LEGISLATIVE COUNCIL

Thursday 31 May 2001

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

SITTINGS AND BUSINESS

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

That standing orders be so far suspended as to enable petitions, the tabling of papers, question time and statements on matters of interest to be taken into consideration at 2.15 p.m.

Motion carried.

CORONERS BILL

The Hon. K.T. GRIFFIN (Attorney-General) obtained leave and introduced a bill for an act to provide for the appointment of the State Coroner and other coroners; to establish the Coroner's Court; to repeal the Coroners Act 1975; to amend certain other acts and statutory instruments; and for other purposes. Read a first time.

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

That this bill be now read a second time.

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

Leave granted.

Introduction

The office of coroner is one of the oldest in our legal system. The first reference to the office dates back to 1174. In those early days, the coroner was primarily responsible for tax gathering; in particular, protecting the revenues of the Crown derived from the criminal justice system.

The role of a modern coroner, being primarily to investigate the cause and circumstances of deaths, disappearances and fires, was developed over the subsequent centuries, by both the common law and statute. In South Australia, the various common law and statutory functions and powers of coroners were consolidated into one statute in 1884, although, even as early as 1850, the Parliament had enacted legislation to specifically regulate the office. In 1975, with the enactment of the current legislation, South Australia became the first state to create the position of State Coroner. All other states, with the exception of Queensland, have followed this state's lead in creating an equivalent position.

While the jurisdiction of coroners to investigate deaths, disappearances and fires has remained largely unchanged since 1884, coroners now play an important role in the prevention of death and injury. The *Coroners Act 1975* specifically recognises the role of the coroner to make recommendations, arising out of the facts of an individual case, designed to reduce the incidence of similar deaths or injury in the future. The *Coroners Bill 2001* builds on the success of the centralised system established under the 1975 legislation. It incorporates a number of important reforms into the jurisdiction in South Australia. While many of the features of the existing scheme have been retained, the government took the view that it was in the public interest to draft a bill for a new Act rather than make further significant amendments to the 1975 Act.

The Coroners Bill 2001

Part 1 of the bill contains the formal preliminary clauses, including the definitions of terms used in the bill. One of the most important terms defined is that of a "reportable death". Reportable deaths, as the term suggests, are those deaths which must be reported to the State Coroner or, in some cases, a police officer. The Coroner's Court has jurisdiction to hold inquests to ascertain the cause or circumstances of a reportable death. The term is defined broadly to ensure the Coroner's Court has the jurisdiction to inquire into the deaths of persons in circumstances where the cause of death is unexpected, unnatural, unusual, violent or unknown, or is, or could be, related to medical treatment received by the person, or where the person is in the custody, or under the care, of the state by reason of their mental or intellectual capacity.

Administration of coronial jurisdiction

Part 2 of the bill sets out the administration of the coronial jurisdiction in South Australia. The position of State Coroner is retained. In keeping with established practices, all Magistrates are Deputy State Coroners. The Governor's power to appoint other coroners is retained. The functions of the State Coroner are largely the same as under the current legislation with one important difference, that relating to the administration of the new Coroner's Court.

The State Coroner is provided with a power to delegate any of his or her administrative functions and the Attorney-General is empowered to nominate a Deputy State Coroner to perform the functions of the State Coroner during the latter's absence from official duties. Part 2 of the bill also provides for the appointment of investigators to assist with coronial investigations. Investigators will complement the skills of the police officers assigned to perform investigations for coronial inquiries and inquests.

The Coroner's Court

Part 3 Division 1 of the bill formally establishes the Coroner's Court as a court of record with a seal. The Court is to be constituted of a coroner. The Court is given jurisdiction to hold inquests in order to ascertain the cause or circumstances of events prescribed under the legislation. The bill provides for the appointment of Court staff, including counsel assisting.

While the current legislation does not formally recognise a coroner's court, at common law, a coroner is a judicial office and coroners' courts are courts of record. The provisions of this part of the bill merely give formal recognition to the common law position. The jurisdiction and powers of the Court in relation to the conduct of inquests is generally consistent with the jurisdiction and powers of the State Coroner (and other coroners acting under the State Coroner's direction) under the current legislation.

The formal establishment of the Coroner's Court as a court of record is consistent with the more recent reforms of the coronial jurisdictions of other states and territories. Coroner's legislation of the Australian Capital Territory (1997), Western Australia (1996) and Tasmania (1995) all formally acknowledge the establishment of a coroner's court as a court of record or, in Tasmania's case, as a division of that state's Magistrates Court.

Division 2 of Part 3 of the bill sets out the practice and procedure of the Coroner's Court. These provisions are, again, generally consistent with the provisions governing the practice and procedure of inquests conducted by coroners under the current legislation. The Court is, however, given greater flexibility to accept evidence from children under the age of 12, or from persons who are illiterate or who have intellectual disabilities.

Inquests

Part 4 of the bill governs the holding of inquests by the Coroner's Court. The Court is given power to hold inquests into reportable deaths, the disappearance of any person from within the state, or the disappearance of any person ordinarily resident in the state from anywhere, a fire or accident that causes injury to any person or property, or any other event as required by other legislation. Specifically, the Court must hold an inquest into a death in custody. Conversely, the Court is prohibited from commencing or proceeding with an inquest the subject matter of which has resulted in criminal charges being laid against any person until the criminal proceedings have been disposed of or withdrawn. This is consistent with the position taken under the current legislation.

Both the State Coroner and the Coroner's Court are given extensive powers of inquiry. These powers are generally consistent with the powers granted to the State Coroner under the current legislation and include the power to enter premises and remove evidence, to examine and copy documents, to issue warrants for the removal of bodies and exhumations, and the power to direct that post mortems be conducted.

Under the current legislation, a coroner may issue a warrant for the exhumation of a body only with the consent of the Attorney-General. The position under the bill is a little different as a reflection of the role of the Coroner's Court. Under the bill, the consent of the Attorney-General is still required where the State Coroner is to issue a warrant. However, so as not to offend against the doctrine of the separation of powers, the Coroner's Court does not require the consent of the Attorney-General to issue a warrant for the exhumation of a body.

Part 4 of the bill also provides the Coroner's Court with powers for the purpose of conducting an inquest. These powers include powers to issue a summons to compel witnesses to attend inquests

or to produce documents, the power to inspect, retain and copy documents and the power to require a person to give evidence on oath or affirmation. The informal inquisitorial nature of coronial inquiries is maintained. In an inquest, the Court is not bound by the rules of evidence and may inform itself on any matter as it thinks fit. The Court must act according to equity, good conscience and the substantial merits of the case without regard to technicalities or legal forms. A person's right against self-incrimination (one of the cornerstones of our legal system) is maintained.

Once an inquest has been completed, the Court is required to hand down its findings as soon as practicable. As is currently the position with coronial inquests, the Court is prohibited from making any finding of civil or criminal liability.

One of the most important roles now performed by coroners is that of accident and death prevention. The bill continues the development of this role by maintaining the power of a coroner (albeit now vested in the Coroner's Court) to make recommendations that might prevent or reduce the likelihood of a recurrence of an event similar to the event that was the subject of the inquest.

As is the position under the current legislation, inquests may be re-opened at any time, or the Supreme Court may, on application by the Attorney-General or a person with sufficient interest in a finding, order that the finding be set aside.

Reporting deaths

Under Part 5 of the bill, a person, on becoming aware of a reportable death, must notify the State Coroner or (except in relation to a death in custody) a police officer of the death. A new offence, that of failing to provide the State Coroner or police officer with information a person has about a reportable death, is created. This is to ensure that all relevant information about a death is provided to the State Coroner or police in a timely manner.

Miscellaneous matters under the bill

Part 6 of the bill contains a number of miscellaneous provisions, most of which replicate equivalent provisions in the current legislation. However, a number of them are new. The State Coroner may now exercise any of the powers granted under the legislation for the purpose of assisting a coroner of another state or territory to conduct an inquiry or inquest under that state or territory's coronial legislation. Already, the Victorian, New South Wales and Western Australian legislation contain equivalent provisions which will enable assistance to be rendered to a coroner in South Australia. The South Australian legislation will reciprocate this benefit.

The bill also ensures that information about persons obtained in the course of administering the legislation is protected from improper disclosure while ensuring the openness of the coronial jurisdiction. In order to assist the State Coroner in the very important role of injury and death prevention, the State Coroner is given power to provide to persons or bodies information derived from the Court's records or other sources for purposes related to research, education or public policy development.

A number of transitional provisions and consequential amendments to state legislation will be necessary. These provisions are contained in Schedules 1 and 2 to the bill.

I commend this bill to the Council.

Explanation of Clauses

This is a bill for an Act to provide for the State Coroner and other coroners and to establish the Coroner's Court. The new Act will replace the *Coroners Act 1975* (the repealed Act) which is to be repealed (*see Schedule 1*).

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause contains the definitions of words and phrases used in the bill. In particular, a coroner is defined to mean the State Coroner, a Deputy State Coroner or any other coroner appointed under proposed Part 2.

The Coroner's Court must hold an inquest to ascertain the cause or circumstances of a death in custody (*see clause 21*). A death in custody is a death of a person where there is reason to believe that the death occurred, or the cause of death, or a possible cause of death, arose, or may have arisen, while the person—

(a) was being detained in any place within the state under any Act or law, including an Act or law providing for home detention; or

(b) was in the process of being apprehended or held—

- at any place (whether within or outside the state) by a person authorised to do so under any Act or law of the state; or
- at any place within the state—by a person authorised to do so under the law of any other jurisdiction; or

(c) was evading apprehension by a person referred to in paragraph *(b)*; or

(d) was escaping or attempting to escape from any place or person referred to in paragraph *(a)* or *(b)*.

The Coroner's Court may hold an inquest to ascertain the cause or circumstances of a reportable death (*see clause 21*). A reportable death is the state death of a person—

(a) by unexpected, unnatural, unusual, violent or unknown cause; or

(b) on an aircraft during a flight, or on a vessel during a voyage; or

(c) in custody; or

(d) that occurs during or as a result, or within 24 hours, of the carrying out of a surgical procedure or an invasive medical or diagnostic procedure, or the administration of an anaesthetic for the purposes of carrying out such a procedure (not being a procedure specified by the regulations to be a procedure to which this paragraph does not apply); or

(e) that occurs at a place other than a hospital but within 24 hours of the person having been discharged from a hospital after being an inpatient of the hospital or the person having sought emergency treatment at a hospital; or

(f) where the person was, at the time of death—

- a protected person within the meaning of the *Aged and Infirm Persons' Property Act 1940* or the *Guardianship and Administration Act 1993*; or
- in the custody or under the guardianship of the Minister under the *Children's Protection Act 1993*; or
- the subject of a treatment order within the meaning of the *Mental Health Act 1993*; or
- a resident of a licensed supported residential facility under the *Supported Residential Facilities Act 1992*; or
- accommodated in a hospital or other treatment facility for the purposes of being treated for mental illness or drug addiction; or

(g) that occurs in the course or as a result, or within 24 hours, of the person receiving medical treatment to which consent has been given under Part 5 of the *Guardianship and Administration Act 1993*; or

(h) where no certificate as to the cause of death has been given to the Registrar of Births, Deaths and Marriages; or

(i) that occurs in prescribed circumstances.

PART 2: ADMINISTRATION

Clause 4: Appointment of State Coroner

There will be a State Coroner appointed by the Governor for a term, and on conditions, determined by the Governor. A person is not eligible for such appointment unless he or she is a legal practitioner of at least five years' standing.

Clause 5: Magistrates to be Deputy State Coroners

Each Magistrate is a Deputy State Coroner for the purposes of the proposed Act.

Clause 6: Appointment of coroners

The Governor may appoint a justice of the peace or any other person to be a coroner.

Clause 7: Functions of State Coroner

The State Coroner has the following functions:

- to administer the Coroner's Court;
- to oversee and co-ordinate coronial services in the state;
- to perform such other functions as are conferred on the State Coroner by or under this proposed new Act or any other Act.

In the absence of the State Coroner from official duties, responsibility for performance of the State Coroner's functions during that absence will devolve on a Deputy State Coroner nominated by the Attorney-General.

Clause 8: Delegation of State Coroner's administrative functions and powers

The State Coroner may delegate any of the State Coroner's administrative functions or powers (other than this power of delegation) under this proposed Act or any other Act to another coroner, the principal administrative officer of the Coroner's Court, or any other suitable person.

Clause 9: Appointment of investigators

All police officers are investigators for the purposes of the proposed Act (*see definition of investigator in clause 3*). The Attorney-General

may also appoint a person to be an investigator for the purposes of the proposed Act.

PART 3: CORONER'S COURT
DIVISION 1—THE CORONER'S COURT AND ITS STAFF

Clause 10: Establishment of Court

The Coroner's Court of South Australia is established.

Clause 11: Court of record

The Coroner's Court is a court of record.

Clause 12: Seal

The Coroner's Court will have such seals as are necessary for the transaction of its business and a document apparently sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.

Clause 13: Jurisdiction of Court

The jurisdiction of the Coroner's Court is to hold inquests in order to ascertain the cause or circumstances of the events prescribed under this proposed Act or any other Act.

Clause 14: Constitution of Court

The Coroner's Court is to be constituted of a coroner. The Court may, at any one time, be separately constituted of a coroner for the holding of a number of separate inquests and if the coroner constituting the Court for the purposes of any proceedings dies or is for any other reason unable to continue with the proceedings, the Court constituted of another coroner may complete the proceedings.

Clause 15: Administrative and ancillary staff

The Coroner's Court's administrative and ancillary staff will consist of any legal practitioner appointed to assist the Court as counsel and any other persons appointed to the non-judicial staff of the Court and will be appointed under the *Courts Administration Act 1993*.

Clause 16: Responsibilities of staff

A member of the administrative or ancillary staff of the Coroner's Court is responsible to the State Coroner (through any properly constituted administrative superior) for the proper and efficient discharge of his or her duties.

DIVISION 2—PRACTICE AND PROCEDURE OF CORONER'S COURT

Clause 17: Time and place of sittings

The Coroner's Court may sit at any time at any place and will sit at such times and places as the State Coroner may direct.

Clause 18: Adjournment from time to time and place to place

The Coroner's Court may adjourn proceedings from time to time and from place to place, adjourn proceedings to a time and place to be fixed, or order the transfer of proceedings from place to place.

Clause 19: Inquests to be open

Subject to Part 8 of the *Evidence Act 1929* or any other Act, inquests held by the Coroner's Court must be open to the public. However, the Court may also exercise the powers conferred on the Court under Part 8 of that Act relating to clearing courts and suppressing publication of evidence if the Court considers it desirable to do so in the interest of national security.

Clause 20: Right of appearance and taking evidence

The following persons are entitled to appear personally or by counsel in proceedings before the Coroner's Court:

- the Attorney-General;
- any person who, in the opinion of the Court, has a sufficient interest in the subject or result of the proceedings.

A person appearing before the Court may examine and cross-examine any witness testifying in the proceedings.

Subclauses (3) to (6) are substantially the same as section 104(4) to (6) of the *Summary Procedure Act 1921*. These subclauses provide that the Court may accept evidence in the proceedings from a witness by affidavit or by written statement verified by declaration in the form prescribed by the rules. However, if the witness is a child under the age of 12 years or a person who is illiterate or suffers from an intellectual disability, the witness's statement may be in the form of a written statement taken down by a coroner or an investigator at an interview with the witness and verified by the coroner or investigator, by declaration in the form prescribed by the rules, as an accurate record of the witness's oral statement. The Court may require a person who has given evidence by affidavit or written statement to attend before the Court for the purposes of examination and cross-examination. It is an offence punishable by imprisonment for 2 years if—

- a written statement made by a person under this clause is false or misleading in a material particular; and
- the person knew that the statement was false or misleading.

PART 4: INQUESTS

Clause 21: Holding of inquests by Court

The Coroner's Court must hold an inquest to ascertain the cause or circumstances of the following events:

- a death in custody (*as defined in clause 3*);
- if the State Coroner considers it necessary or desirable to do so, or the Attorney-General so directs—
  - any other reportable death; or
  - the disappearance from any place of a person ordinarily resident in the State; or
  - the disappearance from, or within, the State of any person; or
  - a fire or accident that causes injury to person or property;
- any other event if so required under some other Act.

However, the Court may not commence or proceed further with an inquest if a person has been charged in criminal proceedings with causing the event that is, or is to be, the subject of the inquest, until the criminal proceedings have been disposed of or withdrawn.

An inquest may be held to ascertain the cause or circumstances of more than one event.

Clause 22: Power of inquiry

The State Coroner may exercise the powers set out in this clause for the purposes of determining whether or not it is necessary or desirable to hold an inquest.

The Coroner's Court may exercise the powers set out in this clause for the purposes of an inquest.

The powers are—

(1) to enter at any time and by force (if necessary) any premises in which the State Coroner or Court reasonably believes there is the body of a dead person and view the body;
(2) to enter at any time and by force (if necessary) any premises and inspect and remove anything in or on the premises;
(3) to take photographs, films, audio, video or other recordings;
(4) to examine, copy or take extracts from any records or documents;
(5) to issue a warrant for the removal of the body of a dead person to a specified place;
(6) to issue a warrant for the exhumation of the body, or retrieval of the ashes, of a dead person (an exhumation warrant);
(7) to direct a medical practitioner who is a pathologist, or some other person or body considered by the State Coroner or the Court to be suitably qualified, to perform or to cause to be performed, as the case may require, a post-mortem examination and any other examinations or tests consequent on the post-mortem examination.

An exhumation warrant of the State Coroner may only be issued with the approval of the Attorney-General.

An investigator may exercise the first 4 powers listed if directed to do so by the State Coroner or the Coroner's Court for the purposes referred to therein and, in doing so, must comply with any directions given by the State Coroner or the Court for the purpose.

A person who hinders or obstructs a person exercising a power or executing a warrant under this section or any assistant accompanying such a person or who fails to comply with a direction given by such a person under this clause is—

- in the case of hindering or obstructing, or failing to comply with a direction of, the Court—guilty of a contempt of the Court;
- in any other case—guilty of an offence and liable to a penalty not exceeding $10 000.

Clause 23: Proceedings on inquests

The Coroner's Court may, for the purposes of an inquest—

- by summons, require the appearance before the inquest of a person; or
- by summons, require the production of relevant records or documents; or
- inspect records or documents produced before it, retain them for a reasonable period and make copies of the records or documents or their contents; or
- require a person to make an oath or affirmation to answer truthfully questions put by the Court or by a person appearing before the Court; or
- require a person appearing before the Court to answer questions put by the Court or by a person appearing before the Court.

If a person fails without reasonable excuse to comply with a summons to appear or there are grounds for believing that, if such a summons were issued, a person would not comply with it, the Court may issue a warrant to have the person arrested and brought before the Court.

If a person who is in custody has been summoned to appear before the Court, the manager of the place in which the person is being detained must cause the person to be brought to the Court as required by the summons.

A person who—

- fails, without reasonable excuse, to comply with a summons issued to appear, or to produce records or documents, before the Court; or
- having been served with a summons to produce a written statement of the contents of a record or document in the English language fails, without reasonable excuse, to comply with the summons or produces a statement that he or she knows, or ought to know, is false or misleading in a material particular; or
- refuses to be sworn or to affirm, or refuses or fails to answer truthfully a relevant question when required to do so by the Court; or
- refuses to obey a lawful direction of the Court; or
- misbehaves before the Court, wilfully insults the Court or interrupts the proceedings of the Court,

commits a contempt of the Court.

A person is not, however, required to answer a question, or to produce a record or document, if

- the answer to the question or the contents of the record or document would tend to incriminate the person of an offence; or
- answering the question or producing the record or document would result in a breach of legal professional privilege.

Clause 24: Principles governing inquests

The Coroner's Court, in holding an inquest, is not bound by the rules of evidence and may inform itself on any matter as it thinks fit and must act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

Clause 25: Findings on inquests

The Coroner's Court must give written findings as to the cause and circumstances of the event that was the subject of an inquest and forward a copy of its findings to the Attorney-General.

The Court must not make any finding, or suggestion, of criminal or civil liability.

However, the Court may add to its findings any recommendation that might, in the opinion of the Court, prevent, or reduce the likelihood of, a recurrence of an event similar to the event that was the subject of the inquest.

Clause 26: Re-opening of inquests

The Coroner's Court may re-open an inquest at any time and must do so if the Attorney-General so directs and, in the event that an inquest is re-opened, may do one or more of the following:

- confirm any previous finding;
- set aside any previous finding;
- make a fresh finding that appears justified by the evidence.

Clause 27: Application to set aside findings made on inquests

The Supreme Court may, on application (made within 1 month after the finding has been given) by the Attorney-General or a person who has a sufficient interest in a finding made on an inquest, order that the finding be set aside. A finding will not be set aside unless the Supreme Court is of the opinion—

- that the finding is against the evidence or the weight of the evidence adduced before the Coroner's Court; or
- that it is desirable that the finding be set aside because an irregularity has occurred in the proceedings, insufficient inquiry has been made or because of new evidence.

The Supreme Court may (in addition to, or instead of, making such an order) do one or more of the following:

- order that the inquest be re-opened, or that a fresh inquest be held;
- substitute any finding that appears justified;
- make such incidental or ancillary orders (including orders as to costs) as it considers necessary or desirable in the circumstances of the case.

PART 5: REPORTING OF DEATHS

Clause 28: Reporting of deaths

A person is under an obligation to, immediately after becoming aware of a death that is or may be a reportable death, notify the State Coroner or (except in the case of a death in custody) a police officer of the death, unless the person believes on reasonable grounds that the death has already been reported, or that the State Coroner is otherwise aware of the death. The penalty for failing to report is a fine of up to $10 000 or imprisonment for 2 years.

The person notifying must—

- give the State Coroner or police officer any information that the person has in relation to the death; and
- if the person is a medical practitioner who was responsible for the medical care of the dead person prior to death or who examined the body of the person after death—give his or her opinion as to the cause of death.

The penalty for failing to provide such information is a fine of up to $5 000.

On being notified of a death under this clause, a police officer must notify the State Coroner immediately of the death and of any information that the police officer has, or has been given, in relation to the matter.

Clause 29: Finding to be made as to cause of notified reportable death

If the State Coroner is notified under this measure of a reportable death, a finding as to the cause of the death must be made by the Coroner's Court, if an inquest is held, or, in any other case, by the State Coroner.

PART 6: MISCELLANEOUS

Clause 30: Order for removal of body for interstate inquest

If the State Coroner has reasonable grounds to believe that an inquest will be held in another state or a territory of the Commonwealth into the death outside the state of a person whose body is within the state, he or she may issue a warrant for the removal of the body to that other state or territory.

Clause 31: State Coroner or Court may provide assistance to coroners elsewhere

Even if there is no jurisdiction under the bill for an inquest to be held into a particular event, the State Coroner or the Coroner's Court may exercise their powers for the purpose of assisting a coroner of another state or a territory of the Commonwealth to conduct an investigation, inquiry or inquest under the law of that state or territory into the event.

Clause 32: Authorisation for disposal of human remains

If a reportable death occurs and the body of the dead person is within the state, the body is under the exclusive control of the State Coroner until the State Coroner considers that the body is not further required for the purposes of an inquest into the person's death and issues an authorisation for the disposal of human remains in respect of the body.

The State Coroner may refrain from issuing an authorisation for the disposal of human remains in respect of a body until any dispute as to who may be entitled at law to possession of the body for the purposes of its disposal is resolved.

Clause 33: Immunities

A coroner or other person exercising the jurisdiction of the Coroner's Court has the same privileges and immunities from civil liability as a Judge of the Supreme Court.

A coroner, any other member of the administrative or ancillary staff of the Coroner's Court, an investigator or a person assisting an investigator incurs no civil or criminal liability for an honest act or omission in carrying out or exercising, or purportedly carrying out or exercising, official functions or powers. Instead, any civil liability that would have attached to such a person attaches to the Crown.

Clause 34: Confidentiality

A person must not divulge information about a person obtained (whether by the person divulging the information or by some other person) in the course of the administration of this measure, except—

- where the information is publicly known; or
- as required or authorised by this measure or any other Act or law; or
- as reasonably required in connection with the administration of this measure or any other Act; or
- for the purposes of legal proceedings arising out of the administration of this measure; or
- to a government agency or instrumentality of this state, the Commonwealth or another state or a territory of the Commonwealth for the purposes of the proper performance of its functions; or
- with the consent of the person to whom the information relates.

The penalty for such an offence is a fine of up to $10 000.

Clause 35: Coroners may not be called as witnesses

Regardless of whatever else is contained in this measure, a coroner cannot be called to give evidence before a court or tribunal about anything coming to his or her knowledge in the course of the administration of this measure. This provision does not, however, apply in relation to proceedings against a coroner for an offence.

Clause 36: Punishment of contempts

The Coroner's Court may punish a contempt in the same way as the Magistrates Court, namely—

- it may impose a fine not exceeding $10 000;
- it may commit to prison for a specified term, not exceeding 2 years, or until the contempt is purged.

Clause 37: Accessibility of evidence, etc.

The State Coroner must, on application by a member of the public, allow the applicant to inspect or obtain a copy of any of the following:

- any process relating to proceedings and forming part of the records of the Coroner's Court;
- a transcript of evidence taken by the Court in any proceedings;
- any documentary material admitted into evidence in any proceedings;
- a transcript of the written findings of the Court;
- an order made by the Court.

However, subclause (2) provides that a member of the public may inspect or obtain a copy of the following material only with the permission of the State Coroner and subject to such conditions as the State coroner thinks appropriate:

- material that was not taken or received in open court;
- material that the Court has suppressed from publication;
- a photograph, slide, film, video tape, audio tape or other form of recording from which a visual image or sound can be produced;
- material of a class prescribed by the regulations.

The State Coroner may charge a fee, fixed by regulation, for inspection or copying of material.

Clause 38: Provision of information derived from Court records, etc.

The State Coroner may (subject to such conditions as he or she thinks fit), for purposes related to research, education or public policy development, or for any other sociological purpose, provide a person or body with information derived from the records of the Coroner's Court or from any other material to which the State Coroner may give members of the public access pursuant to this measure.

Clause 39: Miscellaneous provisions relating to legal process

Any process of the Coroner's Court may be issued, served or executed on a Sunday as well as any other day and the validity of a process is not affected by the fact that the person who issued it dies or ceases to hold office.

Clause 40: Service

If it is not practicable to serve any process, notice or other document relating to proceedings in the Coroner's Court in the manner otherwise prescribed or contemplated by law, the Court may, by order provide for service by post or make any other provision that may be necessary or desirable for service.

Clause 41: Rules of Court

Rules of the Coroner's Court may be made by the State Coroner.

Clause 42: Regulations

The Governor may make regulations for the purposes contemplated by this measure.

Clause 43: Other amendments

Schedule 2 contains amendments to other Acts. Schedule 3 contains related amendments to statutory instruments made under other Acts.

SCHEDULE 1: Repeal and Transitional Provisions

The *Coroners Act 1975* is repealed.

The transitional provision provides that it must be read in conjunction with section 16 of the *Acts Interpretation Act 1915*.

SCHEDULE 2: Amendments of Other Acts

SCHEDULE 3: Related Amendments to Statutory Instruments

These schedules contain amendments that are related to the passage of this bill.

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

REAL PROPERTY (FEES) AMENDMENT BILL

Second reading.

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.

This bill proposes an amendment to section 277 of the *Real Property Act 1886.* That section enables the making of regulations dealing with fees payable under the Act.

Amongst the other functions carried out by the Registrar-General, the Registrar-General registers changes in ownership of land when the parties to a land transaction lodge a Memorandum of Transfer in the Land Titles Office. The fees fixed for the registration of transfers of land have been fixed by the *Real Property (Fees) Regulations*. The present system of determining fees came into effect in January 1975 and although adjustments to the actual fee levels have been made since that time, the basic system for determining fees has been maintained ever since.

This bill is designed to ensure that the system which underpins the method of fee determination since 1975 is transparently reflected in the provisions of the Act itself. For the same reason, the amendment will have operation from the time at which the present fee system came into being.

I commend this bill to the Council.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the amendment.

Clause 3: Amendment of s. 277—Regulations

This clause amends the regulation making power in the Act to enable fees for the registration of transfers to be based on the consideration for the sale or the value of the land.

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

DENTAL PRACTICE BILL

In committee.

(Continued from 10 April. Page 1313.)

Clause 3.

The Hon. A.J. REDFORD: I note that 'dental practitioner' means 'registered dental technician' and 'registered dental prosthetist'. I did not have an opportunity to speak during the second reading debate, so I would like to make two brief comments about the provisions of this bill. As members may recall, two years ago I introduced a private member's bill to enable dental prosthetists to supply partial dentures to patients in line with interstate practice. The bill was passed on the second reading in this place, and the minister indicated to both the Hon. Paul Holloway and me—and I believe he spoke with the Hon. Sandra Kanck who supported my bill—that he would incorporate the provisions of my bill in this bill. I am pleased that the minister has taken up the suggestions that were in my bill, with some minor amendments, and for that I congratulate him.

I know that many elderly people will be pleased that they will have access to a more competitive regime so that they can get their dentures at a cheaper price. In the very near future, it will also enable a number of people who live in the South-East, and I refer particularly to Mount Gambier, who now adopt the practice of going to Portland to get their partial dentures from a dental prosthetist, to be able to save themselves the journey to Portland and obtain cheaper dentures in South Australia. That is to be applauded and welcomed. I congratulate the minister and the government on taking up this initiative.

The Hon. DIANA LAIDLAW: I move:

Page 6, line 6—Leave out 'dentures' and insert:
dental prostheses

This is a drafting amendment that essentially clarifies the definition.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 7, after line 6—Insert as follows:
and includes a person who is a putative spouse in accordance with subsection (1a);

The intent of my amendment is to extend the definition of putative spouse to include couples of the same sex. It requires little other explanation. We believe in this day and age that the definition of putative spouse should be broad enough to reflect the relationships that exist within the community.

The Hon. DIANA LAIDLAW: The government opposes this amendment. 'Putative spouse', 'spouse' and 'prescribed relative' are all linked in the definitions and have work to do later in the bill in relation to company directors, ownership of shares and the distribution of profits. This is the first of two amendments to the definition of putative spouse in clause 3. The purpose of this amendment and the next amendment is to recognise same-sex relationships. The government opposes the amendment. While we are currently dealing with the Dental Practice Bill, there is an overall matter of policy across the board involved in this matter.

The acceptance of such an amendment has much wider policy implications than just the Dental Practice Bill, which is before us now. There would need to be consistency across a number of areas of legislation and one should move cautiously in relation to the implications of that in terms of the issues of company directors, ownership of shares, distribution of profits, and the like. It is a matter of policy at this time that the government opposes the amendment.

The Hon. SANDRA KANCK: I spent quite some time last night when I was making my speech on the Equal Opportunity (Miscellaneous) Amendment Bill talking about same-sex couples and the discrimination that they experience. I therefore welcome this amendment by the opposition. I hope that we are a maturing society that is able to look at these relationships in an intelligent and rational way. Most certainly the minister is correct that it does have wider implications, and I again welcome that because, if we can get this through in this bill, it will create precedent, which I believe will be a positive thing.

The Hon. T. CROTHERS: Independent Labour has given some thought to the Holloway amendment and has determined that it will support it for the following reasons. Whether we like it or not (and I do not like it—I do not like couples living together in a same-sex relationship, because it is not the way I was brought up), it is out there, it is happening, it is now. We have to keep pace with what is happening in the wider community. Whatever our own feelings are, it does not matter. I do not particularly like prostitution, either, but I was prepared to support its decriminalisation, because it is out there, it is happening, it is now.

If we say that we cannot support this Holloway amendment because of the connotations that have been put forward by the minister in her objection to the amendment, then we cannot do much else. The legislatures of different nations have to recognise that it is time, and I remind everyone here that, in 1972, the Labor Party had one of the greatest electoral wins in its history, and its slogan was 'It's time'. I support the amendment.

The Hon. T.G. ROBERTS: I have a question.

The Hon. Diana Laidlaw: Of the mover?

The Hon. T.G. ROBERTS: No, of the contributor. When was it that Independent Labour caucused to draw that opinion?

The Hon. T. Crothers interjecting:

The Hon. T.G. ROBERTS: My other question is to the mover. I understand that the minister did not draw any conclusions at all on whether it was to be a matter of discussion about how the policy might turn out. I wonder how the government will address that policy matter, given that it impacts on a whole range of bills. Is it subject to discussion internally within government circles and are there any time frames in which we could expect an outcome?

The Hon. DIANA LAIDLAW: I am not aware of time frames for an outcome nor what the outcome would be of party room discussions. As I recall, it has been debated in the past, and the majority opinion prevails, as it does in the Labor Party and perhaps even in the Democrats. The position of the government at this time is that we do not support this initiative. However, the honourable member is correct in that these matters are discussed in terms of policy agendas. We are now discussing this issue in the context of one bill which, as the Hon. Sandra Kanck said, would set precedent, and the government does not believe that this is the right forum to address this important issue and that it should be considered in wider policy terms.

I know that the Liberal Party is having meetings to frame policies, as I suspect the Labor Party is, and I suspect that this issue will come up in the forthcoming forums for wider policy consideration. I have said very clearly in my comments on this amendment, and I repeat: as a matter of policy at this time the government opposes the amendment. I do not know what the majority will say when this matter is considered in future. All I do know is that the Liberal Party has many views on many issues. It is pretty dynamic in terms of personal opinion and it is always dynamic in terms of debate. I would not wish to prejudge the outcome of the policy consideration.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, after line 14—Insert the following definition:
'repealed act' means the Dentists Act 1984;

This is also a drafting amendment. It transfers the definition from schedule 1 and places it more appropriately in clause 3.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, line 24—After 'imprisonment' insert:
for 1 year or more

This is the first of a number of amendments which seek to introduce some consistency with the Medical Practice Bill, which has recently been introduced in another place. It was considered that the clause as it stands is somewhat open ended and the insertion of a one year period provides a more accurate indication of the seriousness of the offence such that it comes within the scope of 'unprofessional conduct'. The government has some 15 pages of amendments to this bill. While they may look daunting in terms of page numbers and the number of clauses to be amended, what has happened since the dental practice law was considered by the government, the professions and the community at large is that further work has also been undertaken on the medical practice law.

While they are two very different professions, many very good ideas came up during the discussion on the Medical Practice Bill which the government is now seeking to provide for in the Dental Practice Bill. So, I simply explain that the dental practice law reform was considered some considerable time ago and has now been updated in the light of good ideas considered during discussion on the Medical Practice Bill. Overall, the government's amendments aim to improve the

wording of the definitions, clarify some matters and introduce what we regard as best practice initiatives.

The Hon. P. HOLLOWAY: I indicate that in principle the opposition strongly supports the objective of the government in trying to keep these bills which regulate the professions as consistent as we possibly can, always accepting that there are some substantial differences between professions, so in particular cases there will need to be different approaches. But, in relation to such issues as the membership of boards and so on, we in the opposition believe there is a lot of merit in having as much consistency as possible. So, we certainly support most, if not all, of the minister's amendments to make this consistent with the Medical Practice Act. I make these opening comments now so that as we go through them we will not need a detailed debate on all the amendments.

Amendment carried.

The Hon. P. HOLLOWAY: I move:

Page 7, after line 25—Insert new subclause as follows:

(1a) A person is, on a certain date, the putative spouse of a dental practitioner of the same sex if he or she is, on that date, cohabiting with the dental practitioner in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristic of different sex and other characteristics arising from that characteristic) and he or she—

(a) has so cohabited with the practitioner continuously for the period of 5 years immediately preceding that date; or

(b) has during the period of 6 years immediately preceding that date so cohabited with the practitioner for periods aggregating not less than 5 years.

This is consequential on the definition of 'putative spouse'. The clause we considered a few moments ago was the test clause for this. This clause provides the substantial definition of 'putative spouse'.

The Hon. DIANA LAIDLAW: For reasons outlined earlier the government opposes the amendment, but we recognise the numbers.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 7, after line 29—Insert new subclause as follows:

(3) Without limiting the generality of the expression, a person who is not a dental practitioner will, unless exempted by the regulations, be taken to provide dental treatment through the instrumentality of a dental practitioner if the person, in the course of carrying on a business, provides services to the practitioner for which the person is entitled to receive a share in the profits or income of the practitioner's dental practice.

This inserts a new subclause that expands the meaning of 'providing dental treatment through the instrumentality of a dental practitioner' to ensure that a non-dental practitioner who, for instance, provides buildings and equipment and for that is entitled to a share in the profits or income of a dental practice comes within the scope of the later provisions, unless exempted.

The Hon. P. HOLLOWAY: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Clauses 4 and 5 passed.

Clause 6.

The Hon. DIANA LAIDLAW: I move:

Page 9—

Line 19—Leave out '5' and insert:

6

Line 20—Leave out '2' and insert:

3

Page 10 line 1—Leave out '3' and insert:

2

This is a series of amendments to clause 6, which relates to the composition of the board. Because of the number of amendments and the significance of the changes proposed, I will spend a few moments explaining the amendments. The first amendment is a proposal to change the number of dentists who are members of the Dental Board from five to six. This is the first of three amendments which seek to reinstate the membership of the Dental Board to the way it was when the bill was introduced in the other place. So, this reflects what the government originally proposed, after broad consultation, prior to introducing the bill in the other place. I am seeking to reinstate the number of practising dentists to six.

As members would have noted, the composition of the board has changed considerably from the way it is in the present act. As mentioned in the second reading explanation, this is to ensure that all groups of registered practitioners have a voice on the board and that consumer membership is doubled. Under the bill as originally introduced, the number of dentists on the board was six out of the eight members: that will change to six out of 13 members. Under amendments carried in the other place, the bill came to this place with the number of dentists further reduced to five. So, the present act, which has the majority of dentists on the Dental Board as six out of eight, was reduced to six out of 13 when the bill was introduced in the other place, but comes to us with a reduced number again to five.

The dental sector is diverse in nature, with a variety of practitioners, each able to undertake specific functions, most of whom thus work to the prescription or under the control of the dentist. The dentist is the only practitioner able to undertake the full range of duties. If one looks at the number of registered practitioners, or potential registered practitioners for those who have not been registered but under the bill will become registered, one will note that dentists make up by far the largest number of the broader spectrum of dental practitioners in South Australia. The government, however, believed that it was important to ensure that all practitioners who were registered, or who were about to be registered, had a voice on the board, albeit that some of these groups are numerically small. The government also believes that the public, or consumer, voice should be heard in the deliberations of the board, and has doubled consumer membership.

Honourable members will have received correspondence from the President of the Dental Board pointing out some of the practical difficulties for the board functioning if the bill remains as it has come to us from the other place. The bill as originally introduced struck a fine balance in terms of membership. The government wishes to restore that balance.

The Hon. P. HOLLOWAY: The opposition opposes the amendment. We wish to see the bill remain in the form in which it came to us from the House of Assembly. The minister, in explaining earlier amendments to this bill (the 14 pages of them), explained how these changes were to bring this bill into line with the Medical Practice Act and the things that have been learnt since that review has been undertaken, and the minister expressed the desire (which I supported) that we should try to keep the principles, at least, behind these bills as close as possible.

The Medical Practice Bill, which has just been introduced into the House of Assembly, provides for a board of 11, so it is slightly smaller. I guess, given the diversity in the dental profession, that is perhaps understandable. But of the smaller number of 11 on the Medical Board, it is proposed that there would be three consumers. That really is in line with this larger board of 13 in this case, and the opposition has suggested that at least three of those should be persons who

are not dental practitioners or in any dental profession. So, there are three consumers out of 13 under the board as it would be constituted here; there are three out of 11 on the proposed Medical Board. In terms of keeping some sort of equanimity between those two boards, I believe that that alone is a good reason for staying with the numbers as they came to us from the House of Assembly.

But there are also other factors. The minister said during her contribution that these numbers were a result of consultation. I am not sure how extensive that consultation was, and perhaps we could ask the minister to address that question and tell us exactly who was consulted. I am not sure how much consultation there was with the broad public and consumers in terms of what their representation should be. I am also aware that, from at least some of the dental professions (not dentists themselves) there are some concerns about how the current Dental Board has acted.

In relation to dental prosthetists, one example that was brought to my attention by a dental prosthetist (or clinical dental technician, as they were known) was that the board had refused to allow them to be called dental prosthetists, even though that was the national generic name. *Yellow Pages* insisted that this group should be listed under the dental prosthetists heading, and they were for two years. But the Dental Board moved against the *Yellow Pages* and the wishes of the dental prosthetists, and they were relisted as 'Dental technicians, clinical'.

This has obviously caused some problems, both financially and otherwise, to dental prosthetists, because they were not even able to list themselves in the manner in which they were entitled to be listed in every other state. That was a decision of the Dental Board, where one group of dentists—the dentists themselves—had clearly used their numbers on the board to act against the interests of another sector.

Certainly, dentists are the key profession in dentistry. There is absolutely no doubt about that; that has never been questioned by the opposition. Under this board, they will have five out of the 13. There will also be three consumers who would be independents and, of the other four dental professions—that is, the dental prosthetists, the registered dental hygienists, the registered dental therapists and the registered dental technicians—I think the reality is that it is highly unlikely that those four are likely to form a block vote against the dentists. Obviously, their interests will, in some cases, overlap and, in other cases, be in opposition. We believe that the board as it is currently proposed to be structured in the bill as it came to us from the House of Assembly gives the most appropriate balance between the various dental interest groups and also, broadly, between dentists as a whole and consumers. That is why we would strongly advocate that we remain with the board and the numbers as they come to us from the House of Assembly.

The Hon. T. CROTHERS: I support the minister, and I outline the reasons for so doing, as follows. As an old trade unionist, I have always believed in horses for courses. I have always believed that people who are put on a board to serve a purpose ought to know at least a little bit about the industry over which they have some considerable control. Unfortunately, that is not always the case with the Liberal Party. For instance, at times they do not appoint trade union membership to certain boards, and I find real fault with that. But, if I find fault with that, I have to be consistent.

I would find fault with the opposition's proposition to stick with the bill as it was amended in the lower house for those very reasons I have put forward. I find that what the minister is saying, as far as I am concerned, makes an awful lot of commonsense in so much as, if you want to take some religion on board, you do not do so unless you get the fellow or the woman with the right dog collar to teach you a bit about theology.

For those reasons, and many more that are left unsaid, I favour what the minister is saying simply because we will at least have a board constituted in such a manner that the knowledge so necessary for the board to function professionally and effectively will be there to carry the day should an issue become one which is taken to the vote. And, of course, if there is any injustice then, no doubt, this parliament is quite capable of handling that injustice. We have a body set up called the Statutory Authorities Committee, which is a committee of this parliament and which is more than happy to have any matter referred to it. I think I can safely say on behalf of the—

The Hon. P. Holloway: It can't direct boards.

The Hon. T. CROTHERS: Oh no, we cannot direct but we can find—you see, we do not have to direct, we can find. If it is a statutory authority—I don't know what it is now, but if it is, and I suspect it might be—then we have the power to find.

The Hon. Diana Laidlaw: Yes.

The Hon. T. CROTHERS: Yes, I am told by the minister it is. So, there is a parliamentary safeguard there already. But for that reason, and for other reasons from my old true democratic socialist reasons, my old trade union approach, which is being lost in the modern Labor Party today it seems—for all of those reasons, I support the minister's concept of restoring the bill to where it was respecting the representation of professional dentists.

The Hon. SANDRA KANCK: I oppose the minister's amendments. She has said that the number of dentists has been reduced from the original bill, from six out of 13 on the board to five out of 13, which is correct. However, I think it is important to look at that composition of the board that relates to dental practitioners, and not just dentists. Comparing the bill in its original form to what we have now, dentists had six out of 10 positions and they have now come down to five out of the nine dental practitioner positions. So the dentists still remain in control from the practitioners' point of view. I do not think that is a problem, therefore, in terms of what the minister is arguing, and by doing that we have been able to increase the consumer representation, which I most certainly support.

The Hon. T.G. CAMERON: I will be brief because I have an urgent dental appointment at 12 o'clock. I have to have some emergency dental treatment. I would just make the point—

The PRESIDENT: Are you going to put a cap on it?

The Hon. T.G. CAMERON: No. I have been persuaded by the arguments outlined by the minister. I said my contribution would be brief, but I was also heavily influenced by the contribution of the Hon. Trevor Crothers. I too have always accepted the principle that the principal profession or occupation should have a majority of membership on the board. I will be off to see my dentist in 15 minutes and I would just like to make the point that I am going to see a dentist, not a registered dental hygienist, not a registered dental therapist, not a registered dental technician nor a legal practitioner, nor a dental prosthetist or a registered dental prosthetist. I am going to see a dentist, whom I hope is highly qualified in—not a dental therapist—a properly, fully

qualified dentist because the work that I am about to get is quite serious and I am going to see the best—a dentist!

The Hon. P. HOLLOWAY: When we debated the first of these competition policy reviews some time ago, it was in relation to nurses, and it is interesting that the opposition lost an amendment relating to, from memory, the qualifications of the chair of the Nurses Board. Certainly, there are a number of different professions on the Nurses Board, but general nurses do not have majority control of the Nurses Board. As I said, there are a number of other professions on that board so, looking at the precedents dealt with then, apparently we will continue the practice of taking different approaches for different professions.

Let us go back over what we have here. The bill from the House of Assembly requires that the board has 13 members, five of whom must be registered dentists; four of whom must be dental practitioners—and, of those four, one must be a dental prosthetist, one must be a registered dental hygienist, one must be a registered dental therapist and one must be a registered dental technician—one must be a legal practitioner; and the final three of the 11 members are what can be described as independent persons or consumers. So, that is the composition of the board. If we talk about people who have knowledge of dentistry—and that is the issue that the Hons Terry Cameron and Trevor Crothers have raised—then, in fact, nine of those people are practising dental practitioners. Of the nine, five are dentists and the other four come from the other dental professions that I have mentioned. But, certainly, nine out of the 13 are people who are practising some form of dentistry every day.

I have no argument with the point that dentists are at the top of that tree—everybody accepts that. However, I gave the example earlier of what can happen if one part of a profession is dominant over other parts of the same profession. We certainly strongly believe that the balance that we have at the moment is appropriate and, certainly, that is the view that has been expressed to us.

Let us look at the numbers that are involved because, after all, the Dental Board, at November last year, was responsible for the conduct of about 1 813 dental practitioners in this state. The number is broken down as follows: of the 1 813 dental practitioners, there are 861 dentists; 114 dental specialists; 179 dental hygienists; 37 dental prosthetists; 137 dental therapists; 180 to 220 dental technicians; 246 students; 29 hygiene students; and 10 dental technician students. So, there is a very broad make-up. The sort of numbers that we suggest—five dentists and one from each group of hygienists, prosthetists and therapists—if anything, over-represents dentists in terms of the overall numbers in the profession. As I say, 861 out of 1 813 is not five-ninths.

So, on the issue of the number of dentists, we believe that, given the experiences of the past and the way the board has operated, and given the operation of other boards that we have considered recently, it is compatible with the provisions in the bill as it comes from the House of Assembly. That is why we will strongly support it. I do not see the point of the Hon. Trevor Crothers in respect of expertise given that nine of the 13 are people who would be in some form of dentistry, whether they be therapists or hygienists. Nine of the 13—

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Well, one thing I understand is that the Hon. Trevor Crothers seems to change his vote. Trevor, which way did you vote on the Nurses Board? Did you vote to give nurses a majority on the board? Did you support the opposition amendments?

The Hon. T. Crothers: I cannot recall. Which way did I vote? If you say you know, which way did I vote?

The Hon. P. HOLLOWAY: I do not know. I am asking you which way you voted.

The Hon. Diana Laidlaw: You say you do not know but you are referring to his inconsistency.

The Hon. P. HOLLOWAY: Anyway, that is something that can be easily checked. I make the point that, given that we are making important decisions on how these important and key professions in our community are governed, it is important to have the right balance on the boards and it is important that the representation reflects not just the professions but also other requirements—that is, the right number of consumers because, after all, consumers are surely as important as, if not more important than, the professions themselves. I strongly support the bill in its current form.

The Hon. T. CROTHERS: I make one further comment. I wonder what would happen in the Trades and Labor Council if the building trades were to have representation on a body representing the building industry and consumers who knew nothing about building were appointed to it. The story goes on and on. I would like to see what the Trades and Labor Council would do. There would be absolute mayhem at the meeting if there was a move to appoint a majority of consumers who really were not in touch on a day-by-bay basis with the industries in question. I know what would happen.

The Hon. DIANA LAIDLAW: In concluding the debate on the amendments I have moved, I highlight for the record that on two occasions the Hon. Paul Holloway referred to the Dental Board as being comprised of a majority of dentists—six out of eight—in relation to dental prosthetists. The honourable member is wrong, however, in accusing the board of being unable or unwilling to accommodate dental prosthetists.

Members interjecting:

The Hon. DIANA LAIDLAW: It is impossible for me to pronounce, but everybody knows what I mean to say and I thank members for their understanding. But, because I cannot pronounce it, does not mean that the argument that I am about to present is not strong and valid. The board was unable to deal with this group of people not because it was unwilling to do so but because the act does not provide for recognition of that group at the present time. Therefore, the board cannot accommodate that group in terms of registration of the group in the Yellow Pages. I want to make that clear. How ever the board may be comprised in the future, or even as it is comprised now, if we amend the act (as we are doing now) to provide for this group of people, the board could accommodate the Yellow Pages issue. It needed the definitions in the act.

The Hon. P. HOLLOWAY: The Hon. Trevor Crothers was talking about what might happen in relation to the Trades and Labor Council.

The Hon. T. Crothers interjecting:

The Hon. P. HOLLOWAY: Yes, you would do; and I think one thing you would know is that it would not allow a committee that it was involved in to be entirely 100 per cent employers, either. I suggest that that is a more adequate comparison with what has been suggested here.

The Hon. T. CROTHERS: The Hon. Paul Holloway again has not listened to my previous contribution. I referred to the fact that I like to see trade unionists involved in these committees: I said that. So, I am not supporting committees that are totally paid professionals: not at all. However, I am supporting this committee because, when the Liberal Party

is in government, we are not going to get trade union representation, so the best we can hope for is to get the most professional representation on it whether that be paid or voluntary. I advocate—and you have not been listening again—that there should be trade unionists on it, and they are not paid professionals.

The committee divided on the amendments:

AYES (8)

Crothers, T.	Dawkins, J. S. L.
Griffin, K. T.	Laidlaw, D. V. (teller)
Lawson, R. D.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

NOES (7)

Gilfillan, I.	Holloway, P. (teller)
Kanck, S. M.	Pickles, C. A.
Roberts, T. G.	Xenophon, N.
Zollo, C.	

PAIR(S)

Cameron, T. G.	Elliott, M. J.
Davis, L. H.	Roberts, R. R.
Lucas, R. I.	Sneath, R. K.

Majority of 1 for the ayes.

Amendments thus carried.

The Hon. DIANA LAIDLAW: I move:

Page 10—
Line 6—Leave out 'suitable'.
After line 7—Insert new subclause as follows:
(5) The requirements of qualification and nomination made by this section in relation to the appointment of a member extend to the appointment of a deputy of that member.

The first amendment leaves out the word 'suitable' in terms of the appointment of deputies to the board. It is the first of two amendments designed to accommodate an issue that was raised in the other place by the member for Gordon. He was concerned to ensure that deputies who may be appointed meet the same requirements of category or qualification as the member to whom they are the deputy. The Minister for Human Services undertook to further consider the matter and contemplate an amendment being moved in this place.

In drafting terms, the way in which to accommodate the member for Gordon's concerns was to remove the word 'suitable' from the clause and to insert the words which are the substance of the next amendment. I point out that the removal of the word 'suitable' is in no way meant to imply that a deputy would be anyone other than someone who was deemed suitable. However, in drafting terms the way to achieve the result sought is by the two amendments standing in my name.

Therefore, in advancing these amendments I need to gain an understanding from the opposition and the Hon. Paul Holloway. He indicated earlier that he was going to oppose the first four amendments and support the fifth. Instead, is he going to oppose the first three and support the last two? I ask this because they are related: the one I am amending is related to the one which the Hon. Paul Holloway indicated he wished to support next.

The Hon. P. HOLLOWAY: I understand the point that has been made. The opposition does not intend to divide on it: it is just that in our view the word 'suitable' should remain. I gather that the minister is suggesting that, if it is left there, it would somehow or other detract from subclause (5). We do not necessarily see it that way, but it is a fairly minor point and we would not wish to divide on it. However, I make the point that we believe that the qualification that the person has to be suitable to be a deputy in our view should remain.

The Hon. SANDRA KANCK: I tend to mirror the comments that the Hon. Paul Holloway has made. I suppose that ultimately it would be foolish to choose someone who was unsuitable, so implicitly it will be a suitable person. I do not see that there is a need to remove the word 'suitable', but again it is not something I see as essential to make a fuss over or to divide on.

Amendments carried; clause as amended passed.

Clauses 7 to 14 passed.

Clause 15.

The Hon. DIANA LAIDLAW: I move:

Page 12, lines 28 and 29—Leave out '(other than part 5)' and insert:
other than—
(a) this power of delegation; and
(b) the power to hear and determine proceedings under part 5.

This is the first of a series of amendments designed to ensure that, in the public interest, the board is able to deal quickly with cases such as medical unfitness to practise. Such instances would not constitute hearing and determining proceedings under part 5. Therefore, I seek to remove those provisions.

Amendment carried; clause as amended passed.

Clause 16.

The Hon. DIANA LAIDLAW: I move:

Page 13—
Line 8—After 'purposes of' insert 'hearing and determining'.
Line 15—After 'except in' insert 'hearing and determining'.
Line 17—Leave out 'except in proceedings under part 5,'
Line 24—Leave out 'except in proceedings under part 5,'
After line 30—Insert new subclause as follows:
(6a) However, subsections (5) and (6) do not apply in relation to the hearing and determination of proceedings under part 5 by the board as constituted for the purposes of proceedings under that part.

These amendments are consequential on the amendment to clause 15, which was carried.

Amendments carried; clause as amended passed.

Clause 17.

The Hon. DIANA LAIDLAW: I move:

Page 14, line 2—Leave out '$5 000' and insert '$10 000'.

This amendment seeks to increase the penalty in this instance from $5 000 to $10 000 to bring it into line with penalties in the recently introduced Medical Practice Bill. I have a series of related amendments to other legislation.

Amendment carried; clause as amended passed.

Clauses 18 to 24 passed.

Clause 25.

The Hon. DIANA LAIDLAW: I move:

Page 17—
Line 22—Leave out 'suitable'.
After line 23—Insert new subclause as follows:
(4) The requirements of qualification and nomination made by this section in relation to the appointment of a member extend to the appointment of the deputy of that member.

These amendments are based on exactly the same arguments that we addressed in terms of the suitability of deputies in relation to the dental board. This amendment addressees the same issues in relation to the dental tribunal.

The Hon. P. HOLLOWAY: As previously discussed, we believe that the word 'suitable' should stay, but we will not make a big fuss about it.

Amendments carried; clause as amended passed.

Clauses 26 to 28 passed.

Clause 29.

The Hon. DIANA LAIDLAW: I move:

Page 18, line 30—After 'tribunal' insert '(not being the presiding member)'.

This is a drafting amendment. It provides that if the presiding member dies the proceedings will have to be restarted.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 19, lines 1 to 6—Leave out subclause (4) and insert:

(4) The tribunal constituted of the presiding member may, sitting alone, deal with—

(a) preliminary, interlocutory or procedural matters; or

(b) questions of costs; or

(c) questions of law,

and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the presiding member considers appropriate.

This amendment seeks to streamline the business of the tribunal by ensuring that the presiding member, sitting alone, may deal with all procedural matters thus ensuring that other members are not unnecessarily tied up with legal and/or procedural issues.

The Hon. SANDRA KANCK: Can the minister cite some examples of the sort of issues that we are talking about because the words 'questions of law' in paragraph (c) sound very wide to me.

The Hon. DIANA LAIDLAW: What we are seeking to do in relation to the issue of costs is to ensure that a presiding member, sitting alone, can make a decision in relation to, say, the postponement of a hearing date. So, a presiding member, sitting alone, could make that decision rather than bringing together the whole of the tribunal simply to look at arguments for and against the postponement of a hearing date. Regarding the presiding member sitting alone on questions of law, that would involve issues of interpretation of the powers of the tribunal.

The Hon. SANDRA KANCK: I think that ought to be made clear in the minister's amendment.

The Hon. DIANA LAIDLAW: The wording of my amendment is the same as in the Medical Practice Bill. The honourable member may be suggesting that, in respect of those bills, we should look at tightening up the range of issues that a presiding member, sitting alone, can address. If that is the case, I will have to get more advice to see how that would be possible and whether it is practical. Therefore, I recommend that we advance this amendment on the understanding that I will speak with the honourable member, with parliamentary counsel and the minister's advisers generally to see whether some accommodation can be reached to apply to both bills. That may or may not be possible, but perhaps it can be considered over the lunch break.

The Hon. SANDRA KANCK: I am happy to move on from that point because it crosses my mind that we could have a situation where the presiding member of the tribunal is in conflict with the rest of the tribunal because they have gone into a much wider area than the government believes this amendment would take them.

Amendment carried; clause as amended passed.

Clause 30.

The Hon. DIANA LAIDLAW: I move:

Page 20, lines 10 to 13—Leave out paragraphs (c) and (d) and insert:

(c) particulars of any condition or limitation that affects or restricts the person's right to provide dental treatment; and

(d) information prescribed by the regulations,

This seeks on the one hand to ensure that the public is able to consider whether there is a condition or limitation on a person's right to provide dental treatment but, on the other hand, to ensure that the privacy of the practitioner is also taken into account. It is proposed that the register would not, for instance, include detail about the practitioner's medical situation but would include a reference to any restrictions by way of condition or other limitation on their right to provide medical treatment.

The Hon. SANDRA KANCK: I am comfortable with the amendment to paragraph (c). However, I seek more clarification on paragraph (d). As it is currently worded, it seems to be necessary to record all details concerning the outcome of any action that is taken against the person. Can the minister inform me what are the forms of action that can be taken up? I note that the next amendment from the minister refers to suspension and disqualification, so clearly a record will be kept about that. Is there any other action that could be taken against a dental practitioner that would therefore not be recorded as a consequence of this amendment?

The Hon. DIANA LAIDLAW: I have been given two examples, and my adviser could give me many more, so the honourable member may wish to speak to the adviser about other instances. The two that I am provided with are as follows: first, in terms of the forms of action, one could be advice that they must stop practising in oral surgery; and, secondly, restrictions could be required in terms of non-invasive procedures in cases where a dentist has hepatitis B or C.

The Hon. SANDRA KANCK: As examples, they seem to be important and, if they are not to be detailed on the register with the dental practitioner's name, where will that information be available?

The Hon. DIANA LAIDLAW: The register is to be a public document, so it is not proposed that those important matters be listed on the register but on the dentist's personal file.

The Hon. SANDRA KANCK: It seems to be fairly important that, if it has been decided that a dental practitioner should not be allowed to do any invasive procedures, that ought to be recorded on the dental register. I find it peculiar that it will be hidden away where the public cannot find out that information.

The Hon. DIANA LAIDLAW: I may not have made it as clear as I should have. The fact that they cannot practise invasive procedures is on the public record but the reasons why they cannot do it is not on the public record; that is on the personal file. I apologise if I did not make that clear in the first instance.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

After line 14—Insert new subclauses as follows:

(2a) The Registrar must also keep a register of the names of persons whose names have been removed for any reason (whether under this act or any other act or law or former act or law) from a register referred to in subsection (1) and have not been reinstated.

(2b) The register referred to in subsection (2a)—

(a) must not include the name of any person who is dead;

(b) must include, in relation to each person on the register, a statement of—

(i) the reason for removal of the person's name; and

(ii) the date of removal; and

(iii) in the case of removal consequent on suspension or disqualification—the duration of the suspension or disqualification;

(c) must have deleted from it all information relating to any person whose name is reinstated on the appropriate register.

This requires the Registrar to keep a register of names removed from registers. This formalises what happens in practice.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Lines 16 to 18—Leave out subclauses (4) and (5).

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Line 24—After 'Registrar' insert:
and may be made available to the public by electronic means

This enables the registers to be made available to the public by electronic means and thereby seeks to keep pace with modern technology, as we are all endeavouring to do.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Lines 27 and 28—Leave out subclause (10).

This amendment is, in some senses, consequential on the previous amendment and removes the requirement to publish the registers in the *Gazette*.

Amendment carried; clause as amended passed.

Clause 31.

The Hon. SANDRA KANCK: I move:

Page 21, line 4—After 'treatment' insert:
for which the dentist has undergone appropriate training

It has been brought to my attention that the University of New South Wales does not have compulsory training on the making of dentures. I do not know how many other examples there might be of other optional courses at other universities or dental schools.

My concern about the wording as it current stands is that it provides that a dentist can provide any kind of dental treatment. It strikes me that, if a dentist has done training that gives them their degree but does not give them training in making dentures, they should not be able to come to South Australia and make dentures. Dentures is just one example: there may be others elsewhere. I think it is very important that any dentist who provides treatment must have training that qualifies them to give that treatment. My amendment therefore specifies that they must have undergone the appropriate training.

The Hon. DIANA LAIDLAW: I oppose the amendment. Inserting the words 'for which the dentist has undergone appropriate training' is unnecessary. In fact, this amendment highlights the different types of 'training' that are given to different dental practitioners. For instance, the university would claim that dentists have undergone appropriate training in all aspects of dentistry. A university education is given by presenting the undergraduate with a lot of facts and access to many more facts through libraries, journals, books, the internet, etc.; and the students are taught how to find the facts they want and how to decide which facts they will believe, since some of these facts will be contradictory. In this way they are prepared for their after-graduation life, when new materials, techniques and equipment will be developed.

Many dentists graduated at a time when no dentists sat to operate, local anaesthetics had to be made daily by boiling tablets to dissolve them (and, incidentally, they contained cocaine), and there were no high speed drills (which the Hon. Terry Cameron is probably experiencing today) rotating at 500 000 revolutions per minute. Rather, many dentists were simply trained and their early experience was with slow speed belt-driven drills that rotated at a maximum of 7 500 revolutions per minute. Certainly, there were no white filling materials, which adhere to the teeth (and I can attest to that) and radiographs were exposed for 4 seconds rather than the 0.01 seconds as happens now.

All those examples show that the whole world of dentistry has changed, but the dentists have also changed with it. They have been able to do so by virtue of the way in which they were originally trained, not because they were trained specifically in a particular function. For example, in the case of dental therapists, the training is by showing them what to do in particular circumstances and leaving them to do it over again until they have perfected that practice. That is not to denigrate the training of other dental practitioners, but I must point out that my advice is that the training of dentists prepares them for the risk of undertaking their own training and the upgrade of training of the other dental practitioners over whom they have control—for instance, dental therapists and dental hygienists. So, in essence I am arguing here for very different training for very different practice and that, therefore, in this bill we should not be seeking to restrict the practice of dentists. I oppose the amendment, because it does restrict that practice of dentists, and that would be contradictory and detrimental.

The Hon. SANDRA KANCK: I am not sure whether the minister actually took on board what I said previously with the example, so perhaps I might come back at her and ask her a question. Does she think it is appropriate that a dentist who has graduated from the University of New South Wales and who did not do the option of studying how to make dentures should be able to come here to South Australia, work on a patient and make dentures? Does she think that is appropriate? Does she think dentists should effectively practise on a patient?

The Hon. DIANA LAIDLAW: Are you phrasing a hypothetical case?

The Hon. Sandra Kanck: No.

The Hon. DIANA LAIDLAW: My advice is there is no knowledge of such a case, and therefore we would be replying to a hypothetical case, which I would not be tempted to undertake. Is my advisers' knowledge of this instance to which you refer critical to advancing your amendment?

The Hon. SANDRA KANCK: This is the example I have been given and the reason I have moved this amendment. I am not saying that there is such a dentist at this point in South Australia, but there is the possibility that a dentist could come here from New South Wales, not having done training in making dentures, and could then make dentures—and probably make them incorrectly.

The Hon. DIANA LAIDLAW: In responding, I will say how interesting is the English language. When I indicated in my earlier reply that my advisers had no knowledge of such a case and that it was hypothetical, I understood that the Hon. Sandra Kanck said she did have knowledge of a case. What I think she meant is that she had been presented with a hypothetical case: she did not know of an actual case, so we are therefore dealing with a hypothetical situation. I also say that we are dealing with one which I am advised the Australian Dental Council would not tolerate because of the accreditation process of various schools of dentistry around the country. I am further advised that the Australian Dental Council would not accredit a school if there were such discrepancies as presented by or to the honourable member in her example, which is a hypothetical case.

The Hon. T. CROTHERS: I am somewhat intrigued. Dentists can make errors the same as anyone else. We

recently had a case here four or five years ago of several people going to a dental surgery and being infected with AIDS. So, it is possible that the dental colleges and people responsible can err in their rulings or and lag behind in their rulings. We are all human and it can happen to us all. I am concerned about the point that the Hon. Sandra Kanck raises whether or not it is hypothetical. If it is hypothetical and has the potential to be possible, I would ask the following. Is the minister aware that the case described by the Hon. Sandra Kanck in respect of the University of New South Wales not training dentists in the manufacture of dental prosthesis—

The Hon. Sandra Kanck: It is an option.

The Hon. T. CROTHERS: —well, it depends a bit—the manufacture of dentures, I should say. Is that a possibility and, if it is, why are dentists accredited with a licence to practise their profession? Are the licences issued in each state; are they issued by dental colleges; are they issued by the universities after the dentist has successfully passed his examination? Those are the matters I want to know. I recently had my teeth extracted, and I think I paid about $2 500 for my dentures. I certainly would not want a beginner practising on me, relative to gaining experience, at $2 500 a pop.

I understand what the minister said about the amendment, but if there is some potential for it to happen, all I ask the minister to do, instead of just bandying words around, is to check it out. I am prepared to vote against the amendment, but I ask the minister to check it out, because if it is there, people are entitled to be protected from that sort of situation. I am not saying that it can occur and that it does occur: I am saying that, if the potential is there for it to occur, we should be aware of it—because dentistry is not cheap these days.

The Hon. DIANA LAIDLAW: I appreciate the Hon. Trevor Crothers' caution about potential and possible situations, and I take into account that the Hon. Sandra Kanck has no such example; it is only a possibility. But I appreciate the Hon. Trevor Crothers' caution. I can confirm that both the minister's office and specialist advisers in the Department of Human Services have noted the caution that the Hon. Trevor Crothers has expressed. In the meantime, I am told, just to ease his mind and that of all honourable members—

The Hon. T. Crothers: I have a very fevered mind at times.

The Hon. DIANA LAIDLAW: I am trying to ease it. If the board in New South Wales, for instance, was presented with a dentist seeking registration, and the board became aware that the dentist was lacking in a particular area, it would put a condition on the registration in terms of limiting the registration. My understanding (and I cannot speak for every registered dentist in New South Wales) is that, because dentists are trained in a wide variety of dental options, this limited form of registration is not common practice—nor is it, in fact, known about here as a practice, even though it is available to those interstate boards to do so if the matter is brought to their attention.

The Hon. T. CROTHERS: Does a licence to practise dentistry that has been issued in New South Wales, Queensland or Tasmania hold good for the practising dentist to cross state boundaries? If that licence is issued in New South Wales, is it valid in Victoria or South Australia? If a dentist crosses state borders, are they checked out again relative to what they can and cannot do?

The Hon. DIANA LAIDLAW: Yes, that is provided for under the mutual recognition obligations, which have been extended in recent years to trans-Tasman obligations.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: That is right. But, as I understand, the one exception (and often it is the exception) is that Western Australia has pulled out of those mutual recognition obligations. So, poor old dentists registered in Western Australia have to now convince the registration authorities in South Australia that their qualifications should be recognised. But, otherwise, it is Australia-wide recognition across borders.

The Hon. T. Crothers: Why did the Western Australians pull out of it?

The Hon. DIANA LAIDLAW: That is a good question. As I understand, a sunset clause was put on it: everyone forgot about the sunset clause and the whole thing lapsed, and they have not reinstated it yet. So, it was a bit of a mess up, I think. I do not think we can reflect on Western Australia wanting to secede.

The Hon. P. HOLLOWAY: The opposition certainly has some sentiment for the principle behind what the Hon. Sandra Kanck is saying—that one would hope that, when one has dental treatment, the dentist has undergone the appropriate training for that treatment. We obviously appreciate some of the practical problems with changing technology and the like. What is the situation in relation to dental specialities? We know that there are dental specialists: presumably, they have undergone further training, perhaps in the medical field. How does the current system deal with the situation where an ordinary dentist (if I can use the word 'ordinary' not in any pejorative sense) can practise in a specialist area?

The Hon. DIANA LAIDLAW: I understand that they must undertake a further three year course in dental surgery before they can call themselves a specialist. As I understand, general dentists could perform those same procedures but they are not entitled formally, through the registration-qualifications system, to call themselves specialists.

The Hon. P. HOLLOWAY: They can still perform the same functions?

The Hon. DIANA LAIDLAW: My understanding is that they can still perform them but, if one wants to be reassured on some higher level of dental surgery, one should look out for a specialist, because that would indicate three years of further training in that area of work—not unlike doctors.

The Hon. P. HOLLOWAY: In that case, does the minister believe that this amendment, if it was carried, would have any implications in that area?

The Hon. DIANA LAIDLAW: I am told not really.

The Hon. SANDRA KANCK: So that members are clear on what is hypothetical and what is reality, my advice, in preparing for the committee stage, is that the reality at the present time is that the University of New South Wales, in training its dentists, has an optional module for the making of dentures. That is the reality; that is not the hypothesis. The hypothetical situation was that a dentist who was trained at that university, who has gone through and not done that optional module, could come here to South Australia and practise. So, half of it is reality; half of it is hypothesis. But the hypothetical situation is one that, to me, is cause for concern, and it is the reason why I have produced this amendment.

In the generality, I cannot see a problem with this amendment. Why would you not want your dentist to have appropriate training in various areas? To give an example of the drills that are now used and the speed at which they operate compared with previously really is not a legitimate comparison because, once you know how to hold a drill and put it in somebody's mouth, that is the skill that is required. So that

is not a valid comparison, because knowledge of how many revs per minute the drill bit is operating at does not require skill.

I believe it is important that we have faith in our dental system, and as consumers we need to know that our dentists have adequate training. Although it was not my intention to proceed in this way, when I look at it such an amendment could effectively require that some of our dentists undertake training courses from time to time. What would be bad about that? I believe that that sort of thing would give consumers greater confidence in dental professionals.

The Hon. DIANA LAIDLAW: I have just received some advice from the Registrar of the Dental Board of South Australia. It is his understanding that the instance, or option, that the honourable member is referring to, in terms of the New South Wales course, is that the dentist would still be trained and fully qualified to do the clinical work through their general training. The option is more related to the laboratory work, which a lot of dentists may not wish to be involved in anyway. The laboratory work is not an issue when you are at the dentist because, from my own experience, it is the clinical stuff that is critical, and generally a dentist will send out the laboratory functions; they do not perform them in-house. Furthermore, if they want to keep their name, reputation and business, they will have somebody with that expertise in laboratory work because nobody wants a rotten looking set of teeth, or whatever. This refers to dental technicians as well.

I fully understand and support the honourable member's statements about having faith in terms of receiving best practice from a dentist or anybody in the very diverse dental profession. That is the role of the registrar, ultimately, and, initially, the schools, in terms of the quality of training. I am also aware that throughout the dental profession ongoing training is a standard practice.

The Hon. SANDRA KANCK: What the minister has said about farming out the making of dentures in this particular example is what all consumers would hope would happen under these circumstances if the dentist does not have adequate training in that area. But there is nothing, as far as I can tell, within this bill that would necessarily require that to happen and, therefore, I do not understand why the minister continues to oppose my amendment.

The Hon. DIANA LAIDLAW: We do not believe it is necessary. As the honourable member has said, she is dealing with a hypothetical case. The circumstances in terms of the integrity of the system of training, registration and professional practice itself have not led to the circumstances that the honourable member is focusing on. We think that we have many reasons, based on years of experience, to have confidence in the structures, processes, training and general profession and, therefore, we see it as unnecessary to write these provisions into the bill; and for longer term practice, based on a hypothetical instance, it is just not good law and it is not good practice.

The Hon. SANDRA KANCK: It is only hypothetical until it happens. And, when it happens, is the minister saying that it will be okay for such a person trained at the University of New South Wales to come here and make dentures?

The Hon. DIANA LAIDLAW: No, of course not. I totally reject the suggestion made by the honourable member. I have said that, in those instances, the registrar in New South Wales would look at having a limited registration option. The procedures, processes, checks and balances are in the system now to deal with the hypothetical case that the honourable member is pressing. The system is there to deal with it, if it arises. It does not need this one-off instance for South Australia alone to be dealing with this matter.

I would argue that the honourable member should be very cautious in terms of advancing the argument that hypothetical cases make good law. We could spend a hell of a lot of time in this place dealing with a whole lot of hypothetical instances where there is no need for a law to be considered or enacted. It would be a very different process. It would mean that we could sit for 365 days of the year, but I do not think that that is what the electorate wants, either. I think we should be dealing with facts and not hypothetical situations, particularly in terms of the professions where the processes are in place to deal with such circumstances if they ever arise.

The Hon. T. CROTHERS: At the risk of being judged stupid, I am still inclined to support the Hon. Ms Kanck's amendment. I do so because we are flinging our net ever wider in respect of dentistry. The minister's adviser has just informed her and she has informed us that we now recognise the right of New Zealand trained dentists to practise in this state; so, you could have those people coming in. I am well reminded of the fellow in Ireland who came to Australia. He was a stoker in the navy and he had Interpol chasing him from Ireland as he was setting himself up as the eighth sea lord and charging money for lectures. Of course, there are only seven sea lords, but never mind that.

So, there is the potential for another situation, and that is that we bring in many migrants who are qualified dentists in America, Canada, the UK, South Africa, Zimbabwe. What is the position in those countries? Somebody could say that they are a dentist when that is not the case. At least when you have this in the act it does no harm whatsoever to those who have the proper qualifications, but it certainly gives you a hook to hang your hat on if, in fact, you find that this is happening. I believe it should be more than New South Wales because of the globalised nature of today's society. It is too big. We are trans-Tasman now. Is Papua New Guinea involved? I do not know. We also have a heavy concentration of skilled migrants. So, for all of those reasons, I am not convinced by either the minister or her adviser that any harm will be done by inserting the Kanck amendment, and I support it.

The Hon. P. HOLLOWAY: I indicate that, at this stage, the opposition supports the amendment. I think it has been a very interesting and enlightening debate but, clearly, it requires us to look more closely at other parts of the bill. We are happy to do that before this bill comes back to another place. Clearly, there is a host of amendments to go back to the House—the shadow minister and the minister are in the other place—where perhaps they can be resolved but, at this stage, I indicate that, in principle, we support the amendment.

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: As I said, it has been an interesting debate. We appreciate that there are some considerable complexities within this issue, so I think the best thing that we can do at this stage is support it and I will handball it to the shadow minister in another place to deal with it.

The Hon. DIANA LAIDLAW: That depends on whether it goes to the other place, because the Hon. Terry Cameron has told me that he will not support it. I will check with other members. Perhaps we could report progress.

Progress reported; committee to sit again.

[Sitting suspended from 12.58 to 2.15 p.m.]

ASSENT TO BILLS

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

Listening Devices (Miscellaneous) Amendment.

Statutes Amendment (Avoidance of Duplication of Environmental Procedures),

Statutes Amendment (Transport Portfolio),

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. R.I. Lucas)—

Reports, 2000—

Senior Secondary Assessment Board of South Australia

Teachers Registration Board of South Australia

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

Transfer Order pursuant to Section 6 of the South Australian Ports (Disposal of Maritime Assets) Act 2000—Erratum

QUESTION TIME

STATE LIBRARY DIRECTOR

The Hon. CAROLYN PICKLES (Leader of the Opposition): My questions are directed to the Minister for the Arts:

1. Will the minister confirm that the recently appointed Director of the State Library, Ms Bronwyn Halliday, has been appointed in her capacity as Bronwyn Halliday Consulting to undertake a paid consultancy to examine human resources and staffing matters for Arts SA?

2. Will the minister also confirm that, when Ms Halliday was appointed as Director of the State Library, an agreement was reached whereby she could maintain her teaching commitments in Hong Kong and her private consultancy business?

3. What is the cost and nature of the consultancy that is being undertaken by Ms Halliday for Arts SA, and was the project tendered?

The Hon. DIANA LAIDLAW (Minister for the Arts): I am not involved in the appointment of directors of these institutions, so I will have to refer the terms of Ms Halliday's appointment and come back with a reply. I know that her contract as State Librarian contains some provision for private practice, just as Dr Tim Flannery, in terms of his appointment with the South Australian Museum, has a similar provision for a—

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: Are you making distinctions?

The Hon. Carolyn Pickles interjecting:

The Hon. DIANA LAIDLAW: You're making distinctions between a man and a woman in different positions. What we are dealing with is the appointment to the position of director of institutions on North Terrace, all of which are equally important in terms of the respect and qualifications that are needed for the director who runs them. I am aware that a provision for private practice has been negotiated in terms of at least those two appointments. I am not aware of any other consultancy work that Ms Halliday may be undertaking, but I will inquire.

GOVERNMENT WORK CAMPS

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about government work camps.

Leave granted.

The Hon. R.K. SNEATH: Yesterday, it was brought to my attention that there is a government work camp situated on the Tea Tree Gully Golf Course and that the workers are employed by the Water Resources Department. The camp consists of one caravan in which four workers are living and one tent in which there is one worker. Apparently, there are no showers or washing facilities, and the camp has one portable toilet. I remember visiting government camps in the north years ago which had better facilities than this. They were based out the back of Coober Pedy, at Marla Bore and other places, and they had better facilities than this camp which is situated just about in the middle of Adelaide. I have been informed that these people are engaged on drilling work. It seems funny that these government workers have not been provided with motel or hotel accommodation or at least a house. My questions are:

1. Is the minister aware of the poor conditions and amenities supplied in government camps, and is he aware of the camp at the Tea Tree Gully Golf Course?

2. Is the minister happy to have government employees living on golf courses or parklands in tents or caravans with no bathroom facilities?

3. If the minister is not aware of this camp, will he investigate before the weekend as these workers will finish on Saturday and move on?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I am not aware of the circumstances of the particular work camp as the honourable member describes it. It appears to be a matter under the control of the water resources portfolio or perhaps SA Water. I will make immediate inquiries and bring back a response to the honourable member. As I am not aware of the particular circumstances, I do not know whether the conditions can be appropriately described as poor, and my silence on that subject should not be taken as assent to any of the propositions contained in the honourable member's question. As I say, I will obtain a report and bring back a reply to the Council and also advise the honourable member in the interim.

ROAD SAFETY

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question on roadside driver rest stops on South Australian roads.

Leave granted.

The Hon. CARMEL ZOLLO: I have been contacted by a constituent and well-travelled caravaner regarding the lack of driver rest stops and accompanying signage on South Australian roads. The constituent is concerned that, in his experience, South Australia has considerably fewer rest stops and poorer signage than either Victoria or New South Wales. Concern was also expressed over the lack of facilities such as seating or shade, which may assist in driver revival.

Studies by the New South Wales government indicate that driver fatigue contributes to about 17 per cent of fatal crashes in that state per year. It also indicates that, while most crashes occur between midnight and 8 a.m., the mid-afternoon is also

a high-risk period. Victorian government sources indicate that fatigue is a factor in around 50 per cent of crashes. New South Wales signage includes fatigue messages such as 'Rest and revive' and also indicates the distance between driver rest stops.

A paper presented at the RAA safety summit last year indicated that a program has been commenced by Transport SA trialing signage incorporating fatigue messages in South Australia. I understand that trials were to be conducted between Tailem Bend and the Victorian border. My questions are:

1. What are the results of the trial program of roadside signage incorporating fatigue messages?

2. Will the minister indicate which South Australian roads have roadside signage incorporating fatigue messages?

3. Will the minister extend the signage program to other major rural roads? If so, when and where will this occur?

4. Are there plans to increase the number of driver rest stops and the accompanying signage?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): In answer to the last question, yes, and a longer term strategic plan has been prepared by Transport SA at my request, and that is being progressively implemented. Transport SA recognises the importance of rest stops for road safety purposes. We are working with Western Mining Corporation in a joint investment to provide rest stops along the Stuart Highway. In the meantime, I recall that $500 000 was provided through Transport SA budgets for the work to develop rest areas and improve signage at each border crossing between states and the territory, and I see that, in the budget to be released shortly, there is allocation for outback loos to be flushed with extra funds. I will not provide the Council with all the details because that is the Treasurer's prerogative.

The Hon. R.I. Lucas: I am not sure that loos are in the budget speech, though.

The Hon. DIANA LAIDLAW: They are not in the budget speech, but I was taken with the headline. I know that it is an important investment not only for tourism but in terms of road safety, giving people reason to stop and rest before continuing their drive. As the honourable member has said, it is a very important issue and the government is certainly investing in it in both strategic terms and dollars. I will bring back a reply on the other detailed matters that the honourable member has raised.

PORT AUGUSTA WHARF

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

Leave granted.

The Hon. CAROLINE SCHAEFER: Several years ago, I became involved in lobbying the government to extend the Pichi Richi rail line through to Port Augusta to enable it to become a very important tourist destination, as did a number of other people, particularly the volunteers who did most of the work. The dream is to eventually extend that railway to the wharf and link it with the sailing tourist groups so that they can either take the train journey and then a sailing trip or vice versa by sailing to Port Augusta and taking the train journey.

I understand that the restoration of the old wharf will be extensive and quite expensive. Local people have told me that the wharf was built in 1885 and the red sandstone used for the back wall allegedly comes from ballast stone from Great Britain at that time. I understand that it will be a long, somewhat difficult and expensive task but it will complete, if you like, that round route for tourism in South Australia, and particularly into the Flinders Ranges. Will the minister advise whether she knows of any repair work to that wharf that is taking place? If so, what is the timeframe and what is the cost?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The honourable member's question is timely because I am able to advise that earlier this year the state government made a commitment to invest in the upgrade of the wharf. It was former railway property and owned by Australian National. The state was simply to be a transfer agent of this wharf from AN to the local council. However, the wharf and adjacent land got stuck in our books for longer than I would have wished and, increasingly, pressure was applied by the council and the government agreed, ultimately, to fund the upgrade of this wharf facility prior to transfer to the council.

The government, through Transport SA, will be providing $400 000 for the repair of the timber deck and piles. I am pleased to advise today that the contract for this work has been awarded to Whyalla-based company Industrial and Marine Blasting and Coatings Proprietary Limited. This company has extensive experience in the repair of timber piles and marine infrastructure. The work will be commenced in June and will be completed around September, at which time the management and maintenance of the wharf will be transferred back to the Port Augusta council. In terms of the historical nature of this facility, which the Hon. Caroline Schaefer has highlighted, I am particularly pleased with this because of its importance and its central position within Port Augusta. The upgrade of this wharf will then be the catalyst for a revitalisation project in the heart of Port Augusta and lead to a whole range of projects that will be an asset to the town, engage the work force, and give some rundown areas central to Port Augusta a new life for tourism in the longer term.

COUNTRY FIRE SERVICE

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question about CFS funding.

Leave granted.

The Hon. IAN GILFILLAN: Members may have seen a copy of the *CFS Digest* of 7 May 2001. It is the first issue of the digest, and in it are several interesting pieces of information. The first states:

> Unspent moneys in group brigade budgets can be carried over into the next financial year. The board encourages groups and brigades to manage funds wisely and believes many will find the new arrangement beneficial.

It is significant that many members of the groups and brigades do not believe that the board manages its funds wisely and believe it is ironic that they are getting this injunction in the first paragraph of this newsletter. Further on it states:

> The capital works program for next year continues to receive management and board priority.

In relation to that, another couple of paragraphs are significant in relation to the GRN radio and pager service. The newsletter states:

$3.5 million is now flowing back into CFS capital budget for the current year. The minister supported board claims for the GRN costs to be reinstated. There are immediate plans for the money to be used for more appliances, countless minor works and the building of new fire stations.

The $3.5 million is being reinstated from the total amount because the CFS is not exclusively using the GRN system, and this is a pay back of the allocation that is not being used for that. So, it is a proper adjustment of $3.5 million. However, the point of my questions is: where will the $3.5 million go? There was a clear indication that for this year the building of nine fire stations was to be announced and presumably budgeted for, none of which occurred. None of the nine fire stations has been built. There is serious concern that the $3.5 million will be soaked up in inefficient accounting in this year's budget, and with that in mind I ask the minister:

1. Will he give an assurance that the $3.5 million referred to as being reinstated from GRN expenditure not paid is extra to previously committed expenditure and will not be purely soaked up to cover the previously committed expenditure?

2. Will he give exact details as to where the $3.5 million is or will be spent?

3. Which new fire stations will be built; where and when?

4. Which new appliances, how many, and of what type are to be acquired?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the questions to my colleague in another place and bring back a reply.

COONAMIA RAILWAY STATION

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question about the Coonamia railway station.

Leave granted.

The Hon. R.R. ROBERTS: These days rail passengers leaving from Port Pirie are required to go to a small siding at Coonamia, which is just on the outskirts of Port Pirie. It does not matter whether you travel intrastate or interstate; you have to catch that train. I know that the rail service was a federal government service and is now under contract to private contractors. As part of the agreement when the railway station in Port Pirie was closed down and a new boarding point was established at Coonamia, there were a number of proposals for a new railway station. For one reason or another, despite assurances from the current federal and state members that it would be fixed, the facilities there are still substandard.

The real problem is that passengers have to go to Coonamia to board the train at all hours of the day and night. Many times they have to go to Coonamia in the middle of the night and, because the railway timetables are not always reliable, a problem has developed for the constituents who live close to this facility. There are only about five or six houses very close to the facility, but the railway station is always in a run-down state, and many passengers have to wait there for a number of hours waiting for trains that do not come. I suppose one of the problems is that there has been some vandalism, but there are no telephone facilities there and no taxis, and residents in the near vicinity are being harassed by people knocking on their door in the middle of the night to ask whether they can use the telephone to contact taxis and services.

I believe that the railways ought to provide a reasonable and secure service for anyone wishing to travel by train, and that they ought to be able to ensure the peace and wellbeing of the constituents who live in the area. My question to the minister is: will she use her offices to engage the contractors for rail in that area to ensure that they provide a reasonable service to commuters leaving from Port Pirie, and will she ensure that adequate facilities are provided as for the normal operations of any railway station—that is, proper lighting, proper and accessible toilets and at least a working telephone to allow commuters to access taxis or other transport—which will provide security and which will stop residents in the area being harassed by irate passengers at all hours of the day and night?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The honourable member has asked me to ensure that there are adequate facilities at this railway station. I am not able to ensure that. The facility is owned by the Australian Rail Track Corporation, which is a federal government corporation. Certainly, I will ensure that it is made aware of the honourable member's questions, and I can also convey those same questions to the operators of the line. In this instance, because it is a passenger rail issue, the operator is GSR (Great Southern Railway), and I will also make it aware of the honourable member's questions.

I can assure the honourable member that I am aware of the issues. When I visited Port Pirie some time last year, I deliberately went to look at this station. I would agree that it is out in the middle of nowhere, in the sense of its having any relationship to the town and its passenger base. It is one of those horrible consequences that we have seen from some rail reform initiatives, where not enough work is undertaken to genuinely ensure that the improvements made are of benefit to the community that they are meant to serve. What we have here is the result of a standardisation of the rail track, Adelaide to Perth, for instance, or up to Tarcoola, which was not completed in terms of its connections into Port Pirie. So, to be of some service, the passenger station was removed to an out of town position.

I know that local residents who live nearby are, from time to time, inconvenienced at various hours of the night by passengers seeking information and the like. I was surprised when I visited that no timetable, and even no published timetable, was installed and there was poor lighting. I raised these matters with the council and I understand that the council is putting together some propositions to advance this issue, not only in the interests of rail but in the interests of the City of Port Pirie. I will make inquiries of the council to see how that work has progressed. In the meantime, I will also convey the honourable member's questions to the National Road Transport Commission and GSR.

MOTOR VEHICLES, REGISTRATION AND LICENSING

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning a question relating to fees and charges for registration and licensing.

Leave granted.

The Hon. J.S.L. DAWKINS: In the most recent edition of the *Sunday Mail* I noted a story which speculated about increases in fees and charges. The report included a suggestion that the annual cost of registering a four cylinder car would rise another $13 from 1 July and that a 10 year driver's

licence would cost an extra $7. Will the minister comment upon the accuracy of this report?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): The Treasurer is to deliver the budget in about half an hour, so I do not think I am breaking the embargo in saying at this time that the budget ensures that there are no increases in driving licence fees. Therefore, the *Sunday Mail* was simply projecting, but inaccurately, what would happen if there was a 3.1 per cent increase in the fee for a driver's licences on either an annual basis or for a 10 year licence. If there was to be a 3.1 per cent increase, its projections were right. It is, however, wrong because there is no such increase in the budget for either four cylinder vehicles or for a ten year licence period.

GAMING MACHINES

The Hon. NICK XENOPHON: My questions to the Treasurer are as follows:

1. As of today's date, how many gaming machines have been approved in non-live venues and, of those licences, when were the approvals granted for those machines and what conditions have been imposed by the commissioner?

2. As of today's date, how many gaming machines have been approved in live venues but not installed, when were approvals for those granted and what conditions have been imposed by the commissioner in those cases?

3. In respect of the 725 machines referred to in the Treasurer's detailed response of 9 February 1999, have any, and which, of those machines not been installed and, if so, why were such machine licences not revoked?

The Hon. J.S.L. Dawkins interjecting:

The PRESIDENT: Order!

The Hon. NICK XENOPHON: So, with respect to any notices of revocation and conditions imposed by the commissioner in relation to gaming machine licences with respect to machines that have not yet been installed, will the Treasurer undertake to release documents referred to with respect to those applications?

The Hon. R.I. LUCAS (Treasurer): I may well disappoint the honourable member but I do not have that information at my fingertips.

An honourable member interjecting:

The Hon. R.I. LUCAS: I pray for the forgiveness of the honourable member and I will endeavour to get the information as soon as I can and respond.

RURAL MOBILE PHONE COVERAGE

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Attorney-General, representing the Deputy Premier, a question in relation to rural communication.

Leave granted.

The Hon. CARMEL ZOLLO: The federal government recently announced that $163 million has been earmarked to improve telecommunication services in country Australia. I understand that Telstra has kicked in an extra $38 million. For the reason that this package is less than one-third of the $515 million half yearly dividend cheque that the government received from Telstra in April this year, the shadow telecommunications minister, Stephen Smith, described the $163 million package to be spent over three years as 'miserable'.

One of the key components of this plan is $38 million for mobile phone coverage in population centres of 500 people or more. Australia-wide there are estimated to be 60 towns or more without coverage at the moment. Given the prescriptive nature of eligibility, I ask the minister how many centres in South Australia will miss out on being linked to mobile phone coverage?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the question to my colleague in another place and bring back a reply.

URBAN CONSOLIDATION DEVELOPMENT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Treasurer, representing the Minister for Local Government, questions regarding an application for an urban consolidation development at St Georges.

Leave granted.

The Hon. T.G. CAMERON: I have directed this question to the Minister for Local Government but the minister for planning may be the appropriate minister. I certainly hope so because I believe that she will have a much closer look at the matter than would the Minister for Local Government, but that will be up to the Treasurer to work out. I apologise for my explanation going on a little longer than normal but it will not be as long as some.

My office has been contacted by Ms Andrea Case of 4 Woodcroft Avenue, St Georges over concerns about the redevelopment of neighbouring land at 2 Woodcroft Avenue. If members recall that name, it may be because the Hon. Angus Redford has previously asked questions about this constituent, and I understand that the constituent is very pleased with what he did for her.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Well, one can only hope I get as quick a response.

The Hon. A.J. Redford: The minister fixed it in a flash.

The Hon. T.G. CAMERON: I am pleased she fixes things for you. The site has been subject to building works for 14 months now and my constituent has been campaigning to have her rights examined in light of what has gone wrong. People living near her home are aghast at the destruction of what many have described as a botanical sylvan setting and its protracted transformation into an ugly eyesore. The matter was raised in this chamber recently as there was an issue concerning the unlawful attempt by the developer to remove Ms Case's trees.

Since then the developer has created further conflict over the erection of a fence and the construction of a swimming pool without following planning application by-laws. Locals are worried that the children may be hurt or drown while exploring the dangerous site if they fall into a pool shell containing up to 400 millimetres of rainwater and building debris. In his application the developer said that he would pay for a new fence and, when he tried to remove the trees, he came to the attention of this chamber and local government. He was thwarted.

Because he was prevented from getting rid of the trees he had all foliage which crossed the boundary chopped downed and thrown back on to Ms Case's land. As a result, she had to have remedial tree surgery done at a cost of $770 to balance the appearance of the trees. This destroyed the botanic setting enjoyed by the community. Instead of providing the fence at no cost to the neighbour the developer

sought a court ruling that my constituent's existing ivy covered brush fence was inadequate despite her protests. He was awarded half the cost of demolition and erection of the fence which he had offered to provide in his application at no cost to her.

The council will not comment on the pool development other than to say that the developer subsequently did submit an application after the works were completed. Alerted to the fact that the pool constituted an occupational and residential health and safety risk, council has the power to fine the developer up to $8 000 but has done nothing. Meanwhile the court ruled in March that the fence be completed as fast as possible.

The Hon. T. Crothers: Is that the Campbelltown council?

The Hon. T.G. CAMERON: No, it's not the Campbelltown council, but I understand that it is having a few problems with one of its constituents and trees, too. I had better repeat what I said: meanwhile the court ruled in March that the fence be completed as fast as possible. This has been ignored.

Ms Case has suffered damage to other trees and sewerage pipes, and she would like to know whether she will be compensated. The latest outrage that she has endured is that, contrary to the minister's recent amendment to the Planning Act to prevent hasty and unlawful attempts by developers to remove trees on neighbouring land, this developer (Peter Price, Real Estate Agent) is now offering what some people might describe as a contentious bribe so that the neighbour will let him chop down her significant trees. He is offering to waive the cost of her having to pay for half the demolition of her own fence and erection of the new fence that he imposed on her by taking her to court—a fence that she did not agree to in the first instance, which the developer offered to provide at no cost and which, in March, he was directed to build with all haste. She feels that the developer has purposely stalled to force her to relent and agree to his chopping down her trees.

Local residents are fed up with this type of contemptuous conflict caused by inappropriate development and inappropriate actions by developers. It is a real problem in this part of Adelaide. It has caused residents to grieve as they witness the destruction of their amenity and the loss of peaceful enjoyment of their land. They have suffered grievances due to a minority group of developers and they want action. My question to the minister is: considering the inaction by the Burnside council to fine the developer over the matter of a now dangerous pool site and, given that the council gave the developer unconditional rights to remove the trees under the provisions of the now amended Planning Act, will the minister ask the department to investigate this case and, where necessary, take appropriate measures to ensure that the work is completed with due regard to the safety of children and, with the equal rights of constituents in mind, will she determine whether Ms Case deserves compensation from either the Burnside council or the developer?

The PRESIDENT: The Minister for Transport.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will—

The Hon. T.G. Cameron interjecting:

The Hon. DIANA LAIDLAW: I know that the question was directed to the Treasurer, but the Minister for Local Government reports through me in this place. Also, there are planning implications in the honourable member's question, which I will have addressed separately. I just want to say briefly in this place that Burnside is a continuing pain in the neck in terms of planning. It is the one council that I am having—

The Hon. T.G. Cameron: It would be all those councillors who have been elected by the developers and their slush funds.

The Hon. DIANA LAIDLAW: I will not comment on the honourable member's interjection, but I will say that they do not seem to be able to take into account the community or government issues and the opportunity that this government has provided in terms of demolition controls and grants to upgrade their PAR. The issues that Ms Case and so many other residents in the Burnside council area are enduring have been caused because the Burnside council has been the most tardy in upgrading its residential PAR and is now seeking to insist that the most recent PAR—

Members interjecting:

The PRESIDENT: Order!

The Hon. DIANA LAIDLAW: There are problems, not only with the minority of developers, to which the honourable member has alluded, but also because councils will not undertake the responsibility with which this parliament has entrusted them, that is, to maintain current plans that would guide development and give ease of mind to local residents, who would know what is happening down their street and in their neighbourhood because the council would have a current plan.

Having recently put together a package of residential measures to encourage councils across the entire metropolitan area (all 18) to accelerate the preparation and authorisation of their residential PARs by 1 July 2003, I say that the Burnside council is the one that has proven most difficult, yet it is this council that needs to help itself and its constituents most urgently. In the next few days, I will have to consider the options that are available to have this matter addressed further. In the meantime, Ms Case has a particular problem, and I will have that investigated from the planning perspective and refer it to the Minister for Local Government.

NATIVE BIRDS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, who is also responsible for volunteers, a question about the protection of native birds.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to the contradiction within the actions of Minister Evans as both minister responsible for the environment and minister responsible for volunteers. This year is the International Year of the Volunteer and, on a number of occasions, Minister Evans has been vocal in his support, including handing out hamburgers at the races a few weeks ago, and I do not think it cost the public all that much. It was with some surprise, then, that I recently received an email from a voluntary organisation devoted to caring for native birds. The email expressed frustration at reaching an impasse with the minister over caring for rescued birds in a responsible manner without risking prosecution by his department. I quote from the email, as follows:

> Our society is having a great deal of trouble in negotiations with the Department of Environment over our handling of native birds.

The Hon. A.J. Redford interjecting:

The Hon. M.J. ELLIOTT: You know nothing about this. The email continues:

We have been told that we must obey ever-changing and increasingly unreasonable rules that were designed for individual members of the public not for a society such as ours who care for hundreds of native birds. Indeed, had these demands been made with the intention of destroying the service our volunteers provide they couldn't have achieved a more satisfactory result.

That is an email from a voluntary organisation that has had over 22 years of experience rescuing our rare and endangered native birds and returning them to nature. It is the story of a voluntary organisation that cares for birds. In the case it put to me in its email, it feels that it is being strangled by red tape while at the same time agriculturalists have been allowed indiscriminate culling of native birds for two years because of a state government relaxation of bird-culling permits. My question is: what is the minister doing to resolve these issues in relation to this bird care organisation's desire to play an active role in the care of injured native birds without risking prosecution or, as it puts it, being strangled by red tape?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply.

MARINE PARKS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport and Urban Planning, representing the Minister for Environment and Heritage, a question on marine parks.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday in a five minute contribution on matters of interest, I raised the problems associated with educating the community about the necessity for and the description of marine national parks. A number of statements being made in rural and regional communities away from the eye of ministerial and departmental scrutiny need a response. I know that the government has a position in relation to the declaration of marine parks, and the opposition supports those proposals. However, the community believes that it is time for the discussions to be opened up publicly and that the debate should be based on the most accurate, up-to-date information so that all rural and metropolitan communities where marine parks are proposed can be involved. My question is: will the minister conduct information seminars throughout the South Australian coastal zones explaining the reasons for and describing the intentions of the proposals for marine national parks?

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I will refer the honourable member's question to the minister and bring back a reply.

ANDAMOOKA MINING WARDEN

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Minerals and Energy, a question about the mining warden at Andamooka.

Leave granted.

The Hon. P. HOLLOWAY: Several weeks ago, I visited Andamooka and met with members of the local Progress Association who expressed concern that the mining warden, who has been permanently located in Andamooka for some years, would be relocated to Coober Pedy. Residents expressed concern that the absence of a resident mining warden would create great inconvenience for local opal miners and could also lead to an escalation of disputes over claims, as well as placing greater pressure on the local police. Will the minister assure the residents of Andamooka that their resident mining warden will be retained?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the question to my colleague in another place and bring back a reply.

METROPOLITAN FIRE SERVICE

The Hon. IAN GILFILLAN: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Police, Correctional Services and Emergency Services, a question in relation to MFS appliances.

Leave granted.

The Hon. IAN GILFILLAN: Honourable members may not remember it, but on 30 November I asked a question arising from the Auditor-General's Report regarding negotiations with Lowes Industries (North Island Limited) New Zealand for the supply of 16 fire appliances to the SAMFS at a cost of $5.5 million. As I said then, Lowes had appointed a liquidator for the purpose of winding up the affairs of the company and distributing its assets. I refer honourable members to that question for its further detail. The significant part of the question was as follows:

In relation to the financial consequences, what justification was there for the advance payment of $4 million, which is three-quarters of the total indebtedness to Lowes Industries, when only six of the 16 fire appliances were supplied?

Was any security or guarantee received to cover the advance payment? If not, why not?

I received a comprehensive answer on 30 November detailing the actual contract with the MFS as well as details of the contract and how various adjustments had been made to the original contract as the payments were made. The final part of the answer is significant and is as follows:

Was any security or guarantee received to cover the advance payment? If not, why not?

As part of the negotiation on 6 May 1998, Lowes Industries agreed to pay a performance bond to the value of 50 per cent of the contract value prior to the mobilisation payment.

Lowes later sought relief from the Board of Supply SA that this amount of guarantee should be reduced to 25 per cent of the contract value. On 11 June 1998 the board conceded the guarantee would be 30 per cent of the contract value and, upon the delivery and acceptance of the first four appliances, the bond would reduce to 5 per cent of the contract or $275 792.30.

At the time of the voluntary liquidation, the bond had a value of $275 792.30.

In an analysis of the financial statements of the MFS, there are some paragraphs relating to that unfortunate situation, as follows:

It was reported that Lowes had appointed a liquidator for the purposes of winding up the affairs of the company and distributing the company's assets. At the time the SAMFS had a financial exposure to Lowes through non-completion of the contract.

The legal proceedings that followed in relation to the contract reflected a complex set of arrangements involving mediation and the participation of a number of related parties.

The SAMFS received delivery of four fire appliances in February 1999 with a further two fire appliances delivered in June 1999. The total payments made to Lowes was approximately $4 million.

A recent High Court decision decided in favour of the State Supply Board in relation to legal title with respect to further appliances. Audit notes that this decision is being contested by a third party which has an outstanding claim for title for those two appliances together with a further eight appliances. Ongoing oversight of the status of the contract has been established to minimise the state's exposure to this contract. The maximum potential financial exposure to the state at balance date relating to this contract of $1.85 million has been disclosed as a contingent liability.

Will the minister indicate in his answer: what is the current situation for the outstanding and non-supplied chassis (as I understand it, a number of chassis were not supplied); whether there has been a final termination of the legal challenge to SAMFS ownership; and what steps will be put in place to ensure that we are not left with such a bungled process which leaves the state out of pocket and out of appliances as a result of this example of the unfortunate trading with Lowes New Zealand?

The Hon. K.T. GRIFFIN (Attorney-General): I will refer the question to my colleague in another place and bring back a reply.

WORKERS' COMPENSATION

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Workplace Relations a question about the progress of clause 6 of the Workers' Compensation Act.

Leave granted.

The Hon. R.K. SNEATH: On at least two occasions clause 6 has been brought to the attention of the minister, and the minister has responded that he certainly would look into clause 6 in an endeavour to resolve the problems with it. My questions are:

1. Has the minister any further information on the progress of clause 6?

2. How far away is a satisfactory resolution to prevent any further suffering of next of kin when an accident occurs and people are killed?

The Hon. R.D. LAWSON (Minister for Workplace Relations): I thank the Hon. for his question and acknowledge his persistent interest in this important issue, which involves the situation where compensation is claimed under our Workers' Compensation and Rehabilitation Act by a worker who may not have the necessary connection with South Australia. Since the honourable member asked his last question, there has been a national meeting of workplace relations ministers at which this very issue was discussed. It had been discussed on a number of previous occasions. As I think I explained to the Council previously, governments all around Australia acknowledge the difficulty of total reciprocity of workers' compensation and rehabilitation regimes. For a number of years they have been examining proposals to overcome the anomalies that exist.

The current situation is that the South Australian parliamentary counsel has prepared legislation which, if adopted by all states, in our view would provide a completely reciprocal scheme and would not allow people to fall through the cracks, as occurred in the case to which the honourable member previously referred—WorkCover Corporation v Smith, decided in South Australia in 1998. However, the New South Wales government and its parliamentary counsel have preferred a different model of overcoming this difficulty. Their model is that the legislation in every Australian state and territory be amended to establish a uniform regime.

Most people involved in this field consider that the New South Wales option is one that is not practicable, and that the proposal by the South Australian parliamentary counsel is the preferred option. The New South Wales minister at this latest meeting (Hon. John Della Bosca) persisted with the objection his state has previously expressed to our choice of laws model. Officials were sent away from the conference with a direction to adopt a common position within the next month, and the very earnest desire of all ministers from all jurisdictions and of all political persuasions to overcome this issue.

I know that this is a matter that will cause irritation in many quarters, because it has taken so long to resolve. I had hoped that it could be very quickly resolved by the adoption of the South Australian position but, unfortunately, that was not the case. However, I am looking forward to an early resolution of this issue, and I can assure the honourable member and the Council that I will persist with resolving this matter.

TOBACCO SMOKE

The Hon. NICK XENOPHON: My questions are directed to the Minister for Workplace Relations. What steps has the minister's department taken to deal with the implications of the Marlene Sharp decision in the New South Wales Supreme Court on 2 May and, in particular, has the minister issued any directives to his department to deal with the issue of passive smoking in the workplace, particularly with respect to hospitality workers, and what meetings has the minister instigated in this regard, and what further steps has he taken to deal with the serious health implications of passive smoking and the legal implications arising out of the Marlene Sharp decision? Secondly, is the minister or his office involved in the round table conference proposed by Mr Mark Butler, Secretary of the Liquor, Hospitality and Miscellaneous Workers Union?

The Hon. R.D. LAWSON (Minister for Workplace Relations): As the honourable member would well know, responsibility for occupational health and safety in South Australia rests between Workplace Services, which has an obligation to police the Occupational Health, Safety and Welfare Act, and also the WorkCover Corporation, which has the responsibility not only of maintaining the workers rehabilitation system but also of publicising and encouraging methods of reducing workplace injuries. So, the resolution of the issue of passive smoking is not something that can be achieved by any Minister for Workplace Relations merely issuing directions on passive smoking.

Certainly, the recent decision of a jury in New South Wales that an employer in the hospitality industry breached its duty of care to a worker by allowing smoking to occur in a bar room has created considerable concern across the country. The full implications of the decision are still being explored. At the last meeting of workplace relations ministers in Sydney a couple of weeks ago the issue was discussed in a general way, and the New South Wales minister (in whose jurisdiction this decision occurred) indicated that there would be an appeal and that its full ramifications were being examined there.

I can assure the honourable member that the question of passive smoking and the adoption of an appropriate regime in South Australia is under active and close examination. The honourable member refers to a meeting apparently convened by the liquor and hospitality workers union—

The Hon. Nick Xenophon: A proposed round table.

The Hon. R.D. LAWSON: A proposed round table, the honourable member corrects me, organised by Mr Butler. I am not aware of that but, certainly, if invited, I will be delighted to attend the meeting and also to make officers available for that purpose. It will be interesting to know exactly what the union is proposing in relation to this issue, and I would urge Mr Butler, or anyone organising a round

table of this kind, to lay on the table what the union's view of the matter is.

I have already informed the honourable member and the Council that, under our occupational health and safety legislation, there is a duty of care which employers owe to employees to ensure that reasonable steps are taken to provide a safe system and place of work. As a result of that decision, if it is sustained, I think that standard will be substantially increased in the future.

CORPORATIONS (COMMONWEALTH POWERS) BILL

Adjourned debate on second reading.
(Continued from 30 May. Page 1639.)

The Hon. IAN GILFILLAN: I indicate the Democrats' support for this batch of legislation and would like to acknowledge the Attorney-General's request that the bill be dealt with by parliament by 7 June, indicating that we will do our best to expedite that aim. Corporations Law was one area that our colleagues of 100 years ago felt was best dealt with at state level. While this may have been the case at the beginning of last century, it is certainly not true at the beginning of this century. In the early 1980s an attempt was made to put Corporations Law on an even footing across the nation. This was reviewed in the late 1980s, when a new scheme was established. This is the scheme that currently operates in Australia.

It involved the establishment of uniform legislation in each state, with complementary legislation at a federal level where enforcement of Corporations Law was the responsibility of the Australian Securities and Investments Commission, the Federal Police and the Commonwealth Director of Public Prosecutions. The recent High Court rulings in Wakim and, more importantly, Hughes have brought into question the ability of the commonwealth agencies to enforce state laws in certain circumstances. This has resulted in talks amongst the states, territories and the commonwealth on how to address in a legislative sense the problems that arise from the High Court rulings. The package of bills we currently have before us is the result of these discussions.

It is proposed that the state and territory parliaments refer power over Corporations Law to the commonwealth. As I understand it, legislation has already been passed in New South Wales and is currently being dealt with by other parliaments. However, this legislation is only a temporary measure. In five years, if the scheme needs to be amended, it will come back before parliament. In fact, I think it virtually will have to be addressed by parliament in five years as a sort of sunset clause. It is, however, hoped that within five years a more permanent solution will be agreed upon, which will inevitably involve constitutional change.

One of the concerns raised with referring Corporations Law to the commonwealth regards the relationship between commonwealth and state legislation. Where there is a conflict between state and commonwealth law under section 109 of the Constitution, the commonwealth law prevails. This, we believe, causes a problem as there are a number of areas where states have legitimate claims that in some circumstances state laws should prevail.

Section 5(g) of the commonwealth Corporations Bill 2001 addresses this, and I quote from the explanatory memorandum of that bill, which is currently before the House of Representatives and is one of the 'tabled text' addressed by the bill before us:

> [Clause] 5.63 [bill clause 5(g)] will limit or qualify the operation of the corporations legislation so that it no longer purports to have an operation that would directly be inconsistent with relevant state or territory law.

This clause specifies that where existing state acts are inconsistent with the new commonwealth legislation there will be a roll-back with the commonwealth legislation to the extent of the inconsistency. There are also provisions for new state legislation to be declared a 'corporations legislation displacement provision', which will trigger the roll-back of the commonwealth legislation where there is an inconsistency.

I share with the Attorney some concern, and it appears to me that it is currently a minority view in states that they do need to jealously guard their areas of mandate, their areas of authority, from an expansionist philosophy which exists in Canberra with both Labor and Liberal governments, possibly more predominantly with Labor. However, it is an ongoing battle to retain a degree of autonomy in individual states' powers to determine such critical issues as industrial relations, environmental legislation and other areas where it is appropriate in my view for each state to have its power to determine its own situation and its future.

However, that does not deny the fact that for us to have six or so disparate bodies of legislation dealing with Corporations Law in Australia would be chaos. There are very few corporations which purely operate within the one state, so there would need to be at least a substantial degree of uniformity for there to be anything like an operable corporations structure in Australia. So, not reluctantly but accepting the logic and justification for it, we do support these measures, which are necessary to enable there to be uniform legislation and for supervision and control to be in the hands of the commonwealth as outlined in my previous comments.

The situation is compounded because, with the High Court judgments, it was shown that the regulatory, supervisory and policing powers could not be exercised by the commonwealth on state jurisdiction, which had been working reasonably well. So, that is the substantial fly in the constitutional ointment, and it may well be that the correction for that will be that those powers are conferred in a constitutional amendment. But I am not committing myself or the Democrats to that. I think we need to be extraordinarily cautious before wholeheartedly supporting a constitutional change. It is a step in the dark where, once the power exists, if it is given constitutionally, it is difficult to know how tightly defined the boundaries of that authority would be.

So, Mr President, although they are not actually qualifying remarks as far as the legislation goes, I believe this legislation is essential, and it has been very efficiently explained to us by officers from the Attorney's office, and I congratulate them on taking the time and doing that so diligently. We express support for the legislation. It is probably unnecessary for us to indicate support for each of the associated bills, but it will probably save the time of this chamber if I indicate at this stage that we will be supporting in their entirety orders of the day Nos 19, 20, 21 and 22, the bracket of four corporations bills before the Council. We have no criticism or questions relating to them and hope that they pass through this chamber expeditiously.

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

A quorum having been formed:

The Hon. T.G. CAMERON: The Attorney-General has introduced four bills to refer company law, through granting a corporation power to the commonwealth, to the commonwealth to overturn or modify two decisions of the High Court. The High Court, in Re: Wakim, ex parte McNally, held that the conferral of state jurisdiction on federal courts was not implied and, therefore, invalid. The High Court in R v Hughes casts doubt that the commonwealth has the ability to empower its officers and instrumentalities to enforce state laws in certain circumstances. Both of these have implications for company law, considering it is uniform across Australia, and thus the cross-vesting powers given to the Federal Court were stripped and uncertainty has been arising from comments in the Hughes case about the effectiveness of the enforcement of Corporations Law by the commonwealth.

The bills will refer the text of the corporations bill and the Australian Securities and Investments Commission bill to the commonwealth, allowing it to become a law of the commonwealth under section 51(37) of the constitution. The terms of reference are for five years, and there is a proposal for an amendment to the federal constitution to be handled at the end of the five years.

The first bill, the Corporations (Commonwealth Powers) Bill 2001, is a referral bill. It defines the terms of reference, the intent of the legislation to specifically not permit the commonwealth to regulate industrial regulations but allow jurisdiction over corporations and financial products and services. The second bill, the Corporations (Administrative Actions) Bill 2001, is a validation bill, ensuring that, if a decision is made under commonwealth Corporations Law and is found to be invalid, its effects under state law will continue to be valid. The third bill, the Corporations (Ancillary Provisions) Bill 2001, is a transitional bill. It provides for a smooth transition and ensures that the scheme does not come undone due to legal technicalities. The fourth bill, the Statutes Amendment (Corporations) Bill 2001, amends South Australian acts and makes consequential amendments to our acts to ensure that all references to state Corporation Law are now references to commonwealth Corporation Law—and not before time.

It also ensures that inconsistent state laws with respect to commonwealth corporation laws do not become invalid if they are found to be so. With the indulgence of the Council, that will be my second reading speech for all four bills, and SA First will be supporting the second reading of all of them.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their attention to the four bills and particularly for dealing with such complex matters at relatively short notice. All honourable members had been offered a briefing before the bills were introduced. Those briefings were made, and I appreciate that those members who were invited to attend the briefings on an individual basis accepted the invitation and were prepared then to facilitate the consideration of these bills.

The reason for having to facilitate the progress of these bills is that our parliament sits only this week and next before the end of the financial year, and it is the commonwealth's very strong desire to have in place on 1 July 2001 the package of legislation which will be the new commonwealth Corporations Law in place pursuant to the referred power.

Parliaments of other jurisdictions are in fact sitting later into June, so they are able to enact their legislation closer to the deadline date. I understand that all jurisdictions are on track to have their legislation in place, but it remains to be seen whether or not the indication that has been given to me is finally fulfilled.

The Hon. Paul Holloway raised one issue on which I feel compelled to respond. He referred to a number of statements that I made in this Council in May last year. As the Hon. Mr Holloway pointed out, I was not an enthusiastic supporter of a referral of corporations power when the issue was first raised in the immediate aftermath of the Hughes decision. I must say that nothing has changed. That is still my position, but I recognise the realities, and I said in my second reading explanation that some concessions have been made by the commonwealth both in the substantive law, in other legislation that accompanies it and in the corporations agreement.

My comments in May 2000 related to the then proposal advocated by the commonwealth, the then Chairman of ASIC and a number of academics, journalists and media commentators that the state's effect a broad general reference of corporations power to the commonwealth. This would have empowered the commonwealth parliament to make laws with respect to corporations generally.

It was the state government's position that such a broad reference of power was entirely unjustified. I assure honourable members that the government would never have agreed to such a reference. It would not have been in the state's interest. The legislation now before the Council provides for a limited reference of power sufficient only to enable the commonwealth parliament to enact and amend the text of the corporations and ASIC acts as tabled in the New South Wales Parliament.

The amendment reference is limited to matters related to corporations, corporate regulation or the regulation of financial product and markets. The state retains the right to terminate both references or, if all the states agree to do so, the amendment reference only. The commonwealth's ability to legislate using the referred power will be subject to a number of important limitations set down in the Corporations Agreement, to which I referred in my second reading explanation. I should note that I had at least one supporter in this parliament for my stance against a broad general reference of corporations power. On 31 May last year in the House of Assembly the shadow attorney-general, Mr Atkinson, said:

> I was pleased to read that our Attorney-General, the Hon. K.T. Griffin, dismissed the predictable reaction of the Williamses and Wintertons—

and I should interpose to say that they are two academics who have been quoted as supporting a broad reference of corporations power—

> as panic and, in his opinion, there was 'no immediate problem'. I agree with the Attorney-General when he said:
>
> > I would suggest that companies do not give a damn about what underpins the Corporations Law. They are concerned about the day-to-day operations of the substantive law.
>
> The Attorney-General is also right to criticise the [then] Chairman of the Australian Securities and Investments Commission. . . for using his position to promote a referral of state constitutional authority to the commonwealth.

That is the one area in which the shadow attorney-general and I agreed. The Hon. Mr Gilfillan has made some references to the constitutional amendment to which I have referred as the

ideal solution. I note his and his party's reluctance to support a constitutional amendment unless it has been carefully and exhaustively examined. I think that we should all be cautious about amendments to the federal Constitution, which may have some lasting impact upon the balance of powers between the states and the commonwealth.

But, ultimately, I would suggest that a constitutional amendment along the lines that the states, territories and the commonwealth—the states and the commonwealth in particular—can enter into cooperative arrangements would carry fewer potential problems for the states and for the citizens of the states than a reference of power, because a reference of power is very difficult to limit in its scope and operation, as one can see from the bills that are presently before us, and the way in which we have had to deal with them, and ultimately the commonwealth will generally hold very much the upper hand.

I strongly advocate that, ultimately, a constitutional amendment is required to ensure that there is a more balanced approach to these sorts of issues and cooperative arrangements between the states and the commonwealth in particular. Whilst I note the Hon. Mr Gilfillan's caution, I would urge him to take a particular interest in the way in which this might ultimately develop. The commonwealth has given a commitment to continue the development of a constitutional amendment in conjunction with the states and territories, remembering that this is not the only cooperative scheme where the sorts of problems raised in the High Court actually create, at least potentially, some problems. Again, I thank members for the expeditious way in which they have considered and now dealt with this legislation.

Bill read a second time.

In committee.

Clause 1.

The Hon. NICK XENOPHON: I wish to make a short contribution in relation to these bills generally as I did not get the opportunity to do so during the second reading debate. I congratulate the Attorney for the stand that he has taken on this issue over a number of years. I have followed this matter in the press, in particular in the *Financial Review*, in terms of the tussle between the states and the commonwealth. It seems that, for a number of years, the Western Australian Attorney-General under the Court Liberal government and our Attorney were maintaining the fight to keep state powers in this regard.

I think it is regrettable that it has come to this. I congratulate the Attorney for the stand that he has taken, but it seems that he has if not been abandoned had a distinct lack of support, particularly since the election of the Labor government in Western Australia. I think there are some broader principles here about the steady encroachment by the commonwealth upon state powers. As I said, I think it is regrettable that it has come to this, but I understand that is the only solution available in the circumstances. It is a pity that other state attorneys did not take the same approach as has our Attorney in this regard, because this encroachment makes a mockery of our federal system of government.

Clause passed.

Remaining clauses (2 to 8) and title passed.

Bill read a third time and passed.

CORPORATIONS (ANCILLARY PROVISIONS) BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1639.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their support for this bill. They have taken the opportunity to make their principal contributions on the Corporations (Commonwealth Powers) Bill, in a sense making the debate on the four bills a cognate debate, and I thank them again for their preparedness to deal expeditiously with the legislation.

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

CORPORATIONS (ADMINISTRATIVE ACTIONS) BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1639.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their cognate indications of support for the package of four bills.

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

STATUTES AMENDMENT (CORPORATIONS) BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1639.)

The Hon. K.T. GRIFFIN (Attorney-General): I repeat my appreciation to members for their preparedness to deal expeditiously with this and the other bills.

Bill read a second time.

In committee.

Clause 1.

The Hon. IAN GILFILLAN: I wish to give the Attorney-General an opportunity to share with us his extensive knowledge of some of the intricacies of this whole matter. For that purpose, I read what is part of clause 69, as follows:

> Section 1 of the principal act is amended by striking out subsection (3) and substituting the following subsections:
>
> (3) Nothing in the amendment reference is intended to enable the making of laws pursuant to the amendment reference with the sole or main underlying purpose or object of—
>
> (a) regulating industrial relations matters; or
>
> (b) restricting the practice of a particular profession or trade to corporations or their employees,
>
> even if, but for this subsection, the law would be a law with respect to a matter referred to the parliament of the commonwealth by the amendment reference.

My concern is that it specifically wrestles with the energetic defence that the Attorney has put up, one in which I have joined with him shoulder to shoulder, to try to ensure that we are not intruded on through unwittingly opening up the capacity for the commonwealth or the majority of the states to impose their will on South Australian legislation. It was a matter that I referred to in my second reading contribution to the principal bill. I understand that this matter is still being negotiated between the parties. Will the Attorney advise the committee how he sees the current situation as far as the negotiation is concerned; and what protection does clause 69 gives us in South Australia?

Progress reported; committee to sit again.

BUDGET PAPERS

The Hon. R.I. LUCAS (Treasurer): I lay on the table the following papers:

2001-02 Budget Paper No. 1—Budget at a Glance;
2001-02 Budget Paper No. 2—Budget Speech;
2001-02 Budget Paper No. 3—Budget Statement;
2001-02 Budget Paper No. 4—Estimates Statement;
2001-02 Budget Paper No. 5—Portfolio Statements—Volume 1 and Volume 2;
2001-02 Budget Paper No. 6—Capital Investment Statement;
2001-02 Budget Paper No. 7—Employment Statement;
2001-02 Budget Paper No. 8—Regional South Australia: Making a difference.

STATUTES AMENDMENT (CORPORATIONS) BILL

In committee (resumed on motion).

Clause 1.

The Hon. K.T. GRIFFIN: The Hon. Ian Gilfillan asked whether I could give him an outline of some of the processes and issues leading up to the clause 69 provision, which sought to amend section 1 of the principal act (the Corporations (Commonwealth Powers) Bill 2001), and I am happy to do that.

The concern I have had all along in the negotiation of the reference of powers is that, whilst the power to enact the Corporations Bill, as tabled in the New South Wales parliament, does not create so many problems, what causes the major problem is the reference of power to amend the commonwealth Corporations Bill, because it is very difficult to limit that to only amending the principal act in relation to corporate regulation.

It is quite possible for a perverse commonwealth government to thumb its nose at the Corporations Agreement, which embodies restrictions on the power to amend, and to go ahead and legislate in areas that have not until now been either traditionally powers within the responsibility of the commonwealth or have not been within the constitutional powers of the commonwealth. Industrial relations is one of those areas.

At the time ministers were meeting as the Ministerial Council for Corporations and the Standing Committee of Attorneys-General in August and November last year, there was at the commonwealth level a series of statements made by the Hon. Peter Reith about industrial relations and the opportunity that the corporations power provided to the commonwealth to legislate in respect of industrial relations matters. That set the cat among the pigeons because, although Mr Reith has argued that he was referring to the inherent powers of the commonwealth and not the referred power that we are now dealing with, a number of states took that as an omen that a future commonwealth government would use the referred corporations power to move into areas that previously were not constitutionally within the power of the commonwealth.

So, the whole focus of my approach (and it was the focus of the Hon. Peter Foss, the Western Australian Attorney-General, and it was the concern of ministers from other jurisdictions as well at the state level) was to try more clearly to define what power we were actually giving to the commonwealth.

In the first bill that we dealt with today, section 1 does provide in subsection (3):

> Nothing in this act is intended to enable the making of a law pursuant to the amendment reference with the sole or main underlying purpose or object of regulating industrial relations matters even if but for this section the law would be a law with respect to a matter referred to the parliament of the commonwealth by the amendment reference.

That dealt essentially with industrial relations matters. At one time, the state ministers had agreed that that should actually be included in the substantive law and not just in an objects clause. Finally, the New South Wales and Victoria governments agreed with the commonwealth that it could be included in an objects clause.

Clause 69 of the bill before us, which will not come into operation until it has been agreed across Australia, is an amendment to what I have just referred to, which is the objects clause in section 1 of the first bill, the Corporations (Commonwealth Powers) Bill 2001, and that seeks to broaden the range of activities in respect of which the commonwealth does not have power to legislate under the referred power to amend the Corporations Law. The main focus of that is on the power of the commonwealth to require a person or body to incorporate, which would then immediately bring them within the scope of the commonwealth's constitutional power and the referred power.

The problem is that this was only finally conceded by the commonwealth a few days before the New South Wales parliament was to finish its legislative process. So, clause 69 is agreed with the commonwealth, but it is agreed on the basis that I can persuade all the other states to agree it as well. Tasmania has agreed it and I am endeavouring to persuade the Attorneys-General from the other states also to agree. The commonwealth has agreed it and it has agreed that, if I obtain the agreement of all other states and there is no constitutional difficulty caused by the way in which we actually enact it, then it will become part of the Corporations Law reference of power.

The next meeting of the Standing Committee of Attorneys-General and the Ministerial Council on Corporations is in July. The Attorney-General for Western Australia has asked that the issue be dealt with at that meeting, remembering that previously that jurisdiction, through the Hon. Peter Foss, had supported South Australia's position and was a very strong advocate for limitation on the powers of the commonwealth. The new government in Western Australia has said, 'We believe that this ought to be exercised by the commonwealth', and that is where it rests at the moment. In Queensland, the then Attorney-General, Mr Matt Foley, was supportive, but since then there has been an election in Queensland and a change of Attorney-General and, although he has been supportive, again, he has a view that the corporations power ought to be exercised by the commonwealth.

So, at the moment there is a gentleman's agreement with the commonwealth that we will move in the direction that I have just indicated and supported, in principle agreement from a number of other jurisdictions, including New South Wales and Victoria before they actually got the form of words that we wanted to enact. I think in the end it will be a matter of trying to resolve this at the next meeting of the Ministerial Council on Corporations and the Standing Committee of Attorneys-General.

The Hon. IAN GILFILLAN: The following part of that same clause 69 goes on in what I find somewhat confusing language. I am talking about subclause 4:

> Nothing in subsection (3)(b) excludes from the amendment reference the matter of making express amendments to the corporations legislation that—

(a) prohibit or have the effect of prohibiting the formation of partnerships or associations that consist of more than 20 members; or
(b) prohibit or have the effect of prohibiting a person other than a corporation—
(i) operating a market; or
(ii) providing services in relation to the operation of a market; or
(iii) operating a managed investment scheme; or
(iv) carrying on a business of providing financial products or services; or
(v) engaging in any other business or activity the conduct of which is regulated by the corporations legislation.

I fully acknowledge the principal situation the Attorney has put as being a well worthwhile initiative, and I wish him well on that. Can he provide a little explanation: if this is effected, what is the impact of this subclause of clause 69?

The Hon. K.T. GRIFFIN: It is effectively an objects clause. Objects clauses try to set the tone and scope of the substantive legislative enactment which follows, and it is basically used if there is a dispute in the interpretation to identify what the scope of the legislation was intended to be. So, it is not as good as being in the substantive enactment, but it is—

The Hon. Ian Gilfillan: Is it to protect us in controlling our own markets?

The Hon. K.T. GRIFFIN: It is intended to guard against a commonwealth government's enacting legislation which sought to restrict a trade or a practice to a particular profession or trade, unless they were incorporated. What we are seeking to do is to ensure that the commonwealth cannot compel individuals or bodies to incorporate and thereby control what they will do in the future. If the commonwealth can compel a person wanting to carry on a trade to incorporate, it gives them control over something that they do not have control over at the moment. For example, among the legal profession, some choose to incorporate, while some trade as small partnerships. As small partnerships they are not subject to the commonwealth Corporations Law. If the commonwealth wanted to control the legal profession, what we do not want them to be able to do is to enact a law that provides that to practise the law you have to be incorporated; if you are incorporated you are then bound by these rules. The same applies whether it is a medical practitioner or accountant or architect or whatever. This seeks ultimately to limit the scope of the commonwealth's power through its legislative enactments to control the carrying on of trades or professions.

Clause passed.

Remaining clauses (2 to 121) and title passed.

Bill read a third time and passed.

LAND AGENTS (REGISTRATION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 30 May. Page 1623.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their contributions to the second reading of this bill and also for their indications of support. Since the bill was introduced, quite a significant amount of water has passed under the bridge. As I indicated in a ministerial statement on Tuesday, the National Competition Policy Panel, which was established to review the Land Agents Act, had been reconstituted, and Mr Cliff Hawkins, a leading real estate agent and respected member of the Real Estate Institute, had been added to the review panel. That review panel reported on the legal qualifications recommendation of the first report of the panel after some quite extensive review of the legal qualifications recommendation of the first and final report.

As a result of the recommendations of the supplementary report, changes have been put in place by the Commissioner for Consumer Affairs relating to the qualifications that might be required of a person applying, with legal qualifications, for registration as a land agent. In my ministerial statement made earlier this week, I indicated the way in which all that developed, was handled and has now been resolved. There was a considerable amount of concern about the legal qualifications recommendation, but the Real Estate Institute has indicated that it has been pleased with the supplementary review process.

It has agreed with the recommendations of the supplementary report and, therefore, as the Hon. Mr Holloway has indicated, there is no justification for opposition to the bill or, for that matter, for the amendments that the Hon. Mr Gilfillan indicated he would be moving when he spoke on this bill back in October last year. Undoubtedly, there will be some additional questions and comments during the committee consideration of the bill.

If there are issues that now need to be raised, they can be raised during that committee consideration. I would hope that it could be dealt with expeditiously next week. I thank the Real Estate Institute, the Law Society of South Australia and others who have participated in bringing this matter to a satisfactory conclusion.

Bill read a second time.

DENTAL PRACTICE BILL

In committee (resumed on motion).

(Continued from page 1654.)

Clause 31.

The Hon. DIANA LAIDLAW: To briefly sum up where we were prior to the break, the government is opposed to the amendment moved by the Hon. Sandra Kanck. The Hon. Mr Crothers has indicated support. The Labor Party is sitting in the middle, saying it would support it simply to allow further consideration but leaving the option open for the matter to be addressed again in the lower house. I put on record further advice which I received since we last addressed this matter and which indicates, first, that the grounds on which the Hon. Sandra Kanck has moved this amendment are not valid and, secondly, that, in terms of mutual recognition issues, this amendment would muddy the waters greatly and be of no benefit overall.

The Dental Board of South Australia, over the luncheon break, made a telephone call to Professor Ivan Kleinburg, Professor of Prosthetic Dentistry at the Westmead Dental School in New South Wales. Prosthetic dentistry is that discipline in dentistry that includes the provision of full and partial dentures, as well as some other aspects of dentistry. Professor Kleinburg advised that the training provided to undergraduate dentists in the aspect of the provision of full dentures has been reducing over the past 30 years as the aspect of partial dentures has increased. He states that it still occupies a significant part of the curriculum and that, without exception, all undergraduate dental students gain experience in both the clinical and laboratory stages of the provision of full dentures.

He suggests that there may be some confusion in terms of what has been put to us as the basis for the amendment moved by the Hon. Sandra Kanck. He believes that the option may relate to clinical dental technicians, certainly not dental practice or prosthetic dentistry and, therefore, we should not be advancing this amendment because the grounds are not valid and the case for the amendment does not exist.

I am told that under this bill these people are registered as dental prosthetists if they have been given the full dentures only training or as advanced dental prosthetists if they have chosen both. The case put today, which with further questioning we found was hypothetical, is in fact inconceivable and therefore this amendment should not be pursued on the basis of the grounds presented. The Australian Dental Council has been accrediting all Australian dental schools every five years and at the stage of any major curriculum change. The Westmead Dental School went through its accreditation processes only last year. Therefore, it has not added the option that the Hon. Sandra Kanck referred to. In addition, all other Australian dental schools are being accredited this year. Again, the option is not being provided.

The Hon. T.G. Cameron: Do we know why?

The Hon. DIANA LAIDLAW: Because they are trained across all aspects but, increasingly, as I mentioned and hope to make clear, they are not provided with the option, because all undergraduate dental students gain experience in partial and full dentures, although increasingly partial dentures is the emphasis, and they all gain experience in clinical and laboratory stages in the provision of full dentures. Therefore, there has not been an option necessary for them to gain further study in those areas because it is part of the curriculum. It is not dealt with separately as an option.

I am further told by those who are very familiar in South Australia in terms of the mutual recognition provisions that this amendment will muddy the waters and it is not helpful. While the board does have the power to impose conditions, it can do so only if those conditions are not more onerous than would apply to a local person and, therefore, they will not be able to get involved in the measures that the Hon. Sandra Kanck is seeking to advance because of the way in which the board itself will be bound by mutual recognition law. Therefore, I strongly urge the Hon. Sandra Kanck not to advance the amendment and the Labor Party and Independent members not to support it. However, if they do choose to support it, notwithstanding all the reasons I have given for not advancing the amendment, there will be an opportunity to reconsider the matter in another place.

The Hon. SANDRA KANCK: I am not in a position on the run to research this further and go back to my sources of information. Therefore, I will not seek to divide on this amendment.

The Hon. Diana Laidlaw: You will not withdraw it but you will not seek to divide?

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 21, lines 10 and 17—After 'denture' insert ', mouthguard or nightguard'.

This is a simple amendment that puts into the legislation what is current practice. Whereas the legislation talks about fitting a denture to a jaw, dental prosthetists also fit mouth guards and nightguards. It is logical, given that that is what occurs at present, that we should ensure that it is in the legislation so there is no doubt.

The Hon. DIANA LAIDLAW: Here goes! I have 1½ pages of reasons to oppose this amendment.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: Yes.

The Hon. Caroline Schaefer interjecting:

The Hon. DIANA LAIDLAW: I have not read it through to edit it, so I will read fast. My instruction is to oppose this amendment. The bill as it stands permits dental prosthetists to provide full dentures to a patient. This amendment, moved by the Hon. Sandra Kanck, seeks to permit dental prosthetists to provide mouthguards and night guards. Under the current Dentists Act 1984 the Dental Board of South Australia has determined that, since mouthguards do not relate to the treatment of human teeth, gums, jaws or approximate tissue, the provision of mouthguards is not the provision of dental treatment.

Interpreted broadly, this means that anyone can provide mouthguards or, indeed, mouthguard blanks may be purchased from a local pharmacist and be fitted by a parent. It is a good thing that it is legal because I know that is what my sister has done with her football playing sons. Under the bill, mouthguards are considered neither dental treatment nor dental prostheses. They are outside the scope of the bill and there is therefore no restriction on who can provide them. It is therefore not necessary and, indeed, I am advised, undesirable to add mouthguards to the list of items that a dental prosthetist can provide.

In terms of night guards, I am further advised that part of the bill applicable to what dental prosthetists can provide reads:

> 31(c) registration on the register of dental prosthetists authorises the prosthetist to provide dental treatment consisting of the fitting of, and taking impressions or measurements for the purposes of fitting, dentures to a jaw—

and this is the significant point—

> (i) in which there are no natural teeth or parts of natural teeth; and

There are various other provisions. Since night guards are not provided in jaws without teeth, it is clear that this would not be a task for a dental prosthetist. Indeed, according to the advice that I have been given, it is a somewhat curious amendment to have moved. However, in order to inform the debate, and this will also have relevance to the next amendment, I will share with the committee information provided to me to describe what a night guard is and does. Do all members know what a night guard is or does?

The Hon. P. Holloway interjecting:

The Hon. DIANA LAIDLAW: The honourable member wants me to go through this. A night guard is used—and this is for the benefit of the Hon. Paul Holloway—in cases where the patient is suffering from temporomandibular joint pain—the honourable member must have seen these notes before and he is putting me through this.

The Hon. P. Holloway: I am beginning to think that they are not going to help me much.

The Hon. DIANA LAIDLAW: My explanation will not help any more than the mouthguard. A night guard is used in cases where the patient is suffering from temporomandibular joint pain or pain in the muscles. I will give this to the honourable member. I am sorry; I am not being flippant, this is just a horrible page to read.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: That is right. It is a piece of plastic that simply stops one grinding one's teeth and a

dental prosthetist is not required to fit it. Overall, I am told that it is a spurious amendment and that it is not required.

The Hon. T. CROTHERS: I refer to a finding from the Queens University in Belfast that the use of a mouthguard will, in all probability, prevent people from suffering migraine headaches, as it is alleged that the grinding of teeth has some impact on their production. Is this true?

The Hon. DIANA LAIDLAW: I am told that a mouthguard is soft and a night guard is hard. Therefore, a mouthguard cannot help the problem outlined by the honourable member.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: It would be a hard night guard, not a soft mouthguard.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Yes, you are absolutely correct.

The Hon. T. Crothers interjecting:

The Hon. DIANA LAIDLAW: Yes, and therefore it needs to be in the hands of someone who understands anatomy and physiology. That is why I oppose it.

The Hon. P. HOLLOWAY: I thank the minister for giving me this document, because it makes it a lot clearer. My daughter was prescribed one of these by her orthodontist. She was suffering some pain, and it did have some benefit in realigning her jaw. I think I understand what the minister is getting at. I also understand why you would need significant expertise to prescribe them. I gather that a mouthguard can be made and fitted by a dental prosthetist.

The Hon. SANDRA KANCK: I had the experience of wearing a night guard about a decade ago to realign my jaw. The process involved my dentist taking an impression of my teeth and the guard being made of a hard plastic to mirror the impression that was taken. It is an invasive procedure. The approximate cost to have your dentist make one is about $300, compared with approximately $85 for a dental prosthetist. The minister has stated that there is no need for these amendments. If there is no need for these amendments, at any stage will a move be made to prevent dental prosthetists from making mouthguards?

The Hon. DIANA LAIDLAW: I am advised that the board would not permit the making of a night guard by a prosthetist, because it requires a greater level of skill and training in anatomy and physiology, which is not included in their course.

The Hon. SANDRA KANCK: If dental prosthetists can go through the process of making dentures, why would they be incapable of making a nightguard? It sounds like snobbery to me—and I bet it is.

The Hon. DIANA LAIDLAW: I am told that dentures are just basically flat and have grooves cut in them to make them look like teeth, whereas real teeth have cusps and, therefore, that is the difference concerning the guards. Because the teeth have cusps they interfere with each other, and that is why we go to the dentist when we have pain. That has to be taken into account when making the guards but not when making the dentures. This high level of understanding and training is therefore required.

The Hon. T. CROTHERS: There is another side to this coin which is that most people—like myself—never wear them. They have either a partial or total denture and take them out at night before going to bed. However, with a mouthguard, you have to keep it in. You would want that to be an exact fitting in case that blocked your air passage or slipped somewhere or other. That is one of the reasons why in my humble view you need people of professional skill. In other words, you do not get a carpenter to do a woodcarver's work. In this instance that cap fits very well.

The Hon. DIANA LAIDLAW: I am told that you are very wise, and what you have said is absolutely spot on.

The Hon. SANDRA KANCK: Part of the answer the minister just gave was that dental prosthetists do not have enough training to do this. I note the argument advanced on previous occasions when we had two different attempts to allow dental prosthetists to be able to fit partial dentures, and the government's argument on both occasions was that dental prosthetists did not have enough training. Suddenly they now appear to have that training. If training is lacking, training can be given. Among the things that are happening in dentistry in South Australia, within the next 12 months or so we will have the arrival of a Bachelor of Oral Health degree. If dental prosthetists do that course, will they be considered as being sufficiently qualified to fit a nightguard?

The Hon. DIANA LAIDLAW: I have not yet been shown the curriculum for the course, so I am unable to advise the honourable member further. Before dental technicians get upset with the inference that I may have made, I point out that they can make these things but they are not allowed to fit them.

The Hon. T.G. Roberts: It is the same with artificial limbs.

The Hon. DIANA LAIDLAW: Yes. I made reference to cigarette paper because the teeth are the most sensitive part of the body, and we have to respect that. Apparently, teeth can sense something as fine as cigarette paper, whereas a person does not sense it or feel pain if it is applied between their fingers, toes, under their arms, or between their dentures. Teeth are very sensitive, so we have to expect that, in making that distinction, a higher degree of training is required. I also know that, when things go wrong with teeth, it can lead to brain tumours and a whole range of problems. It is a very sensitive part of the body in terms of treatment generally.

The Hon. SANDRA KANCK: I truly believe that this is about dentists protecting their patch. I know people who go to dental prosthetists who are extremely happy with the treatment they get and who, under normal circumstances and because they do not have private health insurance, cannot afford to get this sort of treatment from a dentist, particularly at a cost of around $300. In the interests of social justice, at least, and getting beyond snobbery, we ought to allow this amendment.

The Hon. T. CROTHERS: I think the statement made by the last speaker is in part aimed at people like me. People who know me would never suggest that I am a snob or move in the august company of snobs. I am not interested in protecting dentists but in protecting the people who use the services of dentists. That has got to be put before the interests of any pressure group that is seeking to put pressure on members in this place so they can upskill themselves and lift their wages a bit because they can do certain other levels—

The Hon. Diana Laidlaw: For which they are not properly trained.

The Hon. T. CROTHERS: That is correct. That is what I am interested in. I am not worrying about snobs or about protecting dentists. I am worried, as every member in this parliament should be, about protecting the patients who, like myself and every human being, find a visit to the dentist unavoidable. It is almost like death and taxes—it is unavoidable. I am worried about protecting those people.

The Hon. SANDRA KANCK: As I said, we have been through some of these arguments about dental prosthetists and whether they could fit partial dentures. The argument that was given then was that they did not have training in oral hygiene. I found that to be a spurious argument, although the matter has been resolved. The reality is that all dental practitioners, whether we are talking dentists, hygienists, therapists or dental prosthetists, want their patients back. They will not do stupid things that will damage their patients in any way. If they are out of their depth, they know to refer matters on to somebody else.

In the meantime, if we say to people that their only option is to go to a dentist and pay $300, we are saying to a certain part of society that they cannot have this treatment and that they should go on a waiting list for 3½ or 4½ years before they get it. That is what we are effectively saying. It is a form of snobbery. It is very nice for us on the income we get to say, 'Okay, you people can't have it. You can just go and rust.'

The Hon. T. CROTHERS: I really resent those last remarks. I want to put something on the record that will let members see where I am kicking the ball from. I refused to join Medibank Private because I believe that universal health care should be free for all people, just like education and health should be free. I refuse to spend my money to join Medibank Private and taking that principle stand costs me extra money a year, whereas if I joined Medibank Private I would be in it and covered for about $500 a year less (or more).

I resent those sorts of innuendos cast by the Hon. Ms Kanck, which, ultimately, because of the length of the shadow, touch me. I do not want to blow my own bugle about what I do or do not do, but those are my views and I have stuck to my principles. For instance, I would not buy any shares in the Commonwealth Bank. It is not that I am against people buying shares, because I am not, but what I am against is the usury—and we only have to look at young Packer and young Murdoch to see what happens in the upper end of the share market. I resent the like of such a thing, just rushed off willy-nilly without any knowledge whatsoever of what any of us do or do not do. I resent that.

The Hon. SANDRA KANCK: It is being a little bit distractive, but I feel I should reply to that, because I, too, do not take out private hospital insurance, and I have made that decision for assorted reasons. However, I speak in the generality when I suggest that most members in this parliament probably have private health insurance and it is very easy to discount the cost that someone on a low income will experience if they try to access some of this treatment.

Amendment negatived.

The Hon. SANDRA KANCK: I move:

Page 21, lines 24 and 25—Leave out paragraph (f) and insert:

(f) registration on the register of dental therapists authorises the therapist to provide dental treatment of the prescribed kind, in prescribed circumstances—

(i) until the third anniversary of this section—to any person under the age of 30 years;

(ii) on and after that anniversary—to a person of any age;

I recognise that the Hon. Paul Holloway has a similar amendment on file. This relates to the issue of dental therapists being able to treat adults, that is, anyone 18 years of age and over. This is probably one of the most divisive points in this whole bill and is one of the reasons why the bill is before us, because competition policy required that this act and assorted other acts be looked at. In the process, people became aware that our school dental therapists currently work in an anti-competitive environment, in the sense that they work only in schools and only with children.

I know that there appears to be quite a philosophical divide on this issue between the government and certainly me and, obviously, given the opposition's amendment, with the opposition as well. I find it hard to understand how it is that someone who is 17 years, 11 months and 30 days old can be treated yet the very next day, when they turn 18, suddenly their dental health is compromised if a dental therapist does anything to them.

I met with the dental therapists. They have told me that they are not in a great rush to work in the wider community and to work on adults. They have said to me that most of them like working in the school dental service because they like the hours of work. Many, if not all, of them are women and many have children of their own. It suits them to work in the school dental system because they can usually arrange their holidays to fit with their children's. They believe there might be half a dozen of them who might want to work in the private sector, if they are given that opportunity.

The bigger issue is that of age. My amendment is different from the opposition's amendment. My amendment provides that for the first three years of operation of this act dental therapists would be able to work on the mouths of people up to the age of 30 years. I have chosen that age limit because of the view that all these people who are 30 years and under have grown up with fluoride and their teeth, generally speaking, will be in good condition. We can watch this over three years while the trial that is being set up in Tasmania occurs, and there will be benchmarks against which we can check this whole thing. At the expiry of the three years, my amendment provides it would be open slather.

If as a result of the Tasmanian trial and three years of working with this act, and allowing therapists to work on those 30 years and under, it was shown that it was inappropriate for a dental therapist to work on a person above 18 years, the act could be brought back with an amending bill to parliament. I will tease out some of the arguments later after the Hon. Paul Holloway has moved his amendment and we can compare what he is attempting to do with what I am attempting to do.

The Hon. P. HOLLOWAY: I move:

Page 21, line 25—Leave out 'to children'

The effect of my amendment, if it is carried, would be that clause 31 would provide:

Subject to any restrictions, limitations or conditions imposed by or under this act. . . registration on the register of dental therapists authorises the therapist to provide dental treatment of the prescribed kind in prescribed circumstances.

In other words, the limitations on what practices dental therapists could undertake would be set by regulation and the circumstances in which they do it would be in regulation. It would not relate to age. If we go back to the report of the review board (February 1999), on which the review of the Dentists Act under competition policy was based, its recommendation states:

The review panel concludes that there is no justification in retaining the provisions which restrict the employment of dental therapists to the South Australian Dental Service. The restrictions relating to dental therapists working on children only are only justified to the extent that dental therapists are currently not trained to work on adults. Therefore, this restriction should be removed subject to dental therapists obtaining additional training or expertise.

That clause probably best sums up the opposition's position on this. We do not believe there should be an age restriction set within the bill, but we believe the qualification of where dental therapists work should be based on their qualifications, training and expertise.

Unfortunately, there has been some misrepresentation of the opposition's position on this. Some have argued that, because the condition will be set by regulation, the opposition is attempting to give automatic right for dental therapists to work on adults. That is not the case at all. What we would see is that these regulations would inevitably come through the Dental Board: that is the way it is done in practice. The Dental Board will be the adviser—the body of expertise—to any government and, therefore, will advise the government in the first instance on the sort of qualifications required by dental therapists as well as the qualifications and conditions needed if at some stage in the future they were to work on adults.

The approach we would adopt is consistent not only with that of the review committee but also with what we understand is already operating in other states. The Victorian act allows the Dental Practice Board to make judgments about the training of the dental provider and it can develop codes of practice to reflect that training. The shadow minister for health in another place has advised me that the Queensland government is about to proceed with legislation that follows the Victorian model. I have also been told that Tasmania is about to undertake a pilot study in relation to extending the practice of dental therapists to adults in some categories. So there is some tentative movement but it is being done through the proper authorities of government.

It is the opposition's position that dental therapists—as well as other professionals—should operate based on competency to perform the work rather than on a simple age criterion. That should be the key issue. If they are capable of working on adults, they should be allowed to do it but, if they are not, they should not be allowed. That should be the basis of assessment rather than age alone.

One of the key reasons why other states are looking at the potential role of dental therapists in the future probably relates to the ageing of the population as well as the many problems associated with dental treatment in nursing homes and other places. Clearly, working with people in nursing homes who have dementia, Alzheimer's or other diseases is not the sort of thing that would make a particularly attractive dental practice. Studies show that it is very difficult to get proper treatment for people in nursing homes: the cost alone makes it very difficult.

The potential in the future for dental therapists to contribute in this way is recognised by the aged care bodies and it is something they think should be looked at. If that does happen, it is highly unlikely that that sort of work would be a threat to dental practices. I understand that there is a very limited contribution in that area. All members would be aware of the massive waiting list for pensioners to receive dental treatment under the state scheme. So, there is clearly a massive under-supply of dental treatment to elderly people at the moment and as a society we will need to look at ways to address that problem.

I would like to read into the record a couple of letters we have received from various organisations representing aged people because it sets out their views on this matter. The Alzheimer's Association has written to me (I assume it has also written to other members) and the letter reads:

I understand that the Dental Practice Bill is soon to be debated in the Upper House. The recent House of Assembly debate on the amendment regarding the removal of the restriction of dental therapists providing treatment only to children, has significant implications for special needs groups, including people with dementia.

While on one level this debate might be around professional territories and roles, our association would prefer the focus to be on the competent extension of dental treatment for people who are currently unable to access such treatment easily.

Many people with dementia—particularly those with advanced dementia or those who are housebound or institutionalised—are currently not receiving the oral health interventions they deserve. This is due partly to a paucity of public dental health services and partly to the absence of specialised services and skills for those who are cognitively impaired and confused. We believe that all dental professionals who provide treatment to people with dementia need these specialised skills.

It appears eminently sensible to lift restrictions in the act pertaining to dental auxiliaries and to allow the dental profession to set guidelines and competencies for practice through their professional board. The future development of a new Bachelor of Oral Health dental auxiliary qualification in South Australia will see the evolution of a better trained and qualified dental auxiliary. Under indirect supervision of a dentist, dental auxiliaries would be very valuable members of any dental team that provide care for people with dementia.

Our association holds the view that dental services require urgent extension to permit those currently not accessing treatment for reasons of finances, mobility or cognitive impairment to do so. We envisage a model whereby routine oral health checks of housebound people with dementia and those in residential aged care facilities could be conducted by dental auxiliary staff, who would work under the indirect supervision of a dentist. The extension of such services to older people with dementia requires training for all dental professionals offering treatment.

The removal of such a restriction from the act would not suggest the immediate involvement of auxiliaries in dental care of those 18 years and above, but would permit the flexibility that is to occur in the future as appropriate, within clear guidelines from the Dental Board. Our association considers that the current training of dental therapists does not include sufficient education in special needs dentistry for this group to be able to provide dental examinations and treatment for people with dementia at the present time. We are confident that this would be addressed over time.

Therefore, on the understanding that the Dental Board would develop training competencies and regulations for practice, and with the development of the new Bachelor of Oral Health dental auxiliary qualification, the Alzheimer's Association SA holds the view that the removal of the restriction of age-related practice for dental therapists from the act gives the opportunity to extend competent dental care more broadly in the future, which is in the best interests of our constituent group.

I think that letter very eloquently sums up what we in the Labor Party, anyway, are seeking to achieve on this. We also received a letter from the Council On The Ageing, and if I can just read the guts of this letter:

The Council of Pensioners & Retired Persons (SA) wishes to advise you that following discussions at its meeting on Friday 6 April 2001 the council voted to support the amendment to the act which would remove the age restriction on dental therapists' practice which prevents them from treating adults.

The council believes that this change to dental practice will improve dental services to the older members of our community whom we represent.

I know that a lot of research is being conducted at the moment into the problems of the dental care of the aged, and particularly people with dementia, and the various aspects that we read about from time to time in various publications and, indeed, within the press, show that there is really a very low provision of health care by dentists, accompanied by low interest in this group. So, as I was saying earlier, there is limited dental provision for people with dementia or similar age-related illnesses.

There is certainly a complete inadequacy of residential facility based dental rooms and equipment to enable the treatment of disabled and confused residents, given their needs. There is a real paucity of effort in that area. There is also a high prevalence of problems that are associated with the poor dental care that is generally available to that particular group of people. And, of course, if we look at the ageing of the population and the great increase that we expect in the number of people in that target population, clearly, that is only going to increase in the future.

So, for all those reasons we would like to see this change to the act. As I said, it will certainly have very limited initial impact but, over time and with greater qualifications and hopefully the right sort of support services, it will at least offer us a means by which in the future we can start to address the quite chronic dental health problems among elderly people in our community. I ask the committee to support my amendment.

The only thing I would say in conclusion in relation to the Hon. Sandra Kanck's amendment is that I can understand what she is doing in trying to get some sort of time limit, but again we think that avoids the central issue. The point we want to make is: let us address this on the basis of the competency of those who are charged with performing this dental work. Let us make sure that they are competent to act in whatever way the Dental Board recommends and the government fits into legislation. Let us work that out rather than set time limits that may or may not be able to be achieved.

The Hon. DIANA LAIDLAW: Of the two amendments that have been moved, the government's preference is to support the amendment moved by the opposition.

The Hon. Sandra Kanck's amendment negatived; the Hon. P. Holloway's amendment carried; clause as amended passed.

Clause 32.

The Hon. DIANA LAIDLAW: I move:

Page 22, after line 4—Insert new paragraph as follows:

(ca) is, unless exempted by the Board, insured in a manner and to an extent approved by the Board against civil liabilities that might be incurred by the person in the course of providing dental treatment; and

This amendment seeks to make one of the requirements for registration the holding of appropriate indemnity unless exempted. I am advised that, given that under a later clause in the bill a dental practitioner is prohibited from providing dental treatment for fee or reward unless they are so covered (or have been exempted), it follows that it should be a requirement for registration.

The Hon. P. HOLLOWAY: We support the amendment.

Amendment carried; clause as amended passed.

Clause 33.

The Hon. DIANA LAIDLAW: I move:

Page 23, after line 37—Insert new paragraph as follows:

(c) the company is, unless exempted by the board, insured in a manner and to an extent approved by the board against civil liabilities that might be incurred by the company in the course of providing dental treatment.

This is a similar requirement to that outlined in the previous amendment, but it applies in this instance to the registration as a company.

The Hon. SANDRA KANCK: I am not speaking against this amendment, but I am speaking with concern about the whole of this clause which, in many ways, I regard as being anti-competitive. Clause 33(1) applies only in relation to registration of a company as a dentist, advanced dental prosthetist, dental prosthetist or dental technician. I have received a letter from the Dental Therapists Association, and I will read what it has to say about subsection (1), as follows:

The South Australian Dental Therapists Association believes that this does not reflect the principles of national competition policy for the following reasons. Limitations on business ownerships and partnerships have maintained dentistry separation from general health care. Dentistry should be more integrated into general health care networks and it would be more appropriate to allow partnerships and ownership arrangements which include other health practitioners and even non-health professionals. In addition, the current restrictions prevent those with managerial skills from developing practices with various professional services under the same business umbrella.

I wrote a letter to the minister in regard to clause 33. I asked, in particular, whether the ACCC had given any advice on the effect of the clause, and I also asked whether it would be feasible for a dental practice to be part of a health clinic that also contained a medical practice and, if so, how it would fit with this clause as presently worded. The response I received is as follows:

It is possible for anyone to own the real estate and dental equipment of a dental facility, but only a dental practitioner may provide the dental care. Only a dental practitioner may have the relationship with the patient, obtain informed consent and actually treat the patient. The health clinic may not have the relationship with the patient unless exempted under clause 45(2)(b) or (3). This will allow, for example, Health Partners to provide dental treatment for their members, but this would not occur by Health Partners becoming a company registered as a dentist.

I am not sure that that answer really advanced the sort of concept that I was talking about, or the sort of concept that the Dental Therapists Association was talking about.

The Australian Dental Prosthetists Association also wrote to me about clause 33. As it is currently worded—particularly subclause (2)—it will allow only a dentist to own a practice, and the dentist would then be able to employ a therapist, or a hygienist, or whatever. It is very much a top down approach. I see no good reason why, for instance, a dental prosthetist or a dental hygienist could not own a practice and employ a dentist in that practice. In fact, this letter from the Australian Dental Prosthetists Association states:

Currently there are several dental prosthetists employing dentists from quite large general dental practices in several locations. They have been doing so for many years without compromising patient treatment. These operators are entitled to do so under the current act. To now stop this practice we believe would be of an anti-competitive nature and against ACCC guidelines.

I would like to know from the minister, given clause 33 as it is currently worded: what will be the transitional provisions at least for dental prosthetists who are currently employing dentists?

The Hon. DIANA LAIDLAW: With respect to the final matter raised by the honourable member, I am told that the transition provisions have not yet been determined. In terms of the earlier matters raised by the honourable member, I have been given the following advice. The new Dental Practice Bill does not have the intention of restricting the ownership of dental practices. It allows oral health care providers to register and provide dental treatment that is appropriate to their type of registration.

It also allows dentists, advanced dental prosthetists, dental prosthetists or dental technicians to form and register a company as a practitioner on the appropriate register. Both dental hygienists and dental therapists must work under the 'control', which I am told is the expression in the bill, of a dentist and so may not work in solo practice and are therefore not permitted to register as a company. However, the bill restricts ownership of practices to the extent that any other

than those listed earlier will need to apply for an exemption before they may provide dental treatment.

The minister has made plain that he will be prepared to consider applications for exemption; thus the bill allows for the traditional ownership arrangements to occur but also permits, through individual exemptions, other arrangements for providing dental care. Several of the amendments proposed by the government strengthen the bill in relation to those granted exemptions. It is not reasonable to have a group of registered dental practitioners governed by the bill, conforming to the regulations and following a published code of ethics and then to let others step in and provide the same services without regard for any of the protections to the public that have been built into the system by this place and by the parliament generally. If they are prepared to apply for an exemption and play on a level playing field, then so be it. Competition it will be, and competition on these terms will also be fair.

The Hon. SANDRA KANCK: Once again, we are seeing this top down approach. It still bemuses me that the government seems to think that dental therapists, dental hygienists and dental prosthetists will somehow be prepared to give substandard treatment to their patients. They want them to come back, so why on earth would they give them substandard treatment? Implicit in what the minister is saying is that people will be at risk if they go to these people in the first instance.

I go to see my doctor, who has the sense to know when she cannot give me appropriate treatment. When it is beyond her training she refers me to a specialist. What is it that the government thinks about therapists, hygienists and prosthetists that will have them not refer up the chain if it is necessary? What is the evidence that shows that these people will be irresponsible?

The Hon. DIANA LAIDLAW: This has been tried and proven practice. The Hon. Caroline Schaefer was quite right, as she just interjected a moment ago. When you break your arm you do not go to a physiotherapist first: you go to the general practitioner or the orthopaedic surgeon. In other words, you go to the appropriate, trained professional person. It is not a matter of setting one person against the other in terms of the treatment of teeth. It is almost like a class war that the honourable member is suggesting or fostering. I am not too sure that she is trying to set up therapists and others when they know that they have a different skill, a different training base, and that the dentist has the highest training base. Therefore, we have provided recognition in the bill for that fact.

The Hon. SANDRA KANCK: The minister suggests that this is class war, and maybe it is. Again, what is happening is that we are putting one group in charge of another, and there is no evidence to show that some of these other groups could not do the work required of them. The registration process and the register would allow the Dental Board to remove somebody who oversteps the mark. Therefore, it does not make sense to me that we are saying that only a dentist can do this, and a dentist can have these other people—

The Hon. L.H. Davis: Only can do what?

The Hon. SANDRA KANCK: Only a dentist can own the practice and employ the other people. A dental prosthetist or a dental therapist or a dental hygienist cannot own the practice and employ a dentist. It is snobbery, let's be honest about it.

Amendment carried; clause as amended passed.

Clause 34.

The Hon. DIANA LAIDLAW: I move:

Page 24—
Line 19—After 'this Act' insert:
(other than as a specialist or an advanced dental prosthetist)
Line 25—After 'this Act' insert:
(other than as a specialist or an advanced dental prosthetist)

These amendments seek to clarify that someone undertaking a course of study to become a specialist or an advanced dental prosthetist does not have to register as a dental student. These people would already have a basic qualification and are undertaking further study.

Amendments carried; clause as amended passed.

Clause 35 passed.

Clause 36.

The Hon. DIANA LAIDLAW: I move:

Page 25, lines 24 and 25—Leave out subclause (2) and insert:
(2) The Registrar must remove from the appropriate register the name of a person—
(a) who dies;
(b) who ceases to hold a qualification required for registration on that register; or
(c) who ceases for any other reason to be entitled to be registered on that register; or
(d) who ceases to be enrolled in a course of study that provides qualifications for registration as a dental practitioner under this Act (other than as a specialist or an advanced dental prosthetist); or
(e) whose registration on that register has been suspended or cancelled under this Act.
(3) The Registrar may act under subsection (2) without giving prior notice to the relevant person.

This amendment simply gathers together all the reasons for taking names off the registers.

The Hon. P. HOLLOWAY: The opposition agrees.

Amendment carried; clause as amended passed.

Clause 37.

The Hon. DIANA LAIDLAW: I regret to say that the next three amendments are all slightly different, so I will move them individually. I move:

Page 25, after line 32—Insert new paragraph as follows:
(d) on account of the person—
(i) ceasing to hold a qualification required for registration on that register or otherwise ceasing to be entitled to be registered on that register; or
(ii) ceasing to be enrolled in a course of study that provides qualifications for registration as a dental practitioner under this Act (other than as a specialist or an advanced dental prosthetist),

This amendment adds to whom may apply for reinstatement on the register consistent with categories in the previous amendment.

The Hon. P. HOLLOWAY: The opposition agrees.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 26, lines 5 to 7—Leave out subclause (3) and insert:
(3) A person who has been disqualified from being registered under this Act may, subject to the terms of the order for disqualification, apply to the Board for reinstatement of the person's name on the appropriate register.

This amendment seeks to relate the terms of the order for disqualification to a person's ability to apply for reinstatement. For instance, if someone had been disqualified for two years, that period of disqualification would have to be observed before they could apply to be reinstated.

The Hon. P. HOLLOWAY: The opposition agrees.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 26, lines 22 to 26——Leave out subclause (7) and insert:

(7) Subject to this section, the Board must reinstate on the appropriate register the name of an applicant under this section if satisfied that the applicant is eligible for registration on that register.

(7a) The Board may refuse to reinstate the name of the applicant on the appropriate register until all complaints (if any) laid against the applicant under this Act have been finally disposed of.

This is a drafting amendment.

The Hon. P. HOLLOWAY: We support it.

Amendment carried; clause as amended passed.

Clause 38.

The Hon. DIANA LAIDLAW: I move:

Page 27, line 3—After 'treatment' insert:

This amendment makes clear that the board may seek information on any continuing education that a practitioner has undertaken at the time of seeking payment of the annual practice fee.

Amendment carried; clause as amended passed.

The CHAIRMAN: I expect that honourable members will call out, as we go through, if any clauses need to be discussed.

Clauses 39 to 41 passed.

Clause 42.

The Hon. DIANA LAIDLAW: I move:

Page 28—
Line 6—Leave out '$10 000' and insert:
$50 000
Line 9—Leave out '$10 000' and insert:
$50 000

These amendments relate to penalties.

Amendments carried; clause as amended passed.

The Hon. T.G. CAMERON: Are members allowed to ask questions?

The CHAIRMAN: Yes.

The Hon. T.G. Cameron interjecting:

The CHAIRMAN: If you have marked where you want to ask questions, please call out.

The Hon. T.G. CAMERON: I do not have it marked. I just thought of one then.

The Hon. Diana Laidlaw interjecting:

The Hon. T.G. CAMERON: No, it's all right. I am not going to ask it now.

Clause 43.

The Hon. DIANA LAIDLAW: I move:

Page 28—
Line 14—Leave out '$10 000' and insert:
$50 000
Line 18—Leave out '$10 000' and insert:
$50 000

These are penalty provisions.

Amendments carried; clause as amended passed.

Clause 44.

The Hon. DIANA LAIDLAW: I move:

Page 28—
Line 22—Leave out '$10 000' and insert:
$50 000
Line 26—Leave out '$10 000' and insert:
$50 000
Line 30—Leave out '$10 000' and insert:
$50 000
Line 35—Leave out '$10 000' and insert:
$50 000

All of these amendments relate to increasing penalties from $10 000 to $50 000.

The Hon. T.G. CAMERON: Can the minister outline why there has been such a significant increase in the penalty? You might have done that but I was not here.

The Hon. DIANA LAIDLAW: No, I did not do it, so it is a fair question. At the beginning of the committee stage of this bill I highlighted that the rather daunting number of pages of amendments that the government was introducing arose from a later consideration and review of the Medical Practitioners Act and it was determined that that act should have the increased range of penalties and, therefore, it was desirable to have penalties standard across the professions. Thus, we seek to do that with this series and I think it was right that the question was asked and that we halted in the rush to address them.

The Hon. T.G. CAMERON: On the basis of the explanation of the minister, SA First indicates that it will support the amendments.

Amendments carried; clause as amended passed.

Clause 45.

The Hon. DIANA LAIDLAW: I move:

Page 29, line 8—Leave out '$10 000' and insert:
$50 000

This amendment again provides an increase in the penalty from $10 000 to $50 000.

The Hon. P. HOLLOWAY: First, I indicate that I support the amendment and will support the clause but there are a couple of questions I have in relation to this clause. It relates to the restriction of provision of dental treatment by unqualified persons and, specifically, the clause is directed at preventing corporations that are owned by non-dentists—that is probably the simplest way of putting it.

The first question I ask is that, given that the recommendations of the bill came under national competition policy review, what is the recommendation in relation to this clause and does the government foresee any problem with the national competition policy or the National Competition Council in relation to this clause?

The Hon. DIANA LAIDLAW: I have been advised that the review of the act in terms of national competition policy recommended that there should be no restrictions on the provision of dental treatment by unqualified persons. The government, however, as a policy approach did not adopt that recommendation and we have in this bill a halfway house between what the review committee recommended in its report and the current act. I am advised also that in an interview on 6 February last year on the ABC 5AN, Mr Graham Samuel was asked about this very practice that the honourable member is raising now and he said that the NCC would assess this based on its consideration of how the minister used the discretions provided for in this clause. Like everything with the NCC, they keep you guessing.

The Hon. P. HOLLOWAY: I was going to ask a couple of questions about the discretions in the act because it is my understanding that at present there are a number of corporations owned by non-dentists that employ dentists. Will there be a grandfathering in relation to this matter and will all corporations currently in existence be automatically approved to operate, or is it the government's intention that they would be able to operate automatically through the exemption available to the minister?

The Hon. DIANA LAIDLAW: Clause 2(1) outlines that the unqualified persons would have to apply. Then it is at the minister's discretion whether or not that application is accepted.

The Hon. P. HOLLOWAY: I understand that but if I am right I think that is the case at present. Currently there is a restraint on it—is that correct?

The Hon. DIANA LAIDLAW: For Health Partners, yes.

The Hon. P. HOLLOWAY: Is it the government's intention that the exemption would continue under the new structure?

The Hon. DIANA LAIDLAW: No, they would have to reapply.

The Hon. P. HOLLOWAY: And you are saying that there is no guarantee that they would be given automatic approval?

The Hon. DIANA LAIDLAW: I do not think that there should not be a guarantee, either. If they have done something foul, that should have to be taken into account. The process is that they apply. If they have been exemplary in terms of exercising their responsibilities under the current act, then I suspect the recommendation to the minister would be that the exemption is granted and the minister of the day would approve it. However, there is no guarantee that no matter how they operate they would get that exemption continued. But I think that they are a pro forma, as it were, and it would be considered positively.

The Hon. P. HOLLOWAY: Has the government or the minister any view at this stage about the likely prescribed circumstances under which these exemptions would be given? For example, is there some class of persons who are likely to be given an exemption?

The Hon. Diana Laidlaw interjecting:

The Hon. P. HOLLOWAY: I just wondered whether the government had any view as to how, in general terms, it may interpret this particular clause. In other words, what sorts of persons does the government envisage would be given an exemption under this clause?

The Hon. DIANA LAIDLAW: No; it is deliberately open to people and will be assessed on an individual application basis. I cannot provide further information to the honourable member. We are not nominating, for instance, classes of people or types of business arrangements that would be entertained over and above others: we have simply left it broad. Companies can apply if they wish and they will be considered on merit.

The Hon. P. HOLLOWAY: Given the minister's earlier answer about Graham Samuels' comments on the radio, does the government intend to consult with the NCC when it applies these particular exemptions that are available under clause 3?

The Hon. DIANA LAIDLAW: I suspect that the answer is yes, even if we would not wish to.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 29, line 17—Insert new subclause as follows:

(4a) A person who contravenes, or fails to comply with, a condition of an exemption under this section is guilty of an offence.

Maximum penalty: $50 000

Clause 45 makes provision for exemptions—as we have just been discussing—to be granted in relation to restrictions on provision of dental treatment by unqualified persons. This new clause makes it clear that contravention or failure to comply with the condition of an exemption is an offence.

Amendment carried; clause as amended passed.

Clause 46.

The Hon. DIANA LAIDLAW: I move:

Page 29, line 27—Leave out '$10 000' and insert:

$20 000

This penalty increase, in this instance from $10 000 to $20 000, is consistent with the Medical Practice Bill.

The Hon. SANDRA KANCK: Clause 46(1) provides:

A dental practitioner or dental student who has not provided dental treatment of the kind authorised by his or her registration for a period of five years or more must not provide any such dental treatment without first obtaining the approval of the Board.

I can understand that; obviously, it is being done to protect the public. It is also something that will require self-identification to the board which, in some ways, is limiting in itself. When someone does self-identify to the board in that situation what will the board do?

The Hon. DIANA LAIDLAW: Assess it. In addition to assessing it, I refer the honourable member to clause 46(2)(a), and particularly paragraph (b), which provides that, in assessing an application, the board may impose one or more of the conditions which are listed. There are four specific conditions as well as subparagraph (v), which provides:

such other conditions as the board thinks fit.

So, the person involved would be encouraged to come forward. This provision is deliberately broad so that all the issues surrounding the application and the personal circumstances can be assessed. There is no reason for a person not to come forward, because it is so restrictive in terms of what the board can consider regarding the imposing of any conditions.

The Hon. Sandra Kanck: Would they be sent off to retrain?

The Hon. DIANA LAIDLAW: They could. In addition to the specific conditions provided for in subparagraphs (i) to (iv), the board could do any manner of things in terms of subparagraph (v), which provides:

such other conditions as the board thinks fit.

The Hon. Sandra Kanck: So there could be a temporary restriction until they did some training?

The Hon. DIANA LAIDLAW: That is quite right, and I understand that that does happen now.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 29, line 30—Leave out 'and' (first occurring) and insert 'or'.

The Hon. DIANA LAIDLAW: Under this amendment 'qualifications and experience' becomes 'qualifications or experience', thus introducing more flexibility.

Amendment carried; clause as amended passed.

Clauses 47 and 48 passed.

Clause 49.

The Hon. DIANA LAIDLAW: I move:

Page 31, lines 5 and 6—Leave out 'has at some time been registered under this act' and insert 'was, at the relevant time, a registered person under this act or the repealed act.'

Amendment carried; clause as amended passed.

Clause 50 passed.

Clause 51.

The Hon. DIANA LAIDLAW: I move:

Page 31, line 25—Leave out 'believes' and insert 'suspects'.

Page 32, line 18—Leave out '$2 500' and insert '$5 000'.

The first amendment is a drafting amendment; the second provides for an increase in penalties.

Amendments carried; clause as amended passed.

Clause 52.

The Hon. DIANA LAIDLAW: I move:

Page 32, line 28—Leave out '5 000' and insert:

$10 000.

The Hon. SANDRA KANCK: Why such an increase, going as it is from $5 000 to $10 000? This is simply for hindering or obstructing an inspector. It seems an enormous fine to have to pay for that.

The Hon. DIANA LAIDLAW: All I would argue is that it is consistent with the medical practitioners bill. I understand that all the fines are technically proportionate to the seriousness of the offence, and these sorts of provisions have a scale of value which is understood legally. So, if we have increased the others, it is appropriate that we increase this one. I understand that it is not a—

The Hon. P. Holloway: Revenue raiser!

The Hon. DIANA LAIDLAW: No, it's not a revenue raiser. It is not mandatory; it is a maximum penalty.

Amendment carried; clause as amended passed.

Clause 53.

The Hon. DIANA LAIDLAW: I move:

Page 33—
Line 2—After 'who' insert:
, in the course of exercising powers under this act
Line 7—Leave out '$5 000' and insert:
$10 000

The first of these is a drafting amendment, and the second relates to penalty.

Amendments carried; clause as amended passed.

Clause 54.

The Hon. DIANA LAIDLAW: I move:

Page 33—
Line 14—Leave out '$2 500' and insert:
$10 000
Lines 15 to 23—Leave out subclause (2) and insert:
(2) If any of the following persons, namely—
(a) a health professional who has treated, or is treating, a patient who is a dental practitioner or dental student; or
(b) a person (including a hospital) who provides dental treatment through the instrumentality of a dental practitioner or dental student; or
(c) the person in charge of an educational institution in which a dental student is enrolled in a course of study that provides qualifications for registration as a dental practitioner under this act (other than as a specialist or an advanced dental prosthetist),
is of the opinion that the practitioner or student is or may be medically unfit to provide dental treatment, the person must submit a written report to the board setting out his or her reasons for that opinion and any other information required by the regulations.
Maximum penalty: $10 000

The first amendment is a penalty increase, and the second adds to the list of persons with responsibility to report medically unfit practitioners to include employers, including hospitals, and also educational institutions.

Amendments carried; clause as amended passed.

Clause 55.

The Hon. DIANA LAIDLAW: I move:

Page 34, line 6—Leave out paragraph (d) and insert:
(d) impose conditions restricting the person's right to provide dental treatment; or
(e) impose conditions requiring the person to undergo counselling or treatment or to enter into any other undertaking.

This provides the board with another option for dealing with a medically unfit practitioner.

The Hon. SANDRA KANCK: We do not appear to have a definition for the term 'medically unfit'. How will that be assessed?

The Hon. DIANA LAIDLAW: I refer the honourable member to clause 4, which relates to medical fitness to provide a dental treatment and which deals with endangering a patient's health or safety. So, those matters are taken into account in defining the medical fitness of the dentist.

An honourable member interjecting:

The Hon. DIANA LAIDLAW: AIDS, yes.

Amendment carried; clause as amended passed.

Clause 56.

The Hon. DIANA LAIDLAW: I move:

Page 34, lines 30 to 36 and page 35, line 1—Leave out subclause (5) and insert:
(5) If, after conducting an inquiry under this section, the board is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action against the respondent and the respondent consents to the board exercising its powers under this subsection, the board may, by order, do one or more of the following:
(a) censure the respondent;
(b) require the respondent to pay to the board a fine not exceeding $5 000;
(c) impose conditions restricting the respondent's right to provide dental treatment;
(d) suspend the respondent's registration for a period not exceeding one month.
(5a) However, if the respondent does not consent to the board exercising its powers under subsection (5), the board must terminate the proceedings under this section and lay a complaint against the respondent before the tribunal in respect of the matter.
(5b) If—
(a) a person has been found guilty of an offence; and
(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,
the person is not liable to a fine under this section in respect of conduct giving rise to the offence.

The amendment is a recasting of the current provisions.

Amendment carried; clause as amended passed.

Clause 57.

The Hon. DIANA LAIDLAW: I move:

Page 35, line 7—Leave out 'under this act or imposed by this act,'

This amendment is designed to delete unnecessary words.

Amendment carried; clause as amended passed.

Clause 58 passed.

Clause 59.

The Hon. DIANA LAIDLAW: I move:

Page 35—
Line 17—After 'presiding member' insert:
(or, in the absence of the presiding member, the deputy presiding member)
Line 24—After 'board' insert:
(or, in the absence of the presiding member, the deputy presiding member)
Line 26—After 'section' insert:
(other than the member presiding over the proceedings)
Lines 30 to 33—Leave out all the words in these lines and insert:
(a) preliminary, interlocutory or procedural matters; or
(b) questions of costs; or
(c) questions of law,
and may, for that purpose or as a consequence, while sitting alone, make any determination or order (including a final order) that the person considers appropriate.

The first amendment introduces more flexibility into the conduct of the business of the board. The second amendment is a drafting amendment, and the last amendment is similar to an amendment moved earlier and passed to clause 29 in relation to the proceedings of the tribunal.

Amendments carried; clause as amended passed.

Clause 60.

The Hon. DIANA LAIDLAW: I move:

Page 36, lines 27 to 37 and page 37, lines 1 and 2—Leave out subclauses (1) to (3) (inclusive) and insert:
(1) If the board lays before the tribunal a complaint setting out matters that are alleged to constitute grounds for disciplinary action against a person, the tribunal must, unless it considers the complaint

frivolous or vexatious, inquire into the subject matter of the complaint.

(2) If, after conducting an inquiry under this section, the tribunal is satisfied on the balance of probabilities that there is proper cause for taking disciplinary action against the respondent, the tribunal may, by order, do one or more of the following:

(a) censure the respondent;
(b) require the respondent to pay to the board a fine not exceeding $20 000;
(c) impose conditions restricting the respondent's right to provide dental treatment;
(d) suspend the respondent's registration on a specified register for a period not exceeding 1 year;
(e) cancel the respondent's registration on a specified register;
(f) disqualify the respondent from being registered on a specified register.

(3) The tribunal may—

(a) stipulate that a disqualification under subsection (2) is to apply—
(i) permanently; or
(ii) for a specified period; or
(iii) until the fulfilment of specified conditions; or
(iv) until further order;
(b) stipulate that an order relating to a person is to have effect at a specified future time and impose conditions as to the conduct of the person or the person's business until that time.

(3a) If a person contravenes or fails to comply with a condition imposed by the tribunal as to the conduct of the person or the person's business, the person is guilty of an offence.

Maximum penalty: $75 000 or imprisonment for 6 months.

(3b) If—

(a) a person has been found guilty of an offence; and
(b) the circumstances of the offence form, in whole or in part, the subject matter of the complaint,

the person is not liable to a fine under this section in respect of conduct giving rise to the offence.

Page 37, line 3—Leave out 'subsection (3)' and insert:
subsection (2)

The first is a drafting amendment and the second amendment is consequential.

Amendments carried; clause as amended passed.

New clause 60A.

The Hon. DIANA LAIDLAW: I move:

Page 37, after line 5—Insert new clause as follows:

Variation or revocation of conditions imposed by tribunal

60A.(1) The tribunal may, at any time, on application by a registered person, vary or revoke a condition imposed by the tribunal in relation to the person's registration under this act.

(2) The board is entitled to appear and be heard on an application under this section.

This inserts a new power for the tribunal.

New clause inserted.

Clause 61.

The Hon. DIANA LAIDLAW: I move:

Page 37, line 22—Leave out 'under this Division' and insert:
before the tribunal

This is a drafting amendment.

Amendment carried; clause as amended passed.

Clause 62.

The Hon. DIANA LAIDLAW: I move:

Page 37, lines 31 and 32—Leave out 'or the Registrar'.

Page 38—
Lines 1 and 2—Leave out 'or the Registrar'.
Line 34—Leave out 'or by the Registrar'.

These amendments remove references to the Registrar in relation to the tribunal.

Amendments carried; clause as amended passed.

Clauses 63 and 64 passed.

Clause 65.

The Hon. DIANA LAIDLAW: I move:

Page 40—
Line 9—Leave out 'reprimand administered or order' and insert:
decision
After line 10—Insert new subclause as follows:

(1a) An appeal under subsection (1)(c) against a decision may be instituted by the complainant or the respondent in the proceedings in which the decision was made.

The first is a drafting amendment and the second amendment gives both complainant and respondent the right to appeal a decision of the tribunal.

Amendments carried; clause as amended passed.

Clauses 66 and 67 passed.

Clause 68.

The Hon. DIANA LAIDLAW: I move:

Page 42—
After line 5—Insert new definitions as follows:
'health product' means—
(a) a pharmaceutical product; or
(b) any other product declared by the regulations to be a health product for the purposes of this Part;
'health service' means—
(a) hospital services; or
(b) medical, dental or pharmaceutical services; or
(c) any other service declared by the regulations to be a health service for the purposes of this Part;
Lines 15 and 16—Leave out 'to be conducted under a licence' and insert:
that consists of the provision of dental treatment
After line 24—Insert new subclause as follows:

(4) For the purposes of this Part, a person who holds more than 10 per cent of the issued share capital of a public company will be regarded as a person occupying a position of authority in that company.

The first amendment inserts definitions which are necessary for a later amendment in new clause 70A, which prohibits kickbacks. The second is a drafting amendment, and the third amendment clarifies who will be regarded as a person occupying a position of authority in a public company.

Amendments carried; clause as amended passed.

Clause 69.

The Hon. DIANA LAIDLAW: I move:

Page 42—
Line 27—Leave out 'gives directions that result in the practitioner or student acting' and insert:
directs or pressures the practitioner or student to act
Line 30—Leave out '$10 000' and insert:
$75 000

Page 43—
Lines 2 and 3—Leave out 'gives directions that result in the practitioner or student acting' and insert:
directs or pressures the practitioner or student to act
Line 6—Leave out '$10 000' and insert:
$75 000

The first further refines the clause in seeking to extend the protection of cover to situations of non-dental service providers. The second amendment is an increase in the penalty. The third is similar to a previous amendment where pressure is exerted by a person on a position of authority in a trust or corporate entity, and the fourth amendment increases the penalty.

Amendments carried; clause as amended passed.

Clause 70.

The Hon. DIANA LAIDLAW: I move:

Page 43, line 10—Leave out '$10 000' and insert:
$75 000

Amendment carried; clause as amended passed.

New clause 70A.

The Hon. DIANA LAIDLAW: I move:

Page 43, after line 10—Insert new clause as follows:

Offence to give, offer or accept benefit for referral or recommendation

70A. (1) A person must not give, or offer to give, a dental practitioner or a prescribed relative of a dental practitioner a benefit as an inducement, consideration or reward for the dental practitioner—

(a) referring a patient to, or recommending that a patient use, a health service provided by the person; or

(b) prescribing, or recommending that a patient use, a health product manufactured, sold or supplied by the person.

Maximum penalty: $75 000.

(2) A dental practitioner or a prescribed relative of a dental practitioner must not accept from any person a benefit offered or given as an inducement, consideration or reward for the dental practitioner—

(a) referring a patient to, or recommending that a patient use, a health service provided by that person; or

(b) prescribing, or recommending that a patient use, a health product manufactured, sold or supplied by that person.

Maximum penalty: $75 000.

(3) In this section—

'benefit' means money or any property that has a monetary value.

This is a very important amendment which will make it an offence for a person to give, or offer to give, a dental practitioner, or a prescribed relative of a practitioner (and for the practitioner or relative to accept), a benefit, whether that be money or any property that has a monetary value.

New clause inserted.

Clause 71.

The Hon. DIANA LAIDLAW: I move:

Page 43, line 15—Leave out '$10 000' and insert:
$20 000

This is an increase in penalty.

Amendment carried; clause as amended passed.

Clause 72.

The Hon. DIANA LAIDLAW: I move:

Page 43, line 20—Leave out '$10 000' and insert:
$20 000

This is an increase in penalty.

Amendment carried; clause as amended passed.

New clause 72A.

The Hon. DIANA LAIDLAW: I move:

Page 43, after line 20—Insert new clause as follows:

Dental practitioner, etc., must declare interest in prescribed business

72A. (1) A dental practitioner or prescribed relative of a dental practitioner who has an interest in a prescribed business must—

(a) in the case of an interest that came into existence before the commencement of this section—within one month after the commencement of this section; or

(b) in any other case—within one month after the interest comes into existence,

give to the board prescribed information relating to the interest and the manner in which it arose.

Maximum penalty: $20 000

(2) A dental practitioner or prescribed relative of a dental practitioner who has an interest in a prescribed business must, within one month after a change in the nature or extent of the interest, give to the board prescribed information relating to the change.

Maximum penalty: $20 000

(3) If a dental practitioner or prescribed relative of a dental practitioner has an interest in a prescribed business, the dental practitioner must not—

(a) refer a patient to, or recommend that a patient use, a health service provided by that business; or

(b) prescribe, or recommend that a patient use, a health product manufactured, sold or supplied by that business,

unless the dental practitioner has informed the patient, in writing, of the interest of the practitioner or prescribed relative of the practitioner in that business.

Maximum penalty: $20 000.

(4) Subject to subsection (5), a person has an interest in a prescribed business for the purposes of this section if the person is likely to derive a financial benefit, whether directly or indirectly, from the profitable conduct of the business.

(5) For the purposes of subsection (4)—

(a) a financial benefit is not derived by a dental practitioner if the benefit consists solely of reasonable fees or charges payable to the dental practitioner for dental treatment provided to patients by the practitioner; and

(b) a person does not have an interest in a prescribed business that is carried on by a public company if the interest consists only of a shareholding in the company of less than 5 per cent of the issued capital of the company.

(6) It is a defence to proceedings for an offence against subsection (3) and to a charge of unprofessional conduct for failure to comply with that subsection for the defendant to prove that he or she did not know and could not reasonably have been expected to know that a prescribed relative had an interest in the prescribed business to which the referral, recommendation or prescription that is the subject of the proceedings relates.

(7) In this section—

'prescribed business' means a business consisting of or involving—

(a) the provision of a health service; or

(b) the manufacture, sale or supply of a health product.

This is another important amendment. A dental practitioner, or prescribed relative, who has an interest in a business involved in the provision of a health service, or the manufacture, sale and supply of a health product, will be required to provide the board with prescribed information relating to the interest (but a person will not be taken to have an interest in the business carried on by a public company if the interest consists only of a shareholding of less than 5 per cent of the issued share capital of the company). I think the other provisions in the amendment are self-explanatory.

New clause inserted.

Clause 73.

The Hon. DIANA LAIDLAW: I move:

Page 43, line 25—Leave out '$5 000' and insert:
$10 000

This is an increase in penalty.

Amendment carried; clause as amended passed.

New clause 73A.

The Hon. DIANA LAIDLAW: I move:

Page 43, after line 25—Insert new clause as follows:

Dental School must report cessation of a student's enrolment

73A. The person in charge of an educational institution must, if a dental student ceases to be enrolled at that institution in a course of study providing qualifications for registration as a dental practitioner under this act (other than as a specialist or an advanced dental prosthetist), cause written notice of that fact to be given to the board.

Maximum penalty: $5 000.

This places an obligation on educational institutions to notify the board if a dental student ceases to be enrolled.

New clause inserted.

Clause 74.

The Hon. DIANA LAIDLAW: I move:

Page 43, line 30—Leave out '$5 000' and insert:
$10 000

This is an increase in penalty.

Amendment carried; clause as amended passed.

Clause 75.

The Hon. DIANA LAIDLAW: I move:

Page 44, line 5—Leave out '$5 000' and insert:
$10 000

This is an increase in penalty.

Amendment carried; clause as amended passed.

New clause 75A.

The Hon. DIANA LAIDLAW: I move:

Page 44, after line 5—Insert new clause as follows:

Victimisation

75A. (1) A person commits an act of victimisation against another person ('the victim') if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—

(a) has disclosed or intends to disclose information; or

(b) has made or intends to make an allegation,

that has given rise, or could give rise, to proceedings against the person under this act.

(2) An act of victimisation under this act may be dealt with—

(a) as a tort; or

(b) as if it were an act of victimisation under the Equal Opportunity Act 1984,

but, if the victim commences proceedings in a court seeking a remedy in tort, he or she cannot subsequently lodge a complaint under the Equal Opportunity Act 1984 and, conversely, if the victim lodges a complaint under that act, he or she cannot subsequently commence proceedings in a court seeking a remedy in tort.

(3) Where a complaint alleging an act of victimisation under this act has been lodged with the Commissioner for Equal Opportunity and the Commissioner is of the opinion that the subject matter of the complaint has already been adequately dealt with by a competent authority, the Commissioner may decline to act on the complaint or to proceed further with action on the complaint.

(4) In this section—

'detriment' includes—

(a) injury, damage or loss; or

(b) intimidation or harassment; or

(c) discrimination, disadvantage or adverse treatment in relation to the victim's employment or business; or

(d) threats of reprisal.

This important new clause seeks to protect people who pass on information under the act from victimisation and to provide a means for dealing with such acts.

New clause inserted.

Clauses 76 to 81 passed.

New clause 81A.

The Hon. DIANA LAIDLAW: I move:

Page 45, after line 15—Insert new clause as follows:

Confidentiality

81A. (1) A person engaged or formerly engaged in the administration of this act or the repealed act must not divulge or communicate personal information obtained (whether by that person or otherwise) in the course of official duties except—

(a) as required or authorised by or under this act or any other act or law; or

(b) with the consent of the person to whom the information relates; or

(c) in connection with the administration of this act or the repealed act; or

(d) in accordance with a request of an authority responsible under the law of a place outside this state for the registration or licensing of persons who provide dental treatment, where the information is required for the proper administration of that law.

Maximum penalty: $10 000

(2) Subsection (1) does not prevent disclosure of statistical or other data that could not reasonably be expected to lead to the identification of any person to whom it relates.

(3) Information that has been disclosed under subsection (1) for a particular purpose must not be used for any other purpose by—

(a) the person to whom the information was disclosed; or

(b) any other person who gains access to the information (whether properly or improperly and whether directly or indirectly) as a result of that disclosure.

Maximum penalty: $10 000

This relates to confidentiality. It is an important provision because a lot of sensitive information is to be passed on under this bill, for example, information about medical fitness. This clause is designed to ensure that people who possess that information do not use it improperly.

New clause inserted.

Clauses 82 to 85 passed.

Schedule.

The Hon. DIANA LAIDLAW: I move:

Clause 1, page 48, lines 3 to 5—Leave out this clause.

Clause 7, page 49, line 17—After 'this act' insert:

(other than as a specialist or an advanced dental prosthetist)

These are consequential amendments to earlier clauses.

Amendments carried; schedule as amended passed.

The Hon. DIANA LAIDLAW: Earlier in the debate today on clause 26, the Hon. Sandra Kanck asked me some questions about the provision of the presiding member sitting alone hearing cases for the purpose of dealing with preliminary interlocutory or procedural matters, or dealing with questions of cost, or entering consent orders. I indicated that this amendment was based on one to the Medical Practitioners Act but, if there was cause for concern about the ambit of the issues to be discussed in relation to questions of law, we should consider an amendment.

I have since been advised—and I think the Hon. Sandra Kanck accepts—that the provision for this bill and the Medical Practitioners Act is based on recommendations of the Chief Judge, modelled in turn on section 20(4)(ab) of the District Court Act. Plenty of examples of legal questions have been dealt with by the Medical Practitioners Professional Conduct Tribunal in the past few years, based on the model proposed in the Dental Practice Bill. There are similar provisions in a number of other acts, including the Magistrates Court Act 1991, the Secondhand Vehicle Dealers Act 1995 and the Soil Conservation and Land Act 1989. There is another issue about clause 3 and interpretation, which I would seek to deal with in recommittal.

Title passed.

Bill reported with amendments; committee's report adopted.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I move:

That the bill be recommitted for further consideration in committee at clause 3 on the next day of sitting.

Motion carried.

ADJOURNMENT

At 6.23 p.m. the Council adjourned until Tuesday 5 June at 2.15 p.m.