still provide adequate access to an adjoining property.

DIVISION 4—POWER TO REQUIRE OTHERS TO CARRY OUT WORK

*Clause 219: Power to order owner of private road to carry out specified roadwork*

A council may require the owner of a private road to carry out work to repair or improve the road.

*Clause 220: Power to order owner of infrastructure installed on road to carry out specified maintenance or repair work*

A council may require the owner of a structure or equipment installed on a road to carry out maintenance or repair work, or to move the structure or equipment so that the council can carry out road work.

*Clause 221: Power to require owner of adjoining land to carry out specified work*

A council may require the owner of land adjoining a road to construct, remove or repair a crossing place from the road to the land.

DIVISION 5—NAMES AND NUMBERS

*Clause 222: Power to assign a name, or change the name, of a road or public place*

A council may assign a name to a public or private road, or to a public place. Before a council changes the name of a public road that runs into the area of a council, it must give the adjoining council notice of the proposed change and consider any representations made in response to the notice.

*Clause 223: Numbering of adjacent premises and allotments*

A council may adopt a numbering system for buildings and allotments adjoining a road.

DIVISION 6—CONTROL OF WORK ON ROADS

*Clause 224: Alteration of road*

A person (other than a person authorised under this or another Act) must not alter a public road without the authority of the relevant council.

*Clause 225: Permits for business purposes*

A person must not use a public road for business purposes unless authorised to do so by a permit.

*Clause 226: Public consultation*

A proposal to grant an authorisation or permit that confers an exclusive right of occupation, restricts access, or falls within a prescribed use or activity, must first be the subject of public consultation.

*Clause 227: Conditions of authorisation or permit*

An authorisation or permit may be granted on conditions.

*Clause 228: Cancellation of authorisation or permit*

A council may cancel an authorisation or permit for breach of a condition.

DIVISION 7—MOVEABLE SIGNS

*Clause 229: Moveable signs*

This clause regulates the placing of moveable signs on a road.

*Clause 230: Removal of moveable sign*

A council may order that a moveable sign be removed under this clause.

DIVISION 8—GENERAL PROVISIONS REGULATING AUTHORISED WORK

*Clause 231: How work is to be carried out*

Work carried out on a road must be performed as expeditiously as possible and so as to minimise obstruction to the road and inconvenience to road users.

*Clause 232: Road to be made good*

A person who breaks up or damages a road must restore the road to its former condition.

DIVISION 9—SURVEY MARKS

*Clause 233: Survey marks*

This clause authorises the fixing of survey marks in a public road.

DIVISION 10—REGISTER

*Clause 234: Register*

A council must keep a register of public roads in its area.

DIVISION 11—MISCELLANEOUS

*Clause 235: Trees*

A council must consider certain matters before vegetation is planted on a road.

*Clause 236: Damage*

A person who intentionally or negligently damages a road or a structure of a council associated with a road is liable to the council in damages.

*Clause 237: Council's power to remove objects, etc., from roads*

A council may remove certain structures from a road.

PART 3
ANTI-POLLUTION MEASURES

*Clause 238: Deposit of rubbish, etc.*

It will be an offence under this measure to deposit rubbish on a public road or in a public place.

*Clause 239: Abandonment of vehicles and farm implements*

It will be an offence under this measure to abandon a vehicle or farm implement on a public road or public place.

*Clause 240: Removal of vehicles*

An authorised person may remove a vehicle that has been left on a public road or public place, or on local government land, for more than 24 hours. The council must then give written notice of the removal to the owner of the vehicle. If the vehicle is not claimed, the council can in due course sell the vehicle.

PART 4
SPECIFIC BY-LAW PROVISIONS

*Clause 241: Power to control access and use of land*

This clause empowers a council to make by-laws controlling access

to and use of local government land.

*Clause 242: By-laws about use of roads*

This clause empowers a council to make certain by-laws about the use of roads.

*Clause 243: Posting of bills, etc.,*

A council may make a by-law prohibiting the posting of bills and other items on buildings and other places without the permission of the council.

PART 5
OTHER MATTERS

*Clause 244: Native title*

A dealing under the Act will not affect native title in land (except to the extent allowable under a law of the State or the *Native Title Act 1993* (Cwlth).

*Clause 245: Time limits for dealing with certain applications*

Certain applications to a council relating to the use of community land or a road for business purposes must be decided within two months (or will be taken to have been refused).

*Clause 246: Registrar-General to issue certificate of title*

A council must apply to the Registrar-General for the issue of a certificate of title if land is vested in it in an estate in fee simple.

*Clause 247: Liability for injury, damage or loss on community land*

A council is only liable as occupiers of community land for injury, damage or loss that is a direct consequence of a wrongful act on the part of the council (unless the matter involves the council as the occupier of a building or structure).

*Clause 248: Liability for injury, damage or loss caused by certain trees*

This clause relates to council liability for damage to property caused by a tree.

CHAPTER 12
REGULATORY FUNCTIONS
PART 1
BY-LAWS

*Clause 249: Power to make by-laws*
*Clause 250: Principles applying to by-laws*
*Clause 251: Rules relating to by-laws*
*Clause 252: Passing by-laws*
*Clause 253: Model by-laws*
*Clause 254: Expiry of by-laws*
*Clause 255: Register of by-laws and certified copies*
*Clause 256: Revocation of by-law does not affect certain resolutions*

These clauses provide a scheme for the making of by-laws by councils.

PART 2
ORDERS
DIVISION 1—POWER TO MAKE ORDERS

*Clause 257: Power to make orders*

DIVISION 2—ASSOCIATED MATTERS

*Clause 258: Procedures to be followed*
*Clause 259: Rights of review*
*Clause 260: Action on non-compliance with an order*
*Clause 261: Non-compliance with an order an offence*

DIVISION 3—POLICIES

*Clause 262: Councils to develop policies*

These clauses provide a scheme for the making of certain orders by councils.

PART 3
AUTHORISED PERSONS

*Clause 263: Appointment of authorised persons*

This clause provides for the appointment of authorised persons by councils. A member of a council cannot be appointed as an authorised person.

*Clause 264: Powers under this Act*
*Clause 265: Power of enforcement*

These clauses make specific provision for the powers of authorised persons under the Act.

CHAPTER 13
REVIEW OF LOCAL GOVERNMENT ACTS, DECISIONS AND OPERATIONS
PART 1
CONDUCT OF MEMBERS

*Clause 266: Grounds of complaint*

This clause sets out the grounds upon which a complaint may be made against a member of a council, being a contravention or failure to comply with the Act, the performance of an unlawful act as a member of a council, or a failure to comply with a duty under this or another Act.

*Clause 267: Complaints*

A complaint may be lodged by a public official or any other person.

*Clause 268: Hearing by District Court*

The complaint is lodged with the District Court.

*Clause 269: Constitution of District Court*

The Court may, if determined by the judicial officer presiding at the sittings, be constituted with assessors selected under schedule 6.

*Clause 270: Outcome of proceedings*

This clause sets out the powers of the court if the Court is satisfied that the grounds for complaint exist and that there is proper cause for taking action against the relevant person.

*Clause 271: Application to committees and subsidiaries*

The complaint mechanism extends to members of committees and subsidiaries.

PART 2
INTERNAL REVIEW OF COUNCIL ACTIONS

*Clause 272: Council to establish grievance procedures*

A council must also establish a mechanism for handling complaints. Nothing in this clause will prevent a person from making a complaint to the Ombudsman.

*Clause 273: Mediation and neutral evaluation*

A council may establish a scheme for mediation or mental evaluation of a dispute between a person and the council. Nothing in this clause will prevent a person from making a complaint to the Ombudsman.

PART 3
REVIEWS INITIATED BY MINISTER
DIVISION 1—COUNCILS

*Clause 274: Investigation of a council*
*Clause 275: Action on a report*

DIVISION 2—SUBSIDIARIES

*Clause 276: Investigation of a subsidiary*
*Clause 277: Action on a report*

These clauses provide a scheme for the investigation of the activities of councils or subsidiaries in appropriate, specified cases.

PART 4
SPECIAL JURISDICTION

*Clause 278: Special jurisdiction*

Various proceedings relating to offices and decisions under the Act may be brought in the District Court.

CHAPTER 14
MISCELLANEOUS
PART 1
MINISTERIAL DELEGATIONS AND APPROVALS

*Clause 279: Delegation by the Minister*

This clause confers a specific power of delegation on the Minister.

*Clause 280: Approval by Minister does not give rise to liability*

This clause makes express provision to the effect that no liability attaches to the Crown or the Minister on account of an approval given by the Minister under the Act.

PART 2
SERVICE OF DOCUMENTS AND PROCEEDINGS

*Clause 281: Service of documents by councils, etc.*

This clause sets out a scheme for the service of documents by councils.

*Clause 282: Service of documents on councils*

This clause sets out a scheme for the service of documents on councils.

*Clause 283: Recovery of amounts from lessees or licensees*

A council may in certain cases require the lessee or licensee of land to make payments to the council instead of to the owner of the relevant land to satisfy a liability of the owner to the council.

*Clause 284: Ability of occupiers to carry out works*

The occupier of land may carry out certain works in certain cases.

PART 3
EVIDENCE

*Clause 285: Evidence of proclamations*
*Clause 286: Evidence of appointments and elections*
*Clause 287: Evidence of resolutions, etc.*
*Clause 288: Evidence of making of a rate*
*Clause 289: Evidence of assessment record*
*Clause 290: Evidence of Government assessment*
*Clause 291: Evidence of registers*
*Clause 292: Evidence of by-law*
*Clause 293: Evidence of boundaries*
*Clause 294: Evidence of constitution of council, appointment of officers, etc.*

*Clause 295: Evidence of costs incurred by council*
These clauses provide for various evidentiary matters.

PART 4
OTHER MATTERS

*Clause 296: Power to enter and occupy land in connection with an activity*
An employee or contractor of a council may enter land for the purposes of various authorised activities.

*Clause 297: Power to carry out surveys, work, etc.*
Various survey inspections, examinations and tests may be carried out on land.

*Clause 298: Reclamation of land*
If a council takes action to raise, fill in, improve or reclaim land, the owners of adjacent or adjoining land may be liable to contribute to the cost if the work has added value to the owner's land.

*Clause 299: Property in rubbish*
Any rubbish collected by the council in its area becomes the property of the council.

*Clause 300: Power of council to act in emergency*
A council may make certain orders to avert or reduce any danger from flooding.

*Clause 301: Costs of advertisements*
This clause deals with the cost of advertisements under the Act.

*Clause 302: River, stream or watercourse forming a common boundary*
If a watercourse forms the boundary of an area or ward, a line along its middle will be taken to be th actual boundary.

*Clause 303: Application to Crown*
Subject to any express provision, the measure does not bind the Crown.

*Clause 304: Regulations*
This clause relates to the regulation-making powers of the Governor under the measure.

SCHEDULE 1
*Provisions relating to organisations that provide services to the local government sector*
This schedule provides for the continuation of the LGA, the Local Government Mutual Liability Scheme and the Local Government Superannuation Scheme.

SCHEDULE 2
*Provisions applicable to subsidiaries*
This schedule makes provision in relation to council subsidiaries established under the Act.

SCHEDULE 3
*Material to be included in the annual report of a council*
This schedule makes provision for the matter that must be included in the annual report of a council.

SCHEDULE 4
*Documents to be made available by councils*
This schedule lists the matters that must be available for public inspection.

SCHEDULE 5
*Charges over land*
This schedule deals with charges over land.

SCHEDULE 6
*Selection of assessors for proceedings in the District Court*
This schedule provides for the appointment of persons who may act as assessors for the purposes of certain proceedings before the District Court under Chapter 13 of the Act.

SCHEDULE 7
*Provisions relating to specific land*
This schedule makes special provisions in relation to specific items of land.

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

## LOCAL GOVERNMENT (ELECTIONS) BILL

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

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** 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 is the second Bill in the package of three Bills resulting from the review of the *Local Government Act 1934*. The Local Government (Elections) Bill contains provisions for the conduct of council elections and polls.

As councils will only need to consult the electoral provisions from time to time, the provisions are contained in a separate Bill for the sake of convenience and accessibility. This will also enable alteration to the electoral provisions in the future, should the need arise, without affecting the main *Local Government Act*. However, the two Bills are to be read together to ensure that constitutional, operational and electoral provisions relating to Local Government work together in a consistent and coordinated way.

The Government's principal aims for the Local Government (Elections) Bill are to encourage greater community participation in council elections, and to establish fair and consistent rules and procedures which are as simple as possible.

The Bill restates many of the provisions about council elections now in the *Local Government Act*, rearranging them to improve clarity and access.

The Bill also includes changes made by the *Local Government (Miscellaneous Provisions) Amendment Act*, passed by Parliament in December 1996 for the Local Government elections of May 1997, and has benefited from review of those elections and from experience of the more recent Adelaide City Council elections.

The Bill promotes consistent practice across all council areas by providing for:

- universal postal voting (with exemptions possible in limited circumstances)
- one standard system for casting and counting votes (proportional representation)
- one independent authority—the Electoral Commissioner—to be the returning officer for all council elections.

In 1997, council elections conducted by postal voting in South Australia showed significantly higher voter participation than elections conducted at polling places. This was consistent with experience elsewhere in Australia and with the findings of studies previously undertaken. Mandatory postal voting was therefore included in the draft legislation for public consultation.

In response to requests from some rural councils concerned at the potential increased cost of mandatory postal voting without accompanying benefit, a schedule has been inserted in the Bill permitting such a council to seek the approval of the Electoral Commissioner to conduct its elections or polls using polling places and advance voting papers. Such a council will need to demonstrate that there has been a history in its area of high voter turnout at elections conducted using polling places, and that if postal voting were to be used (as required by the Bill), it would be unlikely to result in a significant increase in voter participation. If approval is granted for elections to be conducted by means of polling places, there is provision for the situation to be reviewed for subsequent elections should levels of voter participation decline. The provision for exceptions to postal voting is not available to councils in metropolitan Adelaide.

The Government has considered carefully the argument of some councils that they should be able to choose the voting system to apply in their areas. It is true that in very many matters related to Local Government one size does not fit all, and it is important that the "local" in Local Government is preserved. Indeed this has been a theme of much of the new legislation. However, the voting system to be applied at Local Government elections is not one of these matters. In keeping with the aims of maximising participation and simplifying procedures, the Bill puts a higher priority on having consistent approaches in these fundamental matters of governance across the State. The Bill therefore provides for one standard system for casting and counting votes in council elections.

The proportional representation system of vote counting has consistently been found to be the fairest system in a number of studies conducted by the State Government and/or the Local Government Association over the past decade, from the 1985 Council Elections Review, to a paper commissioned from Professor Dean Jaensch late in 1998. This is therefore the system provided for in the Bill.

The integrity of and probity of Local Government elections will be enhanced by the Bill's provision for the State Electoral Commissioner to be the Returning Officer for all council elections. This innovation will also bring important consistency of approach and policy co-ordination to the massive administrative and logistical task of producing and distributing elector instructions and ballot

papers to over one million people and companies who will be eligible to vote in the May 2000 council elections.

In a practical addition, the Bill enables a council to nominate a suitable person as a Deputy Returning Officer (who may be an officer of the council), and subject to the Electoral Commissioner being satisfied as to their suitability, that person will be appointed as the Deputy for that area, and will be delegated certain powers to conduct aspects of the election locally. However, the Commissioner will at all times retain full responsibility as Returning Officer, and the Deputy will be required to observe any directions or limitations on their duties and performance issued by the Commissioner.

It is expected that many councils will want to nominate a local Deputy Returning Officer and the Electoral Commissioner is empowered to establish training courses for Deputy Returning Officers to maximise this potential. The clear line of accountability in this new approach to the appointment of electoral officers highlights the separate statutory nature of the office and should overcome the pressure council officers can be placed under when combining their usual duties with a council appointment as returning officer.

The Bill extends to all councils the simplifying provision in the recently enacted *City of Adelaide Act 1998* under which joint or group owners and occupiers and corporate bodies are entitled to be enrolled, without their having to nominate (before roll closure) a person to exercise their vote. The Bill provides for an authorised member of the group, or an officer of the corporate body, to make an appropriate declaration of authority to vote at the time of voting by post.

At the request of the Local Government Association, a prohibition against a the same individual exercising more than one entitlement to vote in a ward or area-wide election which Parliament included in the *City of Adelaide Act 1998* has not been extended to the rest of the Local Government sector. The problem which this restriction addresses in the City of Adelaide is the perception that significant numbers of votes, each attaching to a different group or company entitled to be enrolled as an elector, are in reality controlled by one or two individuals who are able to exercise unfair influence as the persons who exercise the votes of these electors. This problem is not, in Local Government's view, significant enough elsewhere to prevent persons who may be voters in their own right from exercising valid votes on behalf of a group or company entitled to be enrolled if they are a member of the group or an officer of the company.

In other changes the Bill provides that—

- a candidate for election must be an Australian citizen, or be a person who was a member of a council at any time in the period May 1997 to the commencement of the new Act. The latter provision will enable existing elected members who are not Australian citizens to stand in future elections.
- a candidate cannot be a member of an Australian Parliament (which is defined to include Commonwealth, State and Territory Parliaments).
- details of campaign donations over $500 are to be submitted in a prescribed return to the relevant council's chief executive officer by all candidates six weeks after the elections, and this information is to be kept on a publicly accessible register. Multiple donations from the same source are to be aggregated for the $500 rule.
- recognising the use in future of electronic counting of votes, a new offence is created of unlawfully interfering with any computer program or system used by an electoral officer for the purposes of an election or poll.

Finally, to overcome any uncertainty about how complaints about electoral matters can be made and investigated, the State Electoral Commissioner is empowered to investigate any matter connected with the operation of the Act, and may initiate proceedings for offences.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

The measure will be brought into operation by proclamation.

*Clause 3: Objects*

This clause sets out the objects of the Bill.

*Clause 4: Preliminary*

This clause sets out the definitions required for the purposes of the Bill. The provision also makes it clear that an election for mayor, an election for a councillor or councillors who are to be representatives of the area as a whole, and an election for a councillor or councillors who are to be representatives of a ward, are each separate and distinct elections. Subclause (5) provides that this legislation and the *Local Government Act 1999* are to be read together as if the two Acts formed a single Act.

*Clause 5: Ordinary elections*

It is proposed to maintain a three—year election cycle for local government elections, based on a close of polling at 12 noon on the first business day after the second Saturday in May of the relevant year. The new date (changed from the first Saturday of May) is consistent with the move to full postal voting (subject to the operation of the schedule).

*Clause 6: Supplementary elections*

A supplementary election will be held in appropriate cases. The date for polling in such a case will be fixed by the returning officer.

*Clause 7: Failure of election in certain cases*

An election will fail if a candidate—

*(a)* withdraws his or her nomination on the ground of serious illness (supported by a medical certificate); or

*(b)* ceases to be qualified for election; or

*(c)* dies where there is only one vacancy to fill.

An election will also fail if two or more candidates die.

*Clause 8: Failure or avoidance of supplementary election*

If a supplementary election fails, the council will select a person or persons to supply the vacancy or vacancies.

*Clause 9: Council may hold polls*

A council may conduct a poll on any matter within the ambit of its responsibilities, or as contemplated by the *Local Government Act 1999*.

*Clause 10: The returning officer and deputy returning officer*

The Electoral Commissioner is to be the returning officer for each area. However, the Electoral Commissioner will be able to appoint a nominee of a council as a deputy returning officer for the council's area, if appropriate, and then, in such a case, the returning officer will be taken to have delegated the returning officer's powers and functions in respect of the area to the deputy returning officer. The Electoral Commissioner is also to be empowered to establish or specify courses of training for persons nominated or appointed as deputy returning officers under the Act.

*Clause 11: Appointment of other electoral officers*

Electoral officers will be engaged to assist in the conduct of an election or poll. Neither a member of a council, nor a candidate for election, may be engaged as an electoral officer for the council.

*Clause 12: Responsibilities of returning officer councils*

This clause makes it clear that the returning officer is responsible for the conduct of elections and polls, and a council is responsible for various matters concerning the provision of information, education and publicity to the public.

*Clause 13: Costs and expenses*

The costs and expenses of the returning officer in carrying out official duties must be defrayed from funds of the council.

*Clause 14: Qualification for enrolment*

This clause sets out the qualifications for enrolment on the voters roll of a council.

*Clause 15: The voters roll*

The chief executive officer of a council will be responsible for the maintenance of a voters roll for the council. It will be a requirement that the roll must be maintained in a form that allows for the roll at any time to be brought into an up-to-date form within three weeks after relevant House of Assembly information is provided to the chief executive officer.

A closing date will be set for each election or poll, with the closing date for a periodic election being the second Thursday of the February in the year of the election. The roll will be available for public inspection at the principal office of the council. The roll is conclusive evidence of an entitlement to vote at an election or poll at which the roll is used.

*Clause 16: Entitlement to vote*

This clause sets out in detail the entitlements to vote under the Act.

*Clause 17: Entitlement to stand for election*

This clause sets out in detail the entitlements to stand for election under the Act. In particular, a person is entitled to stand if the person is an Australian citizen, or a person who has been a member of a council at some time between May 1997 and the commencement of this section, and the person is an elector for the area or the nominee of a body corporate or group. The entitlement operates subject to any relevant provision in the *Local Government Act 1999*. A person is not eligible to be a candidate if the person is a member of an Australian Parliament, an undischarged bankrupt, a person who may be liable to imprisonment, an employee of the council or is disquali-

fied from election by court order under the *Local Government Act 1999*.

*Clause 18: Call for nominations*

The returning officer calls for nominations.

*Clause 19: Manner in which nomination is made*

An eligible person may nominate for election in the prescribed manner and form. A nomination must be accompanied by a declaration of eligibility and the information and material required by the regulation. The returning officer may reject a nomination if in the opinion of the returning officer the name under which the candidate is nominated is obscene, is frivolous or has been assumed for an ulterior purpose.

*Clause 20: Questions of validity*

If it appears that a nomination may be invalid for some reason, the returning officer must take all reasonable steps to notify the candidate in order to give the candidate an opportunity to address the matter before the close of nominations.

*Clause 21: Display of valid nominations*

A copy of any nomination is displayed at the principal office of the council.

*Clause 22: Ability to withdraw a nomination*

A nomination may be withdrawn before the close of nominations.

*Clause 23: Close of nominations*

Nominations for a periodic election close at 12 noon on the last Thursday of March.

*Clause 24: Multiple nominations*

If a person nominates for two or more vacancies, all nominations are void.

*Clause 25: Uncontested elections*

If the number of persons nominated does not exceed the number of vacancies when nominations close, the persons are declared elected (with the election to take effect in the case of a periodic election at the conclusion of the election).

*Clause 26: Notices*

After the close of nominations, the returning officer must give public notice, and notice in writing to each candidate, setting forth—

*(a)* the names of candidates; and

*(b)* the names of any person declared elected; and

*(c)* if an election is to be held—the day appointed as polling day; and

*(d)* information on the operation of Part 14 (Campaign Donations).

*Clause 27: Publication of electoral material*

Any published electoral material must contain the name and address of the person who authorises publication of the material.

*Clause 28: Publication of misleading material*

A person must not publish in any electoral material any purported statement of fact that is inaccurate and misleading to a material extent.

*Clause 29: Ballot papers*

Ballot papers must be prepared for any election. The order of names of candidates on a ballot paper will be determined by lot. A ballot paper must conform with any prescribed requirement.

*Clause 30: Appointment of place for counting votes*

The returning officer will appoint a place for the counting of votes for the purposes of an election.

*Clause 31: Special arrangement for the issue of voting papers*

Voting papers may be delivered under arrangements determined by the returning officer, personally to persons who reside at, or who attend, a specified institution or other place and who are entitled to voting papers under this Act.

*Clause 32: Scrutineers*

A candidate may, by notice in writing to the returning officer, appoint scrutineers for the purposes of an election.

*Clause 33: Ballot papers*

A ballot paper must be prepared for the purposes of any poll. The returning officer will design the ballot paper after consultation with the council.

*Clause 34: Appointment of a place for counting votes*

The returning officer will appoint a place for the counting of votes at a poll.

*Clause 35: Special arrangement for the issue of voting papers.*

Voting papers may be delivered, under arrangements determined by the returning officer, personally to persons who reside at, or attend, a specified institution or other place.

*Clause 36: Scrutineers*

The council may appoint suitable persons to act as scrutineers for the purposes of a poll.

*Clause 37: Postal voting to be used*

Voting at an election or poll will be conducted on the basis of postal voting (subject to any determination under the schedule).

*Clause 38: Notice of use of postal voting*

The returning officer will give notice in a newspaper circulating in the area informing electors that voting will be conducted by means of postal voting.

*Clause 39: Issue of postal voting papers*

Voting papers will be issued to each natural person, body corporate and group on the roll. The voting papers will consist of a ballot paper and an opaque envelope bearing a declaration to be completed by the voter. A pre—paid reply envelope is also included with the voting papers.

*Clause 40: Procedures to be followed for voting*

This clause sets out the procedure for voting. Voting papers must be returned (by postal or personally) not later than the close of voting on polling day.

*Clause 41: Voter may be assisted in certain circumstances*

A voter may be assisted if illiterate or physically unable to carry out a voting procedure.

*Clause 42: Signature to electoral material*

A person who cannot sign his or her name may make a mark as his or her signature.

*Clause 43: Issue of fresh postal voting papers*

Fresh voting papers may be issued to a person if the returning officer is satisfied that postal voting papers issued to the person have not been received, have been lost, or have been inadvertently destroyed.

*Clause 44: Security of votes*

The returning officer must ensure that arrangements are in place for the efficient receipt and safekeeping of envelopes returned by voters at an election or poll.

*Clause 45: Method of voting at elections*

The voting system for an election requires the use of numbers to cast a vote. If only one candidate is to be elected, a voter must place the number one in the box opposite the name of his or her first preference, and then may continue to cast preferences. If more than one candidate is to be elected, a voter must place consecutive numbers up to the number of candidates required to be elected, and then may continue to cast preferences. A tick or cross will be taken to be equivalent to the number 1. A ballot paper is not informal by reason of some non—compliance if the voter's intention is clearly indicated on the ballot paper.

*Clause 46: Method of voting at polls*

A person voting at a poll must vote according to directions printed on the ballot paper. The directions will be determined by the returning officer.

*Clause 47: Arranging postal papers*

This clause sets out the procedure to be followed for the arrangement and scrutiny of voting papers returned for the purpose of an election or poll.

*Clause 48: Method of counting and provisional declarations*

This clause sets out the method for counting votes at an election. The system is based on successful candidates obtaining a relevant quota of votes and the transfer of any surplus votes on the basis of a transfer value.

*Clause 49: Recounts*

A candidate may request a recount at any time within 48 hours after a provisional declaration of the result is made. A recount need not occur if the returning officer considers that there is no prospect that a recount would alter the result of the election. The returning officer may conduct a recount on his or her own initiative.

*Clause 50: Declaration of results and certificate*

The returning officer certifies the result of an election to the chief executive officer. The returning officer must also give written notice of the result to all candidates.

*Clause 51: Collation of certain information*

The returning officer must prepare a return relating to information concerning ballot papers used for the purposes of the election process.

*Clause 52: Provisional declarations*

The returning officer will make a provisional declaration of the result of a poll when that result becomes apparent.

*Clause 53: Recounts*

A scrutineer at a poll may request a recount of votes cast at the poll. The returning officer may also conduct a recount on his or her own initiative.

*Clause 54: Declaration of results and certificate*

The returning officer will provide a return to the council certifying the result of a poll.

*Clause 55: Computer counting*
This clause permits the use of a computer program for the recording, scrutiny or counting of votes in an election or poll, after consultation with the council. The program must be a program approved by the Electoral Commissioner.

*Clause 56: Retention of voting material*
A returning officer must retain all voting material relating to an election or poll until the returning officer is satisfied that the election or poll can not be questioned.

*Clause 57: Violence, intimidation, bribery, etc.*
It will be an offence for a person to exercise violence or intimidation, or to offer a bribe, in connection with the conduct of an election or poll. It will also be an offence to receive a bribe.

*Clause 58: Dishonest artifices*
It will be an offence for a person to dishonestly exercise, or attempt to exercise, a vote at an election or poll to which the person is not entitled.

*Clause 59: Interference with statutory rights*
It will be an offence to hinder or interfere with the free exercise or performance of a right under the Act.

*Clause 60: Exception*
This clause makes it clear that no declaration of public policy or promise of public action constitutes bribery or dishonest influence.

*Clause 61: Persons acting on behalf of candidates not to assist voters or collect voting papers*
A candidate, or a person acting on behalf of a candidate or as a scrutineer, must not act as an assistant to a person voting under the Act.

*Clause 62: Unlawful interference with computer programs*
It will be an offence to tamper or interfere with a computer program or system used by an electoral officer for the purposes of an election or poll under the Act.

*Clause 63: Secrecy of vote*
It will be an offence for a person to attempt to discover how another has voted. It will also be an offence for an unauthorised person to open an envelope containing a vote.

*Clause 64: Unlawful declaration or marking of ballot papers*
It will be an offence for a person to make a statement in a claim, application, return or declaration, or in answer to a question, that is, to the person's knowledge, false or misleading in a material respect.

*Clause 65: Conduct of officers*
It will be an offence for an electoral officer to fail, without proper excuse, to carry out officials duty under the Act.

*Clause 66: Conduct of scrutineers*
A scrutineer must not attempt to influence a person voting or proposing to vote at an election or poll. Not more than two of a candidate's scrutineers may be present in the place for the counting of votes at the same time while the count is occurring.

*Clause 67: Constitution of the Court*
*Clause 68: The clerk of the Court*
*Clause 69: Jurisdiction of the Court*
*Clause 70: Procedure upon petition*
*Clause 71: Powers of the Court*
*Clause 72: Certain matters not to be called in question*
*Clause 73: Illegal practices*
*Clause 74: Effect of decision*
*Clause 75: Participation of council in proceedings*
*Clause 76: Right of appearance*
*Clause 77: Case stated*
*Clause 78: Costs*
*Clause 79: Rules of the Court*
These clauses provide a scheme for the constitution of a Court of Disputed Returns and proceedings in connection with any petition disputing the validity of an election under the Act. The provisions are very similar to those currently contained in the 1934 Act.

*Clause 80: Returns for candidates*
Each candidate in a local government election will now be required to complete, and furnish to the chief executive officer, a campaign donations return.

*Clause 81: Campaign donations returns*
This clause sets out the various matters that must be included in a return. It will not be necessary to declare a gift made in a private capacity (*see* subclauses (2)*(a)* and (3)*(d)*), or a gift which is less than $500 (or less than $500 in value).

*Clause 82: Certain gifts not to be received*
A member or candidate will be prohibited from receiving a gift of $500 or more if the identity of the person making the gift is unknown.

*Clause 83: Inability to complete return*
This clause addresses cases where a person is unable to complete a return.

*Clause 84: Amendment of return*
A person will be able to request that a return furnished by the person under this Division be amended to correct an error or omission.

*Clause 85: Offences*
It will be an offence to fail to furnish a return under the Division, or to include information that is false or misleading in a material particular.

*Clause 86: Failure to comply with Division*
The chief executive officer must notify a person on any failure on the part of the person to furnish a return in accordance with the requirements of the Division.

*Clause 87: Public inspection of returns*
A return will be available for public inspection.

*Clause 88: Restrictions on publication*
It will be an offence to publish information derived from a return unless it is a fair and accurate summary of information in the return and it is a publication in the public interest. Any comment must also be fair and published in the public interest and without malice.

*Clause 89: Requirement to keep proper records*
A relevant person must, for a period of at least three years, take reasonable steps to keep in his or her possession all records relevant to completing a return.

*Clause 90: Related matters*
The regulations may assist in determining the amount or value of a gift other than money.

*Clause 91: Elected person refusing to act*
As with the 1934 Act, it will be an offence for a person to fail to assume an office to which he or she has been appointed or elected.

*Clause 92: Electoral Commissioner may conduct investigations*
The Electoral Commissioner will be specifically authorised to investigate any matter concerning the operation or administration of the Act, including a matter that may involve a breach of the Act, and to bring proceeding for an offence against the Act. A report must be furnished to a council with a material interest in the matter.

*Clause 93: Regulations*
The Governor will be able to make regulations for the purposes of this Act.

SCHEDULE
Voting at polling places
The returning officer will be able, in certain circumstances, to authorise a council outside Metropolitan Adelaide to conduct an election or poll at polling booths and by the use of advance voting papers.

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

## STATUTES REPEAL AND AMENDMENT (LOCAL GOVERNMENT) BILL

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

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** 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 is the third in the total package of legislation arising from the review of the *Local Government Act 1934*.

It is a largely technical Bill which repeals some specific Acts, the purpose of which are covered in the scheme for land management set out in the Local Government Bill 1999, repeals the provisions of the *Local Government Act 1934* with the exception of some regulatory powers, amends various other Acts in order to appropriately locate provisions of the current Local Government Act or to make amendments consequential on the revision of that Act, and makes necessary transitional provisions.

Acts repealed

The Acts repealed in total by this Bill are the *Klemzig Pioneer Cemetery (Vesting) Act 1983*, the *Public Parks Act 1943* and the *Reynella Oval (Vesting) Act 1973*. The objects of these Acts, as far as they are still relevant, are provided for under Chapter 11 of the

Local Government Bill which deals with the acquisition and disposal of community land and schedule 7 of that Bill which preserves provisions affecting specific land. Under schedule 7, the Klemzig Memorial Garden and Reynella Oval are classified as community land, the classification is irrevocable, and the management of these lands remains subject to the specific requirements set out in the repealed legislation.

Amendments to the Local Government Act 1934

The bulk of the provisions of the *Local Government Act 1934* are repealed because they are replaced by provisions of the Local Government Bills, more appropriately located in other legislation, or are obsolete. Provisions able to be repealed without those powers being retained in the Local Government Bills in one form or another because they are either redundant or are covered by specific State Acts include provisions relating keeping of pigs and cattle, smoke, dust, and fumes as a nuisance, gunpowder and explosives, quarrying and blasting operations, licensing of restaurants and fish shops, removal and disposal of sewage, licensing of chimney sweeps and bootblacks, sale of meat, wrapping of bread, purification of houses, prevention and control of infectious diseases, and various provisions concerning buildings, party walls and cellars. Many of these provisions are by-law making powers which are no longer exercised.

One of the objectives for the review of the Local Government Act is that remaining Local Government Act provisions concerning regulatory regimes in which both State and Local Government have a role should, if the provisions are still required, be located in the specific legislation which deals with that function. This approach is designed to clarify respective roles, eliminate fragmentation, gaps and overlaps, or provide scope for simplification and consistency with any national standards. It should also assist councils to identify regulatory activities for the purposes of separating these from its other activities in the arrangement of its affairs, as required under the *Local Government Bill 1999*. The *Statutes Amendment (Local Government and Fire Prevention) Act 1999*, and the amendments made in this Bill to the *Public and Environmental Health Act 1987* are examples of this approach.

It has been necessary to retain some regulatory powers of councils (together with any related definitions and interpretative provisions which are necessary for their continued application) in a remnant of the 1934 Act, pending the completion of reviews of the relevant functional areas.

- Provisions concerning traffic management and parking control

  The Government intends to incorporate Local Government's role in traffic management and parking control into a comprehensive review of the *Road Traffic Act* following the production of national Australian Road Rules. The Bill provides for the preservation of Local Government's parking and traffic powers on an interim basis until replacement provisions come into operation.
- Provisions concerning passenger transport regulation

  Councils' by-law making powers in relation to the regulation of passenger transport (s667 (1) 3 XX-XLII) are retained, pending consideration being given to how councils' by-law making powers to regulate taxis outside of metropolitan Adelaide should be framed and integrated into the *Passenger Transport Act* subsequent to competition policy analysis.
- Provisions concerning cemeteries

  The cemetery provisions are scheduled for comprehensive review in 1999 as part of a separate project to review and replace legislation for the disposal of human remains.
- Provisions concerning lodging—houses

  Councils' by-law making powers in relation to lodging-houses (s667 (1) 3 XVI) are retained, pending further consideration of whether any standards need to be established in relation to aspects not covered by the current provisions of the *Public and Environmental Health Act* or the *Supported Residential Facilities Act.*
- Provisions concerning sale yards and bazaars

  Councils' current power to impose annual licensing schemes and to make by-laws in relation to the regulating and licensing of sale yards and bazaars (Part 34 and section 667 (1) 3 XLVI—XLIX) are retained, pending further consideration of the adequacy of the current regulatory powers of the *Public and Environmental Health Act* in relation to any public health aspects of the operation of sale yards and bazaars, or whether additional standards or other regulatory mechanisms are required.

Provision is made in Part 5 of the Bill for the Governor to repeal by proclamation these remaining provisions of the *Local Government Act 1934*, in whole or in part, if or when satisfied that it is appropriate to do so.

Other Acts amended

A series of consequential changes to the *City of Adelaide Act 1998* amends references and updates provisions of that Act so that they mirror the Local Government Bills, except in relation to matters where provisions were intended to apply specifically to the City of Adelaide.

The Freedom of Information provisions of the Local Government Act are transferred to the *Freedom of Information Act 1991*. The new arrangements clearly separate general public sector provisions for freedom of information as they apply to local government from those concerning access to council documents under the open governance provisions of the Local Government Act. The effect is to simplify the legislative measures and clarify the routes through which persons can gain access to information and documents in relation to local government. South Australia has been different to the rest of Australia in adapting the regime of FOI for local government under the Local Government Act. The transfer will bring this State's practice into line with that of all other States.

Amendments to the *Coast Protection Act 1992* and the *Harbors and Navigation Act 1993* relocate the provisions in section 886bb of the 1934 Act which deal with the Government's responsibility for the effective management of sand and the access channel in association with the construction of any boating facility at West Beach. The amendments do not change in any way the Government's previous commitments made in relation to coastal and sand management in this area but clarify the functional responsibility within the State Government.

Amendments to other Acts are technical and are designed to ensure the smooth implementation of the new local government legislation.

Transitional provisions

Part 4 of the Bill ensures the continuity of councils and council business in the transition to the new legislation.

Allowances payable to elected members will continue as though they were made under the 1934 Act until fixed in line with the 1999 Act.

The provisions governing the employment of council executive officers under a contract will not come into operation until one month after the commencement of the 1999 Act.

Any register of interest or code of practice in force under the 1934 Act may, to the extent that a corresponding register or code is required under the 1999 Act, be taken to have been made under the 1999 Act. In relation to registers of members' financial interests, a current member will not have to lodge a fresh return until such time as they are re-elected at the 2000 Local Government elections.

Controlling authorities established under section 199 of the *Local Government Act 1934* will automatically continue as council committees when the Act enters into force. However, a s199 authority which already exists and which is notified by the Minister in the Gazette to be a controlling authority for which subsidiary status is appropriate will become a single council subsidiary under transitional provisions similar to those for regional subsidiaries. Controlling authorities established under section 200 of the *Local Government Act 1934* will automatically continue in existence as regional subsidiaries. Their rules under the old Act will be taken to be their charters under the new and they will need to bring their charter into full compliance by 1 January 2002.

Organisations with land which have been proclaimed exempt from rates for 1999-2000 under section 168(2)*(h)* of the 1934 Act will continue to be exempt until 30 June 2005. From that date the new Local Government Act's rebate provisions will operate if applicable.

Capacity is provided for certain council land to be excluded from the automatic classification of local government land as community land which applies at the commencement of Chapter 11 of the 1999 Act. Where:

- the council has acquired land within the last 5 years; and
- it is satisfied that it is able to show that the acquisition was for a specific commercial or operational purpose and not for public or community use or for the provision of community facilities; and
- the community has had reasonable opportunity to make submissions to the council before the acquisition occurred; and
- the council has resolved within 6 months after the commencement of the Act that the land is to be excluded from classification as community land,

the land will not be taken to be classified as community land. The onus is on the council to substantiate these claims. The effect of this provision is that councils will not be required to consult with their communities about removing such land from the classification of community land as they would otherwise have to do in the initial three year period provided under Chapter 11 for a council and its community to review which local government land should be excluded from the classification of community land.

By-laws will remain in force provided that the provision under which a by-law is made is continued in the 1999 Act, another Act, or by regulation provided for in this Bill.

Councils are provided with appropriate lead times for the preparation of policies, codes, plans and reports required under the 1999 Act. The implementation program for the Local Government Bills together with non-legislative support programs managed by the Local Government sector will assist councils to make a smooth transition.

Explanation of Clauses

*Clause 1: Short title*

This clause is formal.

*Clause 2: Commencement*

The measure will come into operation by proclamation.

*Clause 3: Interpretation*

This clause sets out the definitions required for the purposes of the measure. In particular, 'relevant day' is defined as a day appointed by proclamation as the relevant day for the purposes of the provision in which the term is used.

*Clause 4: Acts repealed*

It is proposed to make provision for the repeal of the *Klemzig Pioneer Cemetery (Vesting) Act 1983* (now to be dealt with in schedule 7 of the 1999 Act), the *Public Parks Act 1943* (now redundant) and the *Reynella Oval (Vesting) Act 1973* (now to be dealt with in schedule 7 of the 1999 Act).

*Clause 5: Amendment of City of Adelaide Act 1998*

It is proposed to amend the *City of Adelaide Act 1998* in order to provide consistency between that Act and the initiatives in the new *Local Government Act 1999*.

*Clause 6: Amendment of Coast Protection Act 1972*

This amendment is connected with the continuation of the effect of section 886bb of the 1934 Act, which is to be repealed.

*Clause 7: Amendment of Food Act 1985*

This clause is based on section 883(3) of the 1934 Act, which is to be repealed. The special arrangement under the new provision is to expire on 30 June 2002.

*Clause 8: Amendment of Freedom of Information Act 1991*

The amendments contained in this clause incorporate document access rights relating to councils in the *Freedom of Information Act 1991*.

*Clause 9: Amendment of Harbors and Navigation Act 1993*

This amendment is connected with the continuation of the effect of section 886bb of the 1934 Act, which is to be repealed.

*Clause 10: Amendment of Highways Act 1926*

This amendment replaces section 300a of the 1934 Act, which is to be repealed.

*Clause 11: Amendment of Local Government Act 1934*

This clause makes consequential amendments to the *Local Government Act 1934* in view of the enactment of the *Local Government Act 1999* and the other provisions of Part 3 of this measure.

*Clause 12: Amendment of Public and Environmental Health Act 1987*

These amendments are connected with the repeal of section 883, and Part 25, of the 1934 Act.

*Clause 13: Amendment of Pulp and Paper Mills (Hundreds of Mayurra and Hindmarsh) Act 1964*

This amendment makes special provision for a cross-reference to the 1934 Act.

*Clause 14: Amendment of Real Property Act 1886*

This amendment is connected with the repeal of Division 3 of Part 17 of the 1934 Act.

*Clause 15: Amendment of Roads (Opening and Closing) Act 1991*

This amendment up-dates relevant definitions.

*Clause 16: Amendment of Survey Act 1992*

This amendment is connected with the repeal of Division 3 of Part 17 of the 1934 Act.

*Clause 17: Amendment of Water Resources Act 1997*

These amendments make special provision for cross-references to the 1934 Act.

*Clause 18: Constitution of councils*

All councils, council committees, areas and wards are to continue as if constituted under the 1999 Act. All persons holding office (other than returning officers) under the 1934 Act continue to hold office under the 1999 Act.

*Clause 19: Structural proposals*

Proceedings commenced under Part 2 of the 1934 Act may continue and be completed as if this Act had not been enacted.

*Clause 20: Defaulting councils*

This clause provides for the continuation of a proclamation in force under Division 13 of Part 2 of the 1934 Act.

*Clause 21: Delegations*

Delegations will continue to have effect on the enactment of the new legislation.

*Clause 22: Registers and codes*

Existing registers and codes will continue under the 1999 Act. All members of councils elected at the May 2000 elections will be required to lodge a primary return for the purposes of the Register of Interests under the 1999 Act.

*Clause 23: Allowances*

Allowances payable to elected members will continue as though they were made under the 1934 Act until fixed in line with the 1999 Act.

*Clause 24: Freedom of Information*

Current freedom of information requests or proceedings will continue under the 1934 Act.

*Clause 25: Contract provisions for senior executives*

The provisions relating to contracts for the chief executive officer and senior executives under the 1999 Act will apply in relation to an appointment made more than one month after the appointed day.

*Clause 26: Staff*

Current processes relating to staff will continue under the 1934 Act.

*Clause 27: Elections*

Electoral processes will continue under the 1999 Electoral Act, other than where an extraordinary vacancy exists in the membership of a council and a day has already been appointed for the nomination of persons as candidates.

*Clause 28: Investments*

Existing council investments are not affected by new provisions under the 1999 Act.

*Clause 29: Auditors*

Any Auditor who is qualified to act under the 1934 Act but not so qualified under the 1999 Act may nevertheless continue until 30 June following the relevant day.

*Clause 30: Assessment book*

The assessment book will become the assessment record under the 1999 Act.

*Clause 31: Rates*

This clause makes specific provision for the continuation of rating processes.

*Clause 32: Single council controlling authorities*

Existing section 199 controlling authorities will generally become committees under the new Act. However, a council will be able to apply to the Minister to continue an authority as an incorporated subsidiary under the new Act.

*Clause 33: Regional controlling authorities*

Existing section 200 controlling authorities will continue as regional subsidiaries under the new Act.

*Clause 34: Water reserves*

A grant of a water or other reserve will continue as a grant under section 5AA of the *Crown Lands Act 1929*.

*Clause 35: Evidence of proclamations*

*Clause 36: Evidence of appointments and elections*

*Clause 37: Evidence of resolutions, etc.*

*Clause 38: Evidence of making of a rate*

*Clause 39: Evidence of assessment record*

*Clause 40: Evidence of constitution of council, appointment of officers, etc.*

These clauses facilitate the evidence of certain matters, consistent with the provisions of the 1934 Act.

*Clause 41: Local government land*

This clause provides for the continued holding and management of local government land and makes special provision in relation to certain land that might otherwise continue as community land under the 1999 Act. The new legislation will not affect the term of a lease under Part 45 of the 1934 Act.

*Clause 42: By-laws*

This clause enacts special transitional provisions relating to by-laws.

*Clause 43: Contracts and tenders policy*

*Clause 44: Public consultation policies*

*Clause 45: Code of conduct—members*

*Clause 46: Code of conduct—employees*

*Clause 47: Strategic management plans*

*Clause 48: Annual reports*
These clauses provide for the 'phasing-in' of various requirements under the 1999 Act.

*Clause 49: Orders*
A council will be able to make an order under Part 2 Chapter 12 of the 1999 Act in respect of a circumstance in existence before the relevant day.

*Clause 50: Grievance procedures*
This clause provides for the 'phasing-in' of Part 2 Chapter 13 of the 1999 Act.

*Clause 51: Reviews initiated by Minister*
The Minister will be able to act under Part 3 Chapter 13 of the 1999 Act in respect of a matter arising before the relevant day.

*Clause 52: General provisions*
The Governor will be able to provide for other savings or transitional matters by regulation.

*Clause 53: Further repeal—Local Government Act 1934*The Governor will be able, by proclamation, to suspend the repeal of any provision, to effect further repeals with respect to the *Local Government Act 1934*, and to repeal the *Local Government Act 1934* (if or when it is appropriate to do so).

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

## PORT WATERWAYS

**The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning):** Earlier today I did not seek leave, and I do now, to table a ministerial statement by the Hon. Dorothy Kotz, Minister for Environment and Heritage, on the subject of cleaning up the Port waterways.

Leave granted.

## ADJOURNMENT

At 11 p.m. the Council adjourned until Wednesday 24 March at 2.15 p.m.