HOUSE OF ASSEMBLY

Thursday 1 November 2001

The SPEAKER (Hon. J.K.G. Oswald) took the chair at 10.30 a.m. and read prayers.

STATUTES AMENDMENT AND REPEAL (SHOP TRADING HOURS REFORM) BILL

Adjourned debate on second reading.
(Continued from 25 October. Page 2529.)

Mr KOUTSANTONIS (Peake): Further to my remarks last Thursday, I believe that the hypocritical actions of the member for Fisher have brought him and his apparent independent status into question. As I have said, I believe that, in repealing this legislation, the member opposite is betraying the people in the electorate of Fisher, as well as the retail workers throughout South Australia and their families. He says that he actually consulted them. If that is the case, why did he promise before the election in 1993 that he would not repeal shop trading hours—

The Hon. R.B. Such: That was eight years ago.

Mr KOUTSANTONIS: That is right; and four years ago he promised that they would not sell ETSA—and they sold ETSA as well. The member for Fisher went to the last election saying that they would not sell ETSA. Are you saying that you did not say that? Are you saying that, as a member of the Liberal Party in 1997, you did not promise not to sell ETSA?

The Hon. R.B. Such interjecting:

Mr KOUTSANTONIS: I have one of your newsletters.

The Hon. R.B. Such interjecting:

Mr KOUTSANTONIS: Get up in this House and say that you did not make that promise in this newsletter.

The SPEAKER: Order! The member will come back to the substance of this bill.

Mr KOUTSANTONIS: We see the hypocritical actions of the member for Fisher, who comes into this House claiming to be the voice of the people but who then attacks families with respect to their one day of rest. I see that the member for Fisher is not repealing bank trading hours. He does not want banks working on Saturdays and Sundays, because they are his mates. He wants retail workers working on Saturdays and Sundays—not banks; he wants banks closed. What about post offices? No, he does not want that. It seems to me that you just want to punish retail workers and you want to reward your friends at Westfield. You want to reward the large multinational companies at the expense of small businesses: at the expense of small mum and dad businesses that are trying to get by and survive the national competition policy, and trying to survive globalisation. The member for Fisher wants to attack them personally; he wants to go after them where they sleep, eat and shop. You have been caught out by this bill. You are nothing but a populist, and you have been caught out by attacking families.

The Hon. R.B. Such interjecting:

Mr KOUTSANTONIS: You say that you have asked them. Well, I rang relatives living in your electorate and asked them if they had received any correspondence from you asking if they wanted the shop trading hours legislation repealed. Surprise, surprise! They never did; they did not receive a thing. Whom did you ask? Did you ask your secretary? I know you do not live in the electorate, so you could not have asked your neighbours. Are you ever in your electorate to ask your constituents? Obviously not, because you do not live in your electorate. I wonder if Susan Jeanes has asked the people of Fisher. I know one person who has—Alex Zimmermann, the local Labor candidate, who has been doorknocking tirelessly and who understands the concerns of the ordinary families and small businesses in Fisher. He will show you up to be the hypocrite that you are, because you have done no work in the electorate. You left the Liberal Party and betrayed your mates, because you were worried about losing your seat—

The Hon. W.A. MATTHEW: Mr Speaker, I rise—

The SPEAKER: Order, the member for Peake! There is a point of order.

The Hon. W.A. MATTHEW: Mr Speaker, I draw your attention to standing order 104 which, as you are aware, requires that a speaker address the chair. The member has just said, 'You are a hypocrite.' If he is addressing the chair, sir, he is referring to you as a hypocrite rather than perhaps the person whom he was intending the remarks to address. I ask you, sir, to remind the member of that standing order.

The SPEAKER: I acknowledge that the member refers everything through and not at the chair. To call a member a hypocrite is totally unparliamentary, and I ask the member to withdraw.

Mr KOUTSANTONIS: On your advice, Mr Speaker, of course I will withdraw. I would never accuse you, sir, of being a hypocrite, unlike some of your colleagues.

The SPEAKER: Order! The chair has acknowledged that you were referring your remarks through the chair back to the member for Fisher and that calling him a hypocrite is unparliamentary, and it was on that aspect that I asked the member to withdraw.

Mr KOUTSANTONIS: Well, I will withdraw that, sir, unreservedly. Will you stop the clock, sir, or is that just for the Liberals?

The SPEAKER: Does the member for Fisher have a further point of order?

The Hon. R.B. SUCH: I rise on a point of order, Mr Speaker. The member is reflecting on me by saying that I have betrayed my electorate, which is unparliamentary, offensive and untrue.

The SPEAKER: Order! I do not uphold that point of order.

Mr KOUTSANTONIS: He has betrayed his electorate; he has hung them out to dry. This is the man who left the Liberal Party simply because he was afraid of losing his seat. Then the first thing he does is attack families in his own electorate. The member for Fisher does not live in or care about his electorate. He goes to the polls saying that he is a Liberal—and then rats on them halfway through—and then he does this to them. You have broken three promises to the people of Fisher: you stood as a Liberal, and you abandoned that; you stood for no Sunday trading, and you abandoned that; and you stood for not selling ETSA, and you abandoned that. You are nothing but a sold out, washed out member of parliament who does not deserve to have the faith of the people of Fisher. But one person does, and that is Alex Zimmermann, who on election night will be reaping the whirlwind.

The SPEAKER: I call the honourable member for Goyder.

Mr MEIER (Goyder): Thank you, Mr Speaker.

Members interjecting:

The SPEAKER: Order! The member for Goyder has the call.

Mr KOUTSANTONIS: I rise on a point of order, Mr Speaker. The member for Fisher accused me of being an alcoholic. I ask you to ask him to withdraw that comment.

The SPEAKER: The chair did not hear that. If the member said that, it would be inappropriate and unparliamentary, and I would ask him to withdraw it.

The Hon. R.B. SUCH: Mr Speaker, I did not say that. I said, 'Stay away from ouzo.' It is a general comment to anyone in the House.

The SPEAKER: I make one comment: inappropriate remarks across the chamber do not help the tenor of debate in this parliament. I ask members to have due consideration for the expressions they use, even on some occasions when they are not unparliamentary.

Mr KOUTSANTONIS: I rise on a further point of order, sir. I find that remark to be a racial stereotype and an ethnic slur, and I ask the member to withdraw it.

The SPEAKER: I do not believe there is any point of order. The chair has given an opinion to the House, and I hope all members take it on board in their future behaviour.

Mr MEIER: I cannot support this bill in the form in which it has come before the House. I recognise, to some extent, what the member for Fisher is trying to achieve, but I do not believe it will succeed. In fact, my assessment is that, if this House approved it, it would basically fully deregulate shop trading hours in South Australia, and I do not think that is what we want to happen in a state such as South Australia which has a relatively small population, and we have a centre that certainly is very diverse in the type of shopping that is allowed.

When looking at the bill I notice that clause 4 states, specifically in relation to hours of work for retail employees:

> In determining the hours that a retail employee is required to work under a contract of employment, an employer must take into consideration the impact the hours worked by the employee will have on the members of the employee's family.

I have no problem with what the member seeks to do, but I have enormous problems with what any employer would have to do to assess the effect of the employment on the employee's family. I do not know whether the honourable member for Fisher realises how many people apply for jobs these days, but it can be in the hundreds. Not only does an employer have to sort out who might be suitable for a particular job—and that could come down from perhaps several hundred to perhaps 10 or 20—but then, assuming that the short list is as few as 10, the employer (who has to run a business at the same time) also has to assess the impact on the employee's family.

The average family, I guess, is mum, dad and two kids. So, does the employer have to interview mum and dad as well, or can the employer simply interview mum or dad, or would the impact be more on the brother or sister? Or would it perhaps be on the extended family, if there was a close association? What if the family is not the average family but perhaps is a family of 10? So, it is fine to put this forward as proposed legislation, but I think it would be an absolute nightmare for employers to try to fulfil the conditions.

In fact, I take it the next step further. What if an employer employed someone who was obviously the best person for the job, without question, and then found that the employment was having an adverse effect on the family, and that employee decided to sue? No—perhaps not the employee: let us assume that a member of the family decided to sue the employer for not having taken this clause into account. Is that possible? I suggest that it would be.

I do not think we can go down this track. Whilst I recognise that, certainly, it would be great to take the effects of employment into account, all of us who are employed find, on a regular basis, that our work interferes with our family life. If any people are well suited to determine how employment affects their family life, it is members of parliament. I think every one of us has found that our family relationships have been affected enormously. We may have a birthday celebration that normally would be on. The number of birthdays with my family that I have missed since I have been here is countless. Even when my good wife and family have wanted to celebrate my own birthday with me, it has been impossible to do so because I have been at functions.

Certainly, there is a multitude of other situations where the family has to come second and, quite often, last, in our line of employment, unfortunately, because most, if not all, of us seek to serve our electorate to the best of our ability and in the most efficient and enthusiastic way possible. So, if we come back to this, it will not be possible for any employer to take all these factors into account. Certainly, I understand what the honourable member is trying to get at but, in this sort of legislation, it is not going to work.

I was interested to receive a radio talkback summary—it does not have all the details here—for 2 October in relation to an interview on FiveAA with Don Farrell, the state secretary of the shop union. I note that Mr Farrell says, amongst other things, that the member for Fisher was looking for a headline when he brought in this bill. It was a slow weekend—'a slow long weekend', he said, in fact—and the *Advertiser* gave it to him. In fact, Mr Farrell went on to say that he did not think that a few weeks out from an election was an appropriate time to deal with legislation to deregulate trading hours. He then went on to say:

> If Griff's association is interested, we should sit down after the election and try to work out if there's consensus in the community about what should happen with trading hours. . . [The] union isn't saying there should never be any change. . . [but] total deregulation is not the way to go.

In fact, Mr Farrell went on to say that he thinks that it has had a negative effect in Victoria. I notice that not only Mr Farrell but also the member for Fisher addressed Victoria in his comments. He said in his second reading speech:

> We have seen the experience in Victoria, and I think this is very pertinent, where deregulation was introduced, but without any safeguards, in 1996.

Further on he states:

> . . . the statistics from a study done by the ABS since that deregulation: 24 600 new jobs created in the industry in Victoria; 5 100 new jobs created in small businesses.

I question whether deregulation actually caused that increase in job numbers in small business, because I believe it was the turnaround in Victoria's economy that created many of those jobs. In fact, I suggest that when you deregulate and have more hours available for people to shop, the amount of goods purchased is not going to increase or, if it does, it will increase by only a very insignificant margin. Therefore, I do not believe that the significant number of new jobs created in Victoria can be ascertained and put down to deregulation of shopping hours. The honourable member went on to say that we could expect in excess of 2 500 jobs to be created if

shopping hours were freed up here. For the same reason, I question whether that would be the case.

The one thing I acknowledge in this bill is that the honourable member seeks to take family life into consideration, and that is a fair enough point. I think it is the one thing of which the whole issue of deregulation has not taken sufficient account but, then again, everyone in employment, as I said earlier, is affected to a greater or lesser extent by having to work and not being able to be with family or friends or doing what they want to do when they want to do it, simply because they must work a specific number of hours. For those reasons, I have great problems with this bill.

Mr CLARKE (Ross Smith): I rise to oppose the bill and, whilst the member for Fisher says that he has surveyed his electorate on this matter, I think it is somewhat akin to a situation of taking a survey about bringing back the death penalty after a particularly heinous crime has been committed: you will get overwhelming public support for it, but that does not necessarily make it good legislation.

I have consistently opposed the extension of shop trading hours, not only in this place but also when I was Secretary of the then Federated Clerks Union, which had a significant membership in the retail industry, and when I was shadow industrial relations minister in the last parliament.

I found it interesting to hear the member for Goyder's comments with respect to shop trading hours because, following his philosophy, I thought he would have voted with me and the Labor Party in the last parliament to oppose the extension of shopping hours in Rundle Mall, which was brought in by the Liberal government under the member for Bragg when he was Minister for Industrial Affairs, although in the 1993 state election they consistently said they would oppose any extension of shop trading hours. That is something that has just passed over their memory.

In my view, the only ones who really want an extension of shop trading hours are the major supermarkets—Coles and Woolworths—and the major shopping centre owners such as Westfield, to extract more dollars. It is quite clear what Coles and Woolworths are on about. They want to squeeze out the last of the independent grocers or independent traders and between them, already, as major retailers in the grocery area, they control 80 per cent of Australia's grocery market compared with some 25 years ago when they controlled 40 per cent of the market.

If we look at New South Wales, which is the most open of the states with respect to shop trading hours, we see that the major grocery supermarkets, namely, Coles and Woolworths, have a market segmentation. They do not compete against one another very often in the same location in working class districts in Sydney. What they have basically done, whether by design or by accident, is to allow Coles, for example, to set up in one region and then people have to travel some distance to find a Woolworths shopping centre. What has happened in the meantime is that those two major supermarket chains have squeezed out the small independent grocers in the area, so there is, in effect, no competition in those areas.

As a result, the grocery prices in working class areas in large parts of Sydney are higher than the grocery prices on the North Shore, where there is competition for the dollar because there are more Coles and Woolworths supermarkets, almost abutting one another, in competition with one another, unlike in the western suburbs. Also, because of the greater availability of vehicles, second cars in the family and the like, people can shop around more on the North Shore and go to other supermarkets to find a supermarket that meets their needs in terms of the goods and the prices that are on offer.

The other point I would make to the SDA and to other unions is that, if you enter into industrial agreements, even if they are on a national basis, where as part of an enterprise agreement you agree to reduce penalty rates for work on Sundays, you cannot expect other than that the piper who plays the tune will ultimately ask for that to come into place. If you come to an arrangement in an enterprise agreement and part of the trade-off is the provision that, if shop trading hours were extended to allow retailers to open on a Sunday, you would reduce your overtime penalty rates to time and a half, or whatever the appropriate rate is, sooner or later those major retailers will say, 'You came to this agreement some years ago and we now expect you to honour it.' That is what will happen.

I well recall the banking industry in 1993, for example, when the Cooperative Building Society became a bank, and it wanted to continue to trade on Saturday mornings as it had always done as a credit union but it could not do so under the laws of this state at that stage which forbade banks from opening on Saturdays. I lobbied the then Labor government to allow banks to open on Saturdays because all I wanted was the co-op to continue to trade as it had done for many years as a cooperative. Simply because it became a bank, it should not have been prevented from doing so.

However, the banking union opposed me on that issue because it did not want to extend banking hours on Saturdays. I pointed out that it was a bit rich to do that when that union had just entered into an enterprise agreement with every major bank in Australia, providing for reduced penalty rates that would be paid to their members on Saturdays in the event that banks opened. They weakened their own case by coming to that agreement. When the banks finally knock on the door and ask for the agreement that has been entered into to be honoured, it will be very hard to withstand.

The legislation was passed in 1993 and I think that the Adelaide Bank is still the only bank that trades on a Saturday morning, because it does not suit the circumstances of the other banks to do likewise. They may well do it, and the banking union will find it difficult to complain about that because it entered into an agreement in the early 1990s, as part of an enterprise agreement, to provide for lower penalty rates for work on Saturdays.

The other point that I want to make with respect to the bill of the member for Fisher is the question of the oppression of small traders by shopping centre owners. Notwithstanding the amendments that the honourable member proposes to make to the Retail Shop Leases Act, once you are a tenant with a company like Westfield, or any of the major shopping centre owners, the pressures that are placed on you to open, whether you want to or not, or whether or not it is going to be financially viable for you to open, become too immense.

Even with legislative protections, the fact is that some shopping centres are anchored on one of the major supermarket chains, and they provide the absolute core business, the guarantee of the throughput of people who come into the shopping centre to do their weekly grocery shopping, and they insist to shopping centre owners that there is no point in their shop opening if all the other specialty shops, or half or more of them, are shut. They need to attract people to that shopping centre to go through their turnstile and, if more than half of the specialty shops are shut, because they do not think they can make a quid out of it, the overall shopping centre

precinct becomes far too unattractive and the number of people they will get through their turnstiles will be reduced accordingly.

Whatever we put in the legislation, the fact is that there is a simple rule in life, which is known as the golden rule—if you have got the gold, you rule. That is the golden rule. Westfield and the major shopping centre owners, by and large, have those tenants by the proverbial squirrel grip financially and we can pass whatever laws we like but, for them to be able to defend themselves, they do not have the financial resources to enforce their legal rights in the courts. Companies like Westfield are quite notorious in the way they put the squirrel grip on those tenants, and that will only tighten up further. Therefore, I see that a significant number of small traders would be financially ruined, let alone see a destruction of their family life and lifestyle.

In terms of the extra employment that is, in theory, created by this, as the member for Fisher has argued, I put it to members that it mainly provides part-time or casual jobs to university students and the like. That is very well and handy but what this state needs more than anything else is full-time, permanent jobs. Small business, small traders, and their families, employ usually not just the father but often the mother and the children of the same family, and that provides for that family a full-time living. Let us not chuck that away.

The Hon. W.A. MATTHEW (Minister for Minerals and Energy): I rise to oppose this bill. I know that that will come as no surprise to the member for Fisher because he is well aware of my views on retail shop trading hours, particularly Sunday trading. In speaking against the bill, I also wish to dissociate myself from the way in which the member for Peake conducted himself during the debate in this chamber. I encourage the member for Peake to read his speech in contrast with that of the member for Ross Smith, who debated the issue in a distinctly different manner. As is usually the case with the member for Ross Smith, he put his arguments to the parliament in his usual concise, well researched and articulate way.

I hope that the member for Peake—when he has been in this House for a bit longer (if he is not unceremoniously thrown out of the next election)—will learn that being derogatory about other members of parliament during a debate is not the way to put forward one's arguments. The personal attack on the member for Fisher in which he indulged was totally unacceptable and unnecessary. It is the merits of the issue which the public expect to be debated. The member for Peake let down not only himself but also his constituents and the SDA, the shop assistants union, which he seeks to represent.

I was also disappointed that the member for Peake did not advise the chamber of his potential interest in this matter. It is well known that the SDA funds the Labor Party (particularly its right wing), that the member for Peake used to work for the SDA and that he is also a member of the right wing faction of the Labor Party. So, I was disappointed that he did not put on the record his personal interest in this matter, particularly funding for the Labor Party, but I am happy to do that for him.

That aside, I am concerned about this bill. I refer to the second reading explanation of the member for Fisher when he presented the merits of the bill to the House. He said, in part:

> I know that in my electorate, where over 80 per cent of married women are in the paid work force, they are looking for changes in terms of access to shopping. We have seen the creation of service stations with extensive shopping facilities, and that, in my view, has largely led to the demise of the corner store. . .

That is the point. My reason for standing in this place is not only to express support for views expressed by other members about the reduction in time that would be spent with their family by retail employees but also the fact that, if organisations such as Westfield are able to open their large shopping complexes for longer hours, smaller traders will suffer—and those smaller traders will go exactly the same way as have deli owners as a consequence of service stations being able to open for longer hours.

I ask the member for Fisher and other members of this chamber to reflect on the fact that it is the expansion of service station trading hours that has led to a significant change in the petroleum industry. We are now seeing a far smaller number of independent operators running service stations and there has also been a change in relation to the larger operators. Look at what is happening to Mobil service stations. Many of them now have the name Quix above Mobil. The reason for that is that Quix is an offshore supermarket chain that has moved into the market.

Look at what is happening now with BP Express and Ampol Road Pantry. Large multinational supermarket chains are moving into the petrol station business to the extent where it is actually the supermarket part of the business that is the money earner for service stations, and the victims of that are the deli owners who are progressively going out of business. That has happened only because of the opportunities that have been provided to these multinationals through changes in legislation. There is nothing more sure—other than that night will follow day—that if this legislation passes we will consign small retailers to the same fate.

Retailers along Brighton Road and Lonsdale Road, in the Hallett Cove and Brighton shopping centres, and in comparable areas in districts of other members will face a grim future if the likes of Westfield are able to open for longer hours. I make no apology for highlighting Westfield. My opposition to the extension of their trading hours is no surprise to that company. Indeed, I have debated this issue with them on many occasions in the past when they have endeavoured to lobby me to change my viewpoint.

This involves not only the protection of the small trader but also the protection of the hours that those people spend with their family. If shopping hours are extended, if small traders want to earn the equivalent of the income that they are getting now, if they are not doing so already, they will have to open for longer hours. That will affect their time. Alternatively, if they are open for those longer hours to try to get extra income for their family, they will lose that income.

I now turn to the businesses that operate in Westfield shopping centres. I note that the member for Fisher has included consideration for them and mentions in his second reading explanation that he proposes a secret ballot. The member for Fisher would well know that large organisations are very good at twisting arms. The ballot may be secret, but the pressure that is put on the traders beforehand I am sure would be considerable. It is difficult to stop what I term 'jackboot tactics' that are employed against small retailers by operatives in some large shopping centres. Tenants from large shopping centres have complained to me—as they have to the member for Fisher—about the tactics employed by large shopping centre owners where they have been forced to open and to present their shops in a particular way under the conditions of their lease. The last thing that I want to see is

good, honest retailers being subjected to more harassment than they are already.

In addition, employees in those establishments would be required to work longer hours in order to keep their job. I dare say that not too many of them want to work those longer hours, particularly on weekends—on Sundays when they enjoy times with their family. In the last four years, not one single constituent has come to me asking for longer shop trading hours. We have extensive shop trading hours in our city. If you want to shop on a Sunday, the city centre is open, as is Jetty Road at Glenelg. If you want to shop on a Saturday, there are myriad opportunities and, throughout the week, there are Thursday and Friday nights. We do not need more shopping hours. Longer shopping hours can only lead to more business overheads (not more profit), and the only way in which those overheads can be covered is by imposing further costs on the consumer.

While South Australians, if asked whether they would like longer hours and whether it would be convenient to have Sunday trading, may reply in the affirmative, if, instead, you were to pose the question 'Would you support longer trading hours if you knew you had to pay more for your goods and services and smaller businesses went bankrupt in the same way as delis have because of service stations?', I am sure the answer would be different. This issue is not simply one of longer trading hours: there are far more complex issues within our community to be addressed. So, I oppose the bill and, should a division be called, obviously, I will vote accordingly.

Ms CICCARELLO (Norwood): I will be brief, because I am on record as being opposed to any extension of shopping hours. I have had many contacts with small retailers in my area. In fact, for years, I have been a member of the Parade Development Association and the Magill Road Traders Association. Just two weeks ago, a meeting was held to discuss the viability of strip shopping centres and the problems that are being experienced by small traders.

The member for Ross Smith highlighted many of the issues that I was going to cover. The member for Fisher indicated that it would be great to have flexibility of hours. That was just one of the issues that was discussed at the recent meeting because, particularly on Magill Road, some of the traders (mostly in furniture shops) open on a Sunday and close on a Monday. A number of the other businesses in the area say that that has led to a lot of confusion for people who come to do their shopping, because they come down to either Magill Road or the Parade expecting to find all the shops open, but they do not. Therefore, that has led to greater confusion.

Over the years, we have seen an extension of trading hours, particularly in the city. On behalf of my constituents, I had concerns when the city shops were given the opportunity of opening, particularly on a Sunday, because that had a severe impact on the people in my electorate. Now we have seen that the shops in the city have been given the opportunity of opening until 9 p.m. I have seen not one of them take up that option of staying open later, so one would have to question whether there is a demand.

We talk about level playing fields. There is no such thing as a level playing field for small traders, because they do not have the same buying power as the large regional shopping centres have. In fact, some of the small retailers have indicated that quite often it is cheaper for them to buy some of their goods from the large shopping centres rather than from the wholesalers, because the suppliers actually give the large shopping centres much better deals than the smaller traders receive.

We talk about the shopping hours interstate and overseas as being much better than what is available here. I have not travelled interstate often, but I have certainly travelled overseas often. However, in the last 12 months I have been to Melbourne and Sydney, and I was quite surprised. From what we had been told, I was expecting to be able to go shopping whenever I wanted, but in fact I found that the majority of shops were not open late at night or on the weekends. I lived in Rome for four years and I have travelled extensively overseas, and in no major cities have I seen the shops open late at night or on a Sunday. Some of the souvenir shops near some of the tourist centres were open to sell souvenirs, but most of the major shops and smaller shops were certainly not open.

By allowing this deregulation, we would certainly be advantaging Westfield, Coles and Woolworths. I have conducted extensive surveys with the traders in my area and one or two traders—mostly the ones involved with the major retail chains—would like to have seen deregulation. In fact, during recent Christmas periods, Woolworths was able to open until midnight. It did not take on extra staff: it was able to operate with the same number of staff that it usually employed at night. The people who would normally be stacking the shelves were the ones who were keeping the centre open, and there was one person at the cash register. The other small traders in the area certainly could not compete, because the same number of people would have to be on duty but for a much smaller return.

This is a very misguided measure on the part of the member for Fisher. We do not have the population in South Australia to warrant this complete deregulation. My argument previously has been that we already have a lot of flexibility in shopping hours. The people who cannot get their shopping done within the hours available now would be the same people who would not be able to get themselves organised if we had complete deregulation.

The Hon. G.A. INGERSON (Bragg): I have had a view for a long time that consumers have rights and, if traders want to open, they ought to be able to do so.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: I introduced a bill which said that. I thought I should begin by referring to what Don Farrell said on 5AA on 2 October 2001, because it makes very interesting reading, although I think his comments are a little hypocritical. He says:

> . . . if Griff's association is interested, we should sit down after the election and try to work out if there's a consensus in the community about what should happen. . . union isn't saying there should never be any change'

Is that not fascinating? The union in fact does double deals, as we know. The union does a seven day a week deal with Coles, Woolworths and Myer—and it does that openly.

It also does a deal with McDonald's involving young kids. What it does not tell anyone is that in the contracts with young kids at McDonald's they use that money to fund campaign programs throughout the state. It ought to be telling people that that is what it is doing, because I know that young kids between the age of 12 and 18 who are working at McDonald's have an automatic deduction from their pay to the SDA. That fact is not mentioned by too many people. The union also does not tell you that the SDA is funding the

campaign against the member for Stuart. Deductions from juniors' wages are funding political campaigns.

We have this hypocritical comment from Mr Farrell saying, 'We can't talk about it before the election, but we'll sit down and talk about it afterwards.' You are either fair dinkum about no extension to shopping hours or you are not. The election is irrelevant. While I am talking about elections, I remember that, when I was the minister and introduced similar legislation, a very learned and well respected member of the Labor Party, Mr Blevins, said, 'Graham, here is the polling of what effect shopping hours have on people'—and it was .1 per cent—'There are no votes in shopping hours; you are doing the right thing.' That is what Mr Blevins said then as a member of this House, and he gave me the statistics to back it up.

There is a lot of hypocrisy about this matter. Many people believe that there will be significant effects on the whole industry. What many people forget is that the retail industry has been changing for the last 35 years—and dramatic changes have occurred. The minister made some comment about service stations. When I was President of the Pharmacy Guild in the early 1980s, I had the privilege of going to America where I found that all the convenience stores were located in service stations. They had changed from using the corner store some 10 years before. And why did they change? Because the consumer made the decision to go to the convenience store. They went there not because there were no longer corner stores but because it was convenient to buy your petrol and do your other shopping at the same time. They did pay more, but they were prepared to pay more for convenience.

I suppose I am a little biased, because I have been working seven days a week in a pharmacy for 35 years. We now trade from 9 to 9, but we used to trade from 8.30 a.m. to 11 p.m. seven days a week. It was fascinating that, 35 years ago, the busiest two days of the week happened to be Saturday and Sunday—and we were the only ones open at that stage. However, consumers had already made the decision that it was convenient to buy goods at the pharmacy on the Sabbath day, or on Saturday afternoon when they should have been at the football or playing sport. It is quite fascinating, is it not, that, for convenience, some 35 years ago consumers made this decision?

As I read the member for Fisher's bill, it is saying, 'Let us have a bit of a change and let the consumer and the industry decide.' I am in the industry as a retailer and I know full well that a whole lot of retailers will not open. The best example of a person in this town who has gone against every single logical exercise is the gentleman who owns Alphutte. How many restaurants in this state do not open on Saturday and Sunday? He does not and he has not opened from day one—and why? Because he gives the best service from Monday to Friday and he tells his customers, 'If you want to go out Saturday night and Sunday night, don't come here, because I'm not open.' Guess who wins the awards every year? He makes a choice, and I and everyone else who goes to that brilliant restaurant knows full well that it is not open on Saturday. That is a decision he has made and we as consumers accept it.

That is one exception. There are hundreds of other examples. I have the privilege of having three children living in Melbourne. About six weeks ago I was in Melbourne and I came across one of the best retail operations that I have seen in all my retail experience. It was a service station that had been totally done up with a fantastic small food operation behind it. It was absolutely super. It was 10 o'clock at night, and it was packed. Seven children were working there after hours, earning money.

Mr Clarke interjecting:

The Hon. G.A. INGERSON: Sorry, seven of them. Someone always said that I could not count, and I proved them right. I have had a lot of fun not counting if that is the case! It was a fantastic operation, and I was glad to see so many young people getting paid mostly casual rates that were significantly higher than the base rate. There were consumers—people were actually walking through the door. People thought, 'I can go down here and walk through the door. I can pay money and buy some goods.' We in this place are saying, 'Naughty, naughty! You must not do that. That's not the right thing to do.' We are still back in the 1930s. Give people choice and the retailers will either go with it, or they will not. We should never forget what Mr Blevins said—there is not one vote in shopping hours. We all think there is, but there is not. Members should ask him for his surveys, and he will show them. The surveys were done five years in a row, and they dealt with the issue of whether people will change their vote.

We ought to enable the consumer to have a say in this legislation. I commend the member for Fisher for having the stomach to bring it forward. I have seen hypocrites like Mr Farrell who go on air and say, 'We can't do this prior to the election but we're quite happy to sit down after the election.' He then races out and funds ALP candidates out of slave labour. Something ought to be done about Mr Farrell. We have been around a long time. We have known that Mr Farrell has been part of the right wing for a long time. We know he has two faces, and we know on one day he will do a deal with Coles Myer, and then the next—

An honourable member interjecting:

The Hon. G.A. INGERSON: Yes, five nil it was. I tell you it was five nil here; it just happened that it turned it over. The most important thing is that not one single complaint have I heard from anyone about Saturday shopping. I remember the honourable member telling me that there would be nobody in the mall on Saturdays and that all the shops in the suburbs would be closed, but none of those things happened.

An honourable member interjecting:

The Hon. G.A. INGERSON: I thank the member for supporting me on the Convention Centre, because that is one good thing he did. I also note with interest that, with our changing the leasing rules in this place, some of the major operators have changed. I accept what the member said—it is not all of them. There have been some significant changes in shopping centres. We have just signed a new lease at Salisbury which has reflected all those sorts of changes. I commend the member for Fisher for having the guts to do this.

Time expired.

Mr HAMILTON-SMITH (Waite): I was not going to rise to speak on this bill, but I have been so inspired by my colleague the member for Bragg that I feel inclined to do so. I have some sympathy for the debate and for the point being made by my good colleague the member for Fisher. Members opposite do not understand the perspective and point of view of business and small business. The only point of view members opposite understand is that of the union movement. The other point of view that members opposite do not fully understand is that of consumers.

An honourable member interjecting:

The SPEAKER: Order! The honourable member has had a fair go.

Mr HAMILTON-SMITH: The other point of view that members opposite do not understand is that of the average Australian family who want the convenience of and the access to retail shops on a more flexible basis. Members opposite want a continuation of the cloistered and confining industrial arrangements that we still have today in this state and country, and a perpetuation of the award system and a whole range of industrial outcomes. I admit that they have been hard fought for by the union movement over many years, but they have now simply passed their use-by date.

A lot of the problems associated with more flexible shopping hours would simply vanish if small businesses did not have to pay penalty rates. If small businesses had more flexibility to go to their workers and say, 'I am happy to employ you for 38 hours a week. I really want to give you 38 hours of work, but I may need you to work on a Saturday and a Sunday, or a Friday or Saturday night. I can't guarantee when I can give you those 38 hours. Is that all right with you?' Believe it or not, for a lot of workers it is all right.

An honourable member interjecting:

Mr HAMILTON-SMITH: I know because I used to employ 120 people; that is how I know. I know because I am one of the few people in this place who has gone out and created jobs for people. I know because I have been signing the group certificates and sending them out over many years; that is how I know. Employees have come to me and said, 'My family situation is such that I would like to have Tuesday and Wednesday off. I am delighted to work on the weekend, but I would like to have Tuesday and Wednesday off.' I have had to say to them, 'I'm sorry. I can't do that, because if I bring you in on Saturday the union requires and previous Labor governments have set up awards that require me to pay you penalty rates of double or triple time. They have put all these demands on me such that I can't open on Saturday; I'm sorry.' For that very reason, you have to say to employees, 'I know you would prefer to work on the weekend and have time off during the week, but I cannot do it because the industrial arrangements are too confining.'

If we adopt a more flexible approach to the labour market that addresses the needs of workers, customers and small business, instead of an approach which simply reflects the interest of the union movement, we might actually come up with some industrial arrangements in this state and country that grow business, create jobs and encourage productivity. That issue is inextricably linked to this debate about shop trading hours.

Members opposite are trying to tell me that nobody wants to shop on the weekend. The logic of the argument is that no shop should be open at any time on Saturday or Sunday or after 5 p.m. and that everybody should work 9 a.m. to 5 p.m., Monday to Friday, and that should be it. Of course, we all know that members opposite do not think that. As I mentioned, what they really want is a continuation of this arrangement where everybody gets overtime and penalty rates, and everyone then goes to the union and says, 'I really want to thank you for the fact that I am now getting double time on Saturday or Sunday and I am getting overtime, etc.'

Members interjecting:

Mr HAMILTON-SMITH: Members opposite ask me what is wrong with that. Well, I will tell them: a lot of workers would like an increase in their base rate of pay. In fact, they probably would be quite happy not to have penalty rates on Saturday. They would like a larger hourly rate. Instead of getting $12 an hour, they would like to be getting $14 an hour and skipping the penalty rates. If we had more flexible industrial arrangements, they are the sorts of outcomes we would be able to deliver to workers. The workers of South Australia are coming to see that it is this side of the House—Liberal governments, both federal and state—that deliver better working conditions and better pay packets to workers. They are coming to realise that the sort of industrial thinking which goes back to the 1890s and which has been prolific from successive Labor governments is holding back workers. They want to do deals with small business that mean a bigger pay packet for them and a more flexible outcome for small business. Much of the reason why small businesses are opposed to more flexible working hours is that they are stuck with industrial arrangements which members opposite have delivered and which they cannot afford to pay.

So I put it to you, Mr Speaker, that if somehow this House could convince members opposite to break away from their union driven past and actually consider what is really in the best interests of workers in small business we might get a more sensible outcome, not to mention the good points made by my colleague the member for Bragg about what customers really want. This concerns what mums want. They are frantic, they are working, they are looking after families, and they have limited time to go shopping. Often the only time they can go shopping is Saturday and Sunday. What do members opposite what to do—take that benefit away from them? It is about convenience. I do not know whether there are any members opposite who have ever created a job. Are there any members opposite who have ever been employers? I do not know. Are there any members opposite who have ever employed anybody? If there are I would welcome their entering this debate.

Mr WRIGHT: On a point or order, sir, standing order 98, I think it is, relates to relevance: if you could rule on that. I am not so sure whether the member is speaking about the bill or whether this is his speech to get into the ministry.

The SPEAKER: Order! If the member wants to read the standing order he will see that that refers to question time; it does not refer to this particular bill. Also, the bill is a fairly wide ranging one. There is no point of order.

Mr HAMILTON-SMITH: For one minute there I was hoping that the member opposite was going to make a constructive contribution to the debate. What this bill is about is commonsense. This bill is about delivering more flexible outcomes to consumers, a better pay packet to workers, and more flexible industrial arrangements to small business. I urge members opposite to sit down and rethink their approach. It is inevitable that there will be more flexible shopping arrangements in this city. It is inevitable. The challenge is that we as a parliament must deliver those more flexible shopping arrangements.

Members interjecting:

The SPEAKER: Order! The member will resume his seat. The member for Hanson and also the member for Wright have had a fair go this morning. I suggest that you both hear out the rest of this debate in silence.

Mr HAMILTON-SMITH: Thank you for your protection, Mr Speaker. They do not like it; they do not like any suggestions about delivering better pay packets to workers, more flexible industrial arrangements and greater convenience to consumers that do not fit into the narrow paradigm dictated to them by the union movement. We know why they

are all here. They are all here because the union movement put them in. One by one we could go round the chamber and we could nominate the unions that have backed them in. They are here for a purpose. We all know that. If it comes to the choice between what the union wants or what is in the best interests of workers in the small business of the state we always know who is going to win when it comes to the Labor Party—the union movement.

What we will stand up for over here are bigger pay packets for workers, more flexible working arrangements that suit them and industrial arrangements that enable small business to get together with their workers and to say, 'How can we get together on this so that you are better off and we are better off?' If that means breaking away from strict awards, from strict and archaic industrial arrangements and striking better commonsense arrangements that is what we will always support. That is what we have supported. That is what has delivered greater productivity in this state and in this country since Liberal governments have been in power, and I would encourage members opposite before they throw out this bill to think carefully about the future of this state.

Mr VENNING (Schubert): I rise to support the bill. I have heard the debate opposite and certainly there is nothing new from that side. It is totally consistent.

Mr Clarke interjecting:

The SPEAKER: Order! The member for Ross Smith is warned. You have had more than a fair go this morning.

Mr VENNING: Thank you for your protection, Mr Speaker. I have always supported the principle of laissez faire in relation to issues like this, that is, you leave it alone. I, as much as possible, let the marketplace decide issues like this. I am the first to admit that extending shopping hours hurts a certain sector of our community, and that is particularly the small deli owner and a lot of the family businesses, but you cannot stand in the way of progress. Some might say it is not progress, but we cannot stand in the way of it. Most of the other states now have liberalised their trading hours, and most people in the world expect now to be able to shop when they wish.

Ms Key: Where in the world?

Mr VENNING: Convenience shopping is the way of the world. We all know that when we go to Sydney or Melbourne or Brisbane we can get off the plane and go to a shopping centre and we can shop. There are shops open all hours. I am the first to realise that this is playing into the hands of large multinational chain stores. I know that, but I am a realist and so we have to keep up. We are not a nanny state. We are a progressive state and we have to keep up there. We cannot stand against the other states.

This state now relies very heavily on tourism, and I am well aware of this, in representing the Barossa Valley as I do, which we all know is steeped in tourism. I am continually pushing that the Barossa itself, even though it has open hours, should extend its hours even further, particularly for weekend trading, because there is nothing worse than seeing tourists looking through the windows of a closed shop. More and more we are seeing our shops opening on weekends.

I note that particularly in the Clare Valley on the weekend there are a lot of tourists in that area. Until recently they were looking into the windows of closed shops, but more and more those shops, too, are meeting the demand and opening on weekends. So that should be the decision of the owner, or the manager of the shop. Certainly I know that many country chain supermarkets are now opening on Saturdays and Sundays. When they first did it they did it under sufferance, but the smaller communities have to acknowledge the huge increase in trade, because people are now shopping in their own town and are not travelling to a regional centre, as they used to. They are not travelling to regional centres such as Kadina, Port Pirie and Nuriootpa.

We are now seeing more shopping done in the local community because these shops are meeting the market demand, and particularly in these times, when people are working longer hours, or are shift workers, and they want to shop as a family. They want to shop on the weekends or after hours, and we should always give them that right and that choice. Across this state what annoys me is the inconsistency of shopping hours. Going from one community to another, or even in the suburbs of the city, there is this inconsistency of shopping hours. We can go into service stations and buy certain lines, but you cannot go into the supermarkets because some of them are shut due to regulation. So certainly I think it is high time that we said enough is enough. We are moving that way, anyway, bit by bit. Labor governments are also moving that way, too.

I find it rather unusual that the STA has taken the approach that it has, particularly when we consider their political involvement in this place, particularly as they fund the right wing of the Labor Party. The member for Peake and the member for Spence, and others, are certainly under the wing of Don Farrell, and some people say he is actually the right wing of the Labor Party. But I think it is a bit rich, and my family were involved in this, for 15-year-old shop assistants to be actually funding the campaign of the Labor Party. I wonder if they actually know that? I wonder whether the STA actually says to these people, 'Look, we are taking this levy from you. We are going to hand this to the right wing of the Labor Party'? I think that is a bit rich. I am sure most of them would not know—

The Hon. G.M. Gunn interjecting:

Mr VENNING: I heard the member for Peake's speech a while ago, and I actually had to turn the volume down because it was so loud, and it came over as a verbal jumble. But I know the member for Peake is pretty close to Mr Farrell, and in fact sometimes the words that are uttered by the member for Peake sound just like the words of Don Farrell. Some people ask, 'Well is he the mouthpiece?', and I think he certainly is. But the members for Peake, Spence, Playford and Taylor, and probably one or two others, are certainly involved in this campaign, and obviously involving the right wing of the Labor Party, that is, Don Farrell. So I wonder why Mr Farrell does not chuck his hat in the ring and actually come in here. He may as well. He has four voices in here, so why does he not come in here?

Rather than be the faceless man, he should show his face in this place. He stands out there and pulls the strings from a distance, and they dance to the tune exactly—absolutely on cue, on time at the right note, particularly the member for Spence. You wonder about the member for Spence, bearing in mind some of the unusual things that he comes up with, but when you know Don Farrell—whom I have met on several occasions—you know where he is coming from. That has particularly been the case since the member for Playford has become the numbers counter in the right wing of the Labor Party—the bovver boy—taking the place of a former member in this place (later to become a senator).

I was amazed that young Tom was in this House for only a few weeks before he was escalated to this position of great power. I wonder who made that decision. Obviously Don

Farrell had a fair bit to do with it, because the member opposite obeys the rules exactly and does exactly what Don Farrell says to the letter. He has now been promoted to being the pivotal person of the Labor right faction. I wonder how long it will be before we see Don Farrell in this place. He might as well be in this place, because he pulls all the strings. I have been told that the SDA also funds Senator Harradine—

An honourable member interjecting:

Mr VENNING: It is a very strange web we see being woven, feeding out from the union with the power—the SDA. I say to the shop assistants and young apprentices out there—although unfortunately our young people are not very involved in politics and do not have an opinion—that the union is ripping the subs off them and that money is going towards funding the campaigns of the ALP. I think that is wrong. I am amazed that we, and conservative governments, have been unable to address this issue, because I believe that it is blatantly wrong. There is nothing wrong with collecting the levy, but a person should have the right to say, 'I don't want my percentage to go to the ALP.'

Mr Foley interjecting:

Mr VENNING: How would I go if I went to the Farmers Federation and said, 'We're going to deduct $25 to $30 from your subs to fund the Liberal Party campaign'? I wonder how long I would last; I would be told where to go in no uncertain terms. I would be told, 'Hands off'. I would not last 20 seconds. So, what is the difference? There is no difference. It is a gross travesty of justice. You are abusing young people who are unaware of the situation, particularly young shop assistants out there earning pocket money to, say, subsidise their education. I believe that it is a travesty of justice. I support this bill, because I think it is a move in the right direction. However, I do feel for that small family deli that has been operating in a community for years, because I know that, in the end, this will sound the death knell for it. I am sorry about that, but we all have to live with it and run with the times. I support the bill.

The Hon. G.M. GUNN (Stuart): I do not support the bill, because there has been no demand whatsoever in my electorate for changes to the legislation. I have never been totally committed to allowing market forces to dominate everything, because I do not believe that will bring about the best result.

An honourable member interjecting:

The Hon. G.M. GUNN: I believe that everyone can talk for himself on this matter. One thing that I am interested in, though, is the re-emergence of the DLP. The voice of Santamaria is coming through to greet us and now has a leg-in with the state branch of the Labor Party—the honourable members for Peake, Playford and Spence. Why? Because Don Farrell and the SDA are, of course, funding the election campaign. Are they funding the legal action between the member for Spence and the member for Ross Smith? Who is the member for Ross Smith really fighting in the courts? Do the little shop assistants at McDonald's and other places know that when they pay their union fees it goes to keep full-time Labor Party candidates in the field?

An honourable member interjecting:

The Hon. G.M. GUNN: You do not know that. You do not know that they are actually supporting Santamaria out there. They are very quiet; we have not heard from them, because some of us know what is going on.

An honourable member interjecting:

The Hon. G.M. GUNN: You are paid for by the shop assistants. When the little shop assistants at Woolworths and Coles pay their union dues, they are not told; but we know. The only good thing is what we see in relation to the polls. Do the little shop assistants out there know that they are making a weekly contribution towards the Labor Party? I want to know. It is fair enough if they are made aware of that and are told what is happening; I would not have any problem with that. But have they been told? Of course they have not.

Let us have some transparency; let us be up front with this matter. Let us tell the little shop assistants how much it is costing them to fund the current state Labor Party campaign. I think that we are entitled to know. We have heard a lot from the member for Peake, but we have not heard so much from the member for Playford, who is a little more quiet.

Mr Wright interjecting:

The Hon. G.M. GUNN: It is the second time since he has been in this place. Well done! He is really coming to the fore; perhaps he needs Don Farrell to write a few more notes for him. We will give him a little time. We have heard plenty from the member for Spence on this issue. I do not support this bill. I do not believe that it is necessary, and I do not believe that there is any demand in the community for it. I have not had one constituent ask me to change the current arrangement and, therefore, I do not propose to support this legislation under any circumstances. I believe that retail workers are entitled to have reasonable amounts of time off. It is all very well for people to say, 'You don't have to work, but you won't have a job if you don't make yourself available.' You do not have to be too smart to work that out. I do not support the bill, because I do not believe that it is necessary.

Mrs GERAGHTY secured the adjournment of the debate.

REFERENDUM (GAMING MACHINES) BILL

Adjourned debate on second reading.

(Continued from 4 October. Page 2385.)

The SPEAKER: I have examined this bill and note that clause 4 contains a provision intending to appropriate revenue. This, in my view, makes it a money bill. Standing order 232 states, in part:

> A Bill which . . . authorises the. . . expenditure of money . . . is introduced by a Minister.

This excludes a member who is not a minister. Section 59 of the Constitution Act 1934 provides:

> It shall not be lawful for either House of the parliament to pass any vote, resolution or bill for the appropriation of any part of the revenue, or of any tax, rate, duty or impost, for any purpose which has not been first recommended by the Governor to the House of Assembly during the session in which such vote, resolution or bill is passed.

I therefore rule that the Referendum (Gaming Machines) Bill is a money bill, which cannot be introduced by a private member, and direct that it be withdrawn from the *Notice Paper*.

RESIDENTIAL TENANCIES (CARAVAN AND TRANSPORTABLE HOME PARKS) AMENDMENT BILL

In committee.

(Continued from 27 September. Page 2285.)

Clause 3.

Mr MEIER: Clause 3 provides that there is a caravan park residential tenancy agreement unless:

(i) the agreement confers a right to occupy premises for a fixed term of 60 days or more; or

(ii) in the case of an agreement for a periodic tenancy having a period of less than 60 days—the tenant has occupied the premises for 60 days or more pursuant to the agreement.

I raised this matter in my second reading speech, and I again bring it up in committee, which is probably the more appropriate place. I see problems—and I ask the mover of the bill about this—because it is specific with respect to a time limit of 60 days. Members may recall that I sought further information about what happens with respect to a person who comes into a caravan park and indicates to the caravan park owner that he, she or they do not have a specified period of time that they want to be in the park. Perhaps they are touring Australia and have been in the last place for six months; they were at the place before for, say, three months; on occasions they spent only a night or two in a caravan park; and on other occasions they spent a week or two. The owner of the caravan park is well aware that these people may stay for six months, particularly, say, if it was on a nice coastal location next to attractive beaches, scenery, etc. Or, it could be a place such as the Virginia Caravan Park, which the honourable member has in her electorate—and I remember doorknocking there when it was in my electorate. The thing that interested me most was the number of residents who appeared to be permanent, yet many seemed to be fairly transitory.

So, I can see that there could be a definite problem for the owner of the caravan park who decides, 'No, these people are only going to stay for a week or two,' and the weeks turn into months and he realises that 60 days have well and truly expired—perhaps they have been there for 90 days or 120 days. Is that when he comes in with an agreement? What is the situation when something has occurred during the first 60 days and the people decide to take the owner to court saying, 'We did not have anything in writing. You transgressed your duties. You should have made us aware that we needed to sign an agreement if we were going to be here for 60 days or more.' So, it is one of several things that I see wrong with this bill, and I ask the member for an explanation.

Ms WHITE: I think last time the member for Goyder raised this issue in relation to this clause we addressed it. The 60 days is the trigger point for many of the measures in this bill. Some interstate legislation incorporates a 30 day period, some incorporates a 60 day period and yet others incorporate a 90 day period. The purpose is to differentiate between long-term residents of caravan and transportable home parks and short-term residents.

As I have said previously in this debate, if a tenant comes to a caravan park with a transportable home—which, as members would understand, is a fairly permanent structure—they are required, under this legislation, to enter into a written agreement. However, if the park is not a transportable home park, under this legislation a tenant entering into a periodic lease (which is the normal situation for a caravan park in relation to holiday makers, whereby they pay a certain rent per week, per fortnight or even per month) would be accepted by the caravan park owner in the normal way and the provisions of this bill would not apply until 60 days had passed. But, it is not a requirement in that case. The periodic lease that the caravan park owner or manager has with that tenant, by virtue of the fact that they are paying weekly, fortnightly or otherwise, remains in place. However, it is only the protections in this bill that come into play at that point.

So, it is not a requirement that the owner know at the time of accepting a tenant into the park whether they are a permanent or a non-permanent resident. If they are bringing in a transportable home, then the assumption—and I think it is a reasonable assumption—is that they are going to be long-term residents and, from the start, they must have a written agreement. Others (periodic tenants) do not necessarily need a written agreement and will keep going in the normal way with their periodic rent payment, being the term of that lease.

The Hon. G.M. GUNN: I seek some information from the member in relation to this matter because clause 3 is one of the really important clauses of the bill. I have a lot of caravan parks—small and large—in my constituency, and I have not had one complaint from a constituent in relation to this particular matter. Since this legislation was brought into parliament, I have made it available to a number of caravan park proprietors throughout my electorate. I have to say that a number of people are far from impressed with it and I can understand why. The member indicated earlier in the debate—

Ms White: Owners or residents?

The Hon. G.M. GUNN: I have spoken to the people who run the caravan parks, and most of them are doing an outstanding job. So, is the Deputy Leader, the economic genius, casting aspersions on these caravan park people? They are providing accommodation and facilities to a large number of people on a daily basis. They are exceptionally important to the tourist industry. Just go and look at some of them. They are concerned in relation to some of these provisions, because one thing about caravan parks is that their good name is passed on by word of mouth. If you get one bad experience, it passes right through the industry very quickly. Therefore, if a caravan park operator, owner or lessee, has a tenant in their park who is disrupting proceedings, they have to get rid of that person; otherwise, their business will deteriorate.

Ms White: This bill does not change that.

The Hon. G.M. GUNN: Some of these people start off very well and they deteriorate at a rapid rate.

Ms White: How?

The Hon. G.M. GUNN: They can deteriorate overnight, when they get their disruptive friends coming into the place and causing absolute chaos. And the proprietor-lessee has to do something about it. They cannot go to some tribunal. The member indicated earlier in the debate that she had been inundated with all these complaints, but my colleagues and I have not been, and we have lots of caravan parks.

Ms Hurley: I have.

The Hon. G.M. GUNN: Well, I am not surprised; perhaps it is the honourable member.

Members interjecting:

The Hon. G.M. GUNN: You asked for it; you led with your chin. I have been associated in the past with very large caravan parks in places like Coober Pedy and on the foreshore at Ceduna, and there is a huge caravan park on the foreshore at Streaky Bay, as big as you would get anywhere, so I understand these matters. I am very concerned that these establishments not be hogtied. I can guarantee that, if this legislation comes into being, the costs will go up. With any so-called consumer legislation, the first thing that happens is an increase in costs, and that is what will happen.

I would like to know from the member where these complaints have come from and how much discussion she has

had in relation to these proposals with the people running the caravan parks, because I understand she said there was a large number.

Progress reported; committee to sit again.

DRIVING, DRUGS

The Hon. D.C. WOTTON (Heysen): I move:

That this House request the government to urgently look at the issues surrounding the effects of drugs on driving and to provide further information on this subject as a matter of urgency.

Since giving notice of this motion and having it standing on the *Notice Paper* in my name, I have received some information from the Minister for Transport's office on this subject. My reason for bringing it up is that a number of people, both as constituents and as private citizens, have spoken to me about this matter and the concern that they have, which I guess is fostered to some extent by some media comments that have been made over a period, about people who drive while under the influence or the effects of drugs, and that something should be done about it. That makes a lot of sense to me.

I support very strongly the moves that have been made by government through the South Australia Police as far as measures for breath testing are concerned to ensure that people who are affected by alcohol are not able to drive and, in turn, cause harm to other people. It has been put to me over a period that something needs to be done about those who drive under the effect of drugs and the impact that has on their driving.

I mentioned that the Minister for Transport's office has provided me with some information, and it is quite clear that this situation is not as easy as it would seem. I am delighted that so much work has been done on this subject. With regard to the research that has been carried out, I have been made aware that in 1998 the Austroads Working Group on Drugs and Driving was convened and a paper examining the links between drugs other than alcohol, and both crash risk and driver performance skills, taking into account work already completed by the commonwealth, states and territories, was subsequently prepared for the Australian Transport Council. That survey of scientific findings and current practice was incorporated into the working group's first report, 'Drugs and Driving in Australia'.

The key findings were not surprising. They state that alcohol is the drug that makes the single biggest causal contribution to road crashes; secondly, that cannabis and other drugs present less of a problem than alcohol; and that many crash-involved drivers in whom drugs are detected have also used alcohol. In those cases drug use may have contributed to elevated crash risk, but it is clearly not the only causal factor.

Coming out of the report were a number of recommendations, which stressed the need for ongoing commitment to drink driving programs ahead of any other road safety programs on drugs. The report also recommended a number of legislative and policy directions for implementation across all jurisdictions. They included: that an inclusive definition of a drug, modelled on the Queensland definition, be agreed to by all jurisdictions; that the extent to which a driver is impaired should be the principal consideration in any drugs-related driving enforcement; that a program of information and education be developed for medical practitioners, pharmacists and consumers in relation to the effects of therapeutic drugs on driving; and that roadside drug screening devices be considered for use only in conjunction with a structured impairment assessment once their accuracy and reliability have been independently verified.

I am also aware that the states have done some work on this matter. I was interested to read that in 1994 the Road Safety Committee of the Victorian parliament undertook an extensive inquiry into the effects of drugs other than alcohol on road safety. The inquiry was established, we are told, because of growing concern among police, coroners and road safety organisations about the use of legal and illegal drugs, which also contributed to the establishment of the then Premier's Drugs Advisory Council in 1995.

While the committee made a number of recommendations based particularly on the New South Wales Drug Driving Task Force approach and other adopted counter measure strategies in New South Wales, it was unable to make any conclusive findings on a number of key issues. The committee also reported that in Victoria no information is maintained on drugs found in drivers injured in crashes, and blood samples routinely collected in hospitals are not analysed for drugs. This contrasts with the South Australian experience, which I will refer to a little later.

Given the lack of reliable research or detection methods, the committee's key recommendation was to reject the restrictive and prescriptive guidelines of driving under the influence of drugs in favour of driving while impaired, on the basis that evidence has shown that science is yet to establish categorical levels of drugs and substances in the body that determine when drivers become an unacceptable risk on the road.

Emerging from this approach, the committee identified that there was a need for standardised impairment testing approaches and appropriate training for police. An approach incorporating elements of the Los Angeles Police Department's Drug Recognition Expert Program (also known as the Drug Evaluation and Classification Program and now widely used in the United States) was recommended, including such components as 'the walk and turn, one-leg stand and horizontal gaze nystagmus'. This all seems very confusing to me, but this is what I am led to believe. I could almost read that again, but I do not think I will.

The Hon. R.L. Brokenshire interjecting:

The Hon. D.C. WOTTON: The Minister, who happens to be sitting in front of me, makes a comment which I do not think needs to go into *Hansard*, so I will leave it at that. I was interested in some of the comments that have come out of the Victorian situation. The report of the Road Safety Committee of the Victorian parliament was handed down in 1996 and a government response formulated in 1997. Last year, the road safety amendment act was passed. Among its purposes was to 'prohibit driving while impaired by a drug other than alcohol'. The act provides new powers for police to test for drug impairment.

In brief, the legislation provides: first, powers for a police officer to require a person driving a motor vehicle to undergo an initial 'assessment of drug impairment' where, in the opinion of the officer, the person's 'behaviour or appearance indicates that he or she may be impaired for a reason other than alcohol alone'; and, secondly, provision for a procedure to govern the assessment process—the drug impairment assessment allows police officers to require the person to undergo a variety of sobriety tests under observation by approved analysts. This is restricted, however, to cases where the person's behaviour or appearance is 'such as to give rise

to a reasonable suspicion that he or she is unable to drive properly'.

There are other instances to which I could refer of what has happened in, for example, New South Wales where, under the Road Transport (Safety and Traffic Management) Act 1999, it is prohibited to drive under the influence of alcohol or drugs. Section 25 of the act replaces subsections 5AA(1) and (2) of the Traffic Act 1909 and provides powers to a police officer to require a person driving a motor vehicle to undergo 'sobriety assessment'—

Mr Meier: Which legislation is this?

The Hon. D.C. WOTTON: New South Wales—where the police officer has a reasonable belief that, by the way in which the person is or was driving a motor vehicle on a road or road related area, or is or was occupying the driving seat of a motor vehicle on a road or road related area and attempting to put the vehicle in motion, the person may be under the influence of a drug'. As with the Victorian legislation, the primary evidence of impairment remains the police officer's observations followed by a blood or urine test.

I am pleased to learn that South Australia has done quite a bit of research in this area as well. I am also pleased that the Minister for Police is in the chamber—I understand that he will speak to this motion as well. Briefly, in the time that I have left, a 1998 Study by Forensic Science, funded by Transport SA, the Federal Office of Road Safety and the National Drug Crime Prevention Fund made some unexpected findings which challenged the prevailing thinking as to the relationship between drugs and driving accidents, particularly in relation to cannabis and related drugs.

The key findings included that over three-quarters of drivers in non-fatal crashes had no drugs or alcohol in their blood, with the remaining 22.6 per cent testing positive for alcohol or some other drug or drug combination. The most prevalent drug was alcohol followed by marijuana and others (including stimulants). The study provided evidence that there was apparently no effect on culpability from marijuana. A further result was that the elevated level of culpability associated with the combined use of alcohol and marijuana was entirely attributable to the alcohol—and there are other findings.

The report concluded that the results emphasise the need to continue to focus on alcohol as the drug which contributes most to road crashes. Some attention also needs to be directed to other areas, possibly including stronger warnings issued at the time these drugs are prescribed and dispensed. While the effects of other drugs should continue to be monitored using the methodology that has been adopted, the study found that they are of minor concern at present.

So, I am pleased that quite a bit of research has gone into this area of concern of mine and of a lot of other people, I would suggest, and that more is yet to be done. I am disappointed that we have not learnt publicly more about some of these findings, because I really do feel that this is an issue of concern in the community, and I suggest that that concern has increased as a result of some recent media reports. I hope that the South Australian government and the minister will continue urgently to look at the issues surrounding the effects of drugs on driving and that the government will be able to provide further information on this subject as a matter of urgency.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I am pleased to speak to the motion of the member for Heysen (Hon. David Wotton) because this is a very important issue, which I have had raised regularly with me as both a local member of parliament and Police Minister, and that is that sometimes people driving on our roads having taken prescribed medication. You often read that even antihistamine tablets can have the effect of drowsiness, and if you have one or two drinks you do not know what the consequences might be. Antibiotics is another drug in a prescribed form, and there are many other prescribed medications. I think it is important when people are given these medications that they are warned by their doctor and/or chemist that they need to be careful because they could cause drowsiness or inattention.

As we know, next to alcohol and speed (which are still the two biggest dangers for people driving on our roads when it comes to trauma incidents) inattention and drowsiness and that type of thing also have a major impact. I believe quite confidently that our government has done a lot of diligent work over several years, and I commend the Minister for Transport for her passion and commitment, which I strongly support when it comes to trying to reduce the road toll and road carnage because, unfortunately, between her department and two of my departments we literally have to pick up the pieces on far too many occasions. We need to endeavour wherever possible to reduce the road toll and road carnage and to examine the other social issues that have an impact.

I was also surprised to see the report about cannabis. I think that, generally, that research section of the university does a really good job but, in this instance, I am keen to explore the research that they have done in a lot more detail because I am sure that, from time to time, most members of this House would have experienced situations where people have become involved with heavy cannabis use. I certainly have seen drastic changes in mood patterns, mental health and general behaviour, and I would have thought that, if someone had been consuming cannabis, it would have an impact on their ability to handle difficult situations when driving motor vehicles, and the majority of my electorate would also support that.

I want to have a closer look at that report with my staff to see just how detailed and how much of the research was of a qualitative or quantitative nature. If I had my way and there was a way of being able to test for illicit drugs, I would like to see that just as we see RBTs. The problem at the moment is that, from my understanding, the technology is not available other than, as the honourable member said, through blood or urine samples to be able to test for drugs. I am sure that someone who has taken amphetamines, or a drug such as that, would not have the same capabilities on the road as someone who was not under the influence of drugs.

I believe that it is a problem, but it is hard to identify unless you reach the sad situation of someone being brought in by an ambulance and they are then blood tested. There are also some legal issues around that which I will not go into now. Suffice to say that it is a good motion, and I think it will receive bipartisan support. I do not think any member of parliament would not want to see initiatives brought forward to reduce the road toll and road carnage and keep our community safer—

Ms Key interjecting:

The Hon. R.L. BROKENSHIRE: Exactly, we are doing a lot already, but I acknowledge that there is always more that can be done. This matter is across border as well. The honourable member talked about what is happening in New South Wales and also the United States. Obviously they are concerned about it. We do not need to reinvent the wheel, but

we need to look closely at what is available in the way of detailed research and technology to address an issue that at the end of the day is vital for the safety and security of our roads. I commend the member for his motion.

Mr HAMILTON-SMITH (Waite): I, too, rise to support the motion and congratulate the member for putting it forward and the Minister for Police for his contribution. I also speak having had the good fortune of being the chair of the parliamentary select committee on a heroin rehabilitation trial, which heard evidence over a year and produced a very comprehensive report to this parliament in the year 2000 which touched on the whole drug problem but also upon this problem of drugs and driving. Evidence was heard from a range of expert witnesses from within South Australia, Australia and overseas. It did emerge from the committee's work that drugs and driving is a major problem for us as a community to address.

I would echo the remarks made by my colleagues that more needs to be done to prevent drugs and driving in the way that drink and driving is a problem, but I might have a slightly different approach regarding how we need to do that, because my experience is that, if you give a problem to a surgeon, the surgeon will want to operate on you; if you give a problem to a naturopath, they will want to give you potions; and, if you give a problem to a psychologist, they will very well look for a psychological solution. In regard to drugs, this is also a problem. If you give the problem only to police, they will want to police it and come up with a policing solution. If you give the problem only to those whose expertise is in the area of treatment, they will argue that treatment is the way out; and, if you give it to the educators or to the legal profession, they will argue that education programs or the law courts are the principal way in which to combat this problem.

I make the point that you need to apply all approaches and that you need to have balance. To put all your resources into treatment, policing, education or a law court to try to solve this problem of drugs in the community as it relates to driving, you will not solve the problem. Being tough on drugs involves a balanced array of measures. I think that the way to reduce the effects of drugs on driving and safety in the community is to adopt this balanced approach. Clearly there needs to be more policing. Perhaps the police need ways of detecting the presence of drugs in the body (which is not easy to do) and, if you like, ways to random breath test or random test people and apprehend them, and punish them as required.

Of course, as we know with drink driving, that alone will not solve the problem. We also need to educate people, particularly young people, about the dangers of taking drugs and driving and ensure that they understand the risks they are taking. In that respect, I would perhaps have a more aggressive approach. I actually favour the approach that was used some years ago of almost shock tactics on drivers. There was a time when, if you were apprehended for drink driving, or a serious offence, you were required to attend a series of lectures and a movie, or a short documentary, which, in very graphic terms, put before you the consequences of drink driving and careless driving. The fairly bloody video footage was quite shocking but effective and sobering in bracing up young drivers in particular to the fact that, every time they get into the car, they are driving a lethal weapon.

I would like to see a return to some more assertive methods of educating people rather than the soft approach of just saying, 'Look here, you shouldn't really do this.' You need to explore all avenues for educating people to prevent them from taking drugs and driving. That is policing and education, but also the courts need to react to this measure. I commend the government for its initiative in establishing a law court. However, I do echo the recommendation made in the select committee on a heroin rehabilitation trial that the resources you can put into fighting the war on drugs and the problem with drugs are limited, and law courts and legal devices can quickly consume millions of dollars which could otherwise be diverted to treatment options.

I would just add a note of balance, as indeed the committee did in its report; that is, you could go down the avenue of establishing and expanding law courts and consume an absolute fortune and in fact deny education and treatment options as a consequence of limited resources. Again, there needs to be balance. But last, and perhaps most importantly, we as a parliament—whichever side of this House finishes up forming a government—sooner or later will have to face up to the fact that we are simply not spending on treatment and that we need to do more. As a proportion of gross state product and as a proportion of our budget, we spend infinitely less than countries such as the United States, Switzerland and certain other European countries which make a much bigger investment in this problem. We are spending a paltry amount.

We still have a situation in this state where people can turn up at Warinilla, or at various rehabilitation centres, and say, 'I'm a drug addict; I need help. I want to dry out. I want to go into treatment; I want to consider starting a methadone program. Please help me.' The response is likely to be, 'Well, we're a bit busy today; we don't have the resources. Could you come back next Thursday?' We had evidence to this effect during our committee hearings. It is nonsense. If addicts who are taking drugs and driving cars come to you and say, 'I need help and I need it today,' they have to get it today. We have to adequately resource our treatment options so that we can immediately deal with these people, otherwise they will go into the community and within a day or so they have been tempted into taking more drugs, they have fallen back in with their druggie friends, they are back on the street, and of course they never come back Thursday—they just do not come back. It is a disgrace that, over 20 or 30 years, we as a nation have not yet faced up to the issue of adequately resourcing treatment options for addicts.

The other thing I would say (and this was a recommendation of the Select Committee on a Heroin Rehabilitation Trial) is that we just have to face the fact that there is a place for heroin treatment as one of the range of options available in treating this problem.

Mr Snelling: Do you agree with that?

Mr HAMILTON-SMITH: I do, as the member well knows. The committee report recognised that there was a place for that, and it recommended accordingly. I note the member for Playford, who joined me as a member of the committee, chose to make a minority report. His view clearly was that the treatment options should be constrained. That is not my view. I put it as a personal view that we need to look at other treatment options. There is a range of drugs like heroin—although they are not heroin—which have similar effects but which we have not yet tried as treatment options; for example, buprenorphine.

Other short-term acting opiates could at least get some of these people into treatment. The answer to getting them off the roads, to stopping them from taking drugs and driving, and committing these crimes is to get them into some sort of a treatment program. While they are out on the street, committing crimes and driving their vehicles, they are a

danger to the community. Every addict you can get into treatment is an addict you can start to work on. You can start to move them in the direction of abstinence and get them back onto the road of rehabilitating themselves, their lives and their families.

In summary, I fully commend the motion. We need to do more, and there needs to be a balanced array of options. It needs to involve education, policing, treatment and law courts. No single solution will win. We need to be tougher on drugs, but we need to be prepared to use our imagination and to take some bold new steps if we are really going to impact on reducing the number of addicts on the street. One can take a purely moralist view, but what we want is results.

Time expired.

Mr De LAINE (Price): I rise to support this excellent motion moved by the member for Heysen. I will speak only briefly to it, because most of the points I wish to make have been made by other members. I have always been concerned about drunk drivers on the roads and the implications that flow from that behaviour. I am also very concerned about the effects of other illegal drugs as well. This came home to me recently when I attended a conference—the same conference you attended, Madam Acting Speaker—at which an eminent medical person from New South Wales pointed out some of the adverse effects that people experience when they take drugs such as marijuana.

Some so-called experts in the community say that marijuana is not a dangerous drug, that it is not as bad as alcohol, and so on. But I believe it is. This eminent doctor highlighted some of the problems that drivers of cars in particular experience when affected by marijuana. People affected by alcohol know what they are doing but they just do not care. However, with marijuana people think they are doing one thing but they are doing something else. They lose much of their judgment as it relates to speed, time, distance and so on, and it is very alarming.

The effects of these drugs other than alcohol are responsible for a lot of the behaviour we see on roads these days, particularly red light runners, people who change lanes without any consideration of other people and who do so when they do not have room, road rage, and those sorts of things. We never seem to see those things when just alcohol is involved; in that respect, people just act stupidly on the roads. However, with drugs, they tend to do these other things, because their judgment is impaired not in the same way as it is impaired by alcohol. So, it is a problem.

I agree with the member for Waite who said that things need to be done. It is a community problem, and it needs to be tackled through education and rehabilitation programs for drug users. As has been said, we need better detection techniques as have been instituted with alcohol affected drivers, and we also have to look at the penalties to stop this sort of behaviour, because the roads are becoming more and more dangerous. This is not only because of the increased volumes of traffic and drivers' drinking alcohol—which is bad enough—but also due to the effects of some of these other drugs. That is just another dimension that we cannot afford to tolerate. Therefore, I have much pleasure in supporting this motion.

Ms BREUER (Giles): I support the member for Price's comments. I agree totally with him, particularly in relation to marijuana and the problem that it is becoming in our society. There is another problem that I do not believe we are taking enough notice of at this stage, and I think it will become more of an issue particularly for us in here, and we will have to deal with it fairly quickly, that is, speed. I am talking not about speed on roads but about the drug speed.

It has quite recently come to my attention how available this drug has become. It has become extremely common particularly amongst young people, who are using it all the time. It is very readily available. What tends to happen is that some young people become dealers in this because of its availability—although they may not be addicted to it. They then get themselves quickly hooked on this, and it completely takes over their life. I agree that we have problems with marijuana, and I am totally opposed to it, because I have seen what happens with young people. However, speed is becoming an even bigger problem, because it is acceptable amongst young people to use this drug.

I know of one very nice young man whom I have known for most of his life and who has recently become caught up in that loop. His family life has broken up, and he has lost his wife and his young child because of it. Restraining orders have been taken out against him by his mother and his sister because of his erratic behaviour, ringing them, abusing them, threatening to kill them, and so on. They are absolutely destroyed and broken hearted because of this. He has lost his job. His friends are distraught about it and have tried to talk to him about it, but it is such an insidious drug that nobody seems to be able to help him out with this. When I think about his being on the roads under the influence, I despair.

I travel a lot on country roads, and I know there are major problems and accidents on country roads, and a lot of that is drug induced, particularly with something like speed, so I certainly support the motion also.

The ACTING SPEAKER (Ms Bedford): The member for Fisher.

The Hon. R.B. SUCH (Fisher): Thank you Madam Acting Chair.

An honourable member interjecting:

The Hon. R.B. SUCH: Madam Acting Speaker, I apologise—and I confess that I am not on drugs. I support this motion—

An honourable member interjecting:

The Hon. R.B. SUCH: My blood is blue, I point out to the member for Hanson. I don't need it tested.

Members interjecting:

The ACTING SPEAKER: Order!

The Hon. R.B. SUCH: I support this motion and commend the member for Heysen for moving it. He is a good member. He has been here a long time, and he is a nice bloke as well.

The issue of alcohol and driving has been fairly well addressed by governments over many years, and I support that. We are seeing the benefit of that in a reduced road toll. Sadly, it is still too high, but it is not all due to alcohol, of course. That campaign and policing detection and enforcement are to be encouraged and certainly will be continued.

I know that more research needs to be done in terms of drug detection, but we are getting to a point where that technology is more readily available and more likely to withstand any court challenge. We need better detection, and then we need enforcement and prosecution. Of course, at the start we need education to warn people of the dangers of taking drugs in any event, whether they are driving or doing anything. So, it is education first, but then improved detection and prosecution if someone offends. I do not have the

statistics. I do not know whether anyone does, but I suspect that there are a lot of people currently driving on the road who are under the influence of illegal substances. There are probably some under the influence of legal ones, too, but no doubt there is a significant number who are under the influence of illegal drugs. It is an urgent matter. It will only come about if resources are put into improving the detection and then, obviously, in terms of the prosecution and enforcement. So, in essence, I support this move. I notice the Minister for Police is in the House and I am sure he is committed to expediting this matter and I hope we get a speedy outcome, and spurred on in part by the efforts of the member for Heysen. I commend the motion.

Mr SCALZI (Hartley): I, too, support this motion, because it is very important that we look at this issue. Driving and the effects of drugs have been a problem for a long time. There is no question that governments of all persuasions have dealt with the seriousness of drink driving, and I believe the campaigns against drink driving and the penalties and the legislation that has been passed in this parliament and in other parliaments have resulted in a reduction of the road toll and injury. It has also made people more aware of their responsibilities not to drive under the influence of alcohol. I believe that we must look at other drugs, and that is drugs that are legal and drugs that are illegal, and their effects on driving. As a school teacher I will never forget when at one stage a student had on his notebook: 'Why drink and drive when you can smoke dope and fly?'

For a long time people have been using other drugs, and have been driving and, as the member for Price rightly identified earlier—and I was at the same drug conference that day—with marijuana and other drugs distance perception and the perception a person has about his or her skills while driving are distorted, and if they are distorted one cannot possibly in a time of crisis or emergency make the right decisions on the road. If they are not making the right decisions on the road they are not only endangering themselves but they are endangering others, and often innocent people become casualties due to the effects of drug abuse on drivers who are on the road.

It is also important to study and look into the effects of medication on individuals, where individuals might be impaired as drivers through no fault of their own. Research has to be done on the effects of medication on individuals and how it affects their driving skills and how it affects their judgment, so that they do not put themselves at risk, or others in the community. It has to be done in such a way that we do not just immediately blame an individual. It has to be done properly and in a comprehensive way, in looking at the effects of drugs.

I often see on medications warnings that drugs may have an effect, that a person might feel drowsiness after taking certain drugs, and, for instance, after day surgery people are advised not to drive. I just wonder how many people take note of those instructions? How do we make sure that those warnings on the tablets that are dispensed daily are taken notice of? It is important that people do. Those warnings would not be on the prescription drugs if there was not a possibility that they could impair the driver. So we have to look at this issue comprehensively. I congratulate the member for Heysen for bringing it to the attention of the House and I look forward to the parliament taking some action to make sure that we look at this issue properly.

Mrs GERAGHTY secured the adjournment of the debate.

STATE ECONOMY

Mr MEIER (Goyder): I move:

That this House congratulates the government on having restored economic confidence to South Australia after it was brought to the precipice of economic ruin by the previous Labor governments.

It is with great pleasure that I move this motion, and I am sure that all members here could not do anything but agree with me on this particular motion, because whether one is Labor, Liberal, Independent or National everyone here recognises that the state was brought to its knees back during the Labor Party's time. I well recall that even people like the Hon. Lynn Arnold and the Hon. John Bannon were acknowledging in their last days—

An honourable member interjecting:

Mr MEIER: The Hon. Mike Rann—they were acknowledging in their last days—

Mr KOUTSANTONIS: On a point of order, Madam Acting Speaker, under standing orders the member for Goyder should be referring to members in this House by their title, not by their Christian names.

The ACTING SPEAKER (Ms Bedford): Reluctantly I am compelled to say there is no point of order.

Mr MEIER: Despite that, Madam Acting Speaker, I acknowledge that, if I said the Hon. Mike Rann, I will refer to him as the Leader of the Opposition, the Hon. Mike Rann. All those people acknowledged at that time that Australia was certainly not in a good situation, which is understandable. We need only look back to see what happened. We had a debt of $9.4 billion to $10 billion, depending on which particular accounts were used. Shortly before we took office, the unemployment rate was 12 per cent. In fact, members would be well aware that 36 000 jobs were lost during the two years that the now Leader of the Opposition, the Hon. Mike Rann, was the member involved. It was an absolute tragedy for this state. He is the person who wants to become Premier; just think what would happen if that ever eventuated. I do not want to contemplate it for a moment. We lost major company headquarters to other states; we had a budget overrun of $300 million per year, which was occurring on a regular basis—

An honourable member interjecting:

Mr MEIER: The minister corrects me.

Mr Snelling: How much did the Hindmarsh Soccer Stadium cost?

Mr MEIER: It cost $26 million. Let us compare that to the Remm project undertaken by the Labor government. How much did that project cost us? Initially it cost in excess of $600 million and, in fact, it blew out to almost $1 billion. That is the Labor Party's project for Remm.

Mr Snelling interjecting:

Mr MEIER: The soccer stadium cost $26 million. Or we could look at 333 Collins Street; the figure for that was near enough to $300 million.

An honourable member: Where is 333 Collins Street?

Mr MEIER: It is in Melbourne. What happened to it? We lost it. We got nothing for it. It cost almost $333 million for 333 Collins Street—that is an easy way to remember it.

An honourable member interjecting:

Mr MEIER: No; I will just come back to the Hindmarsh Soccer Stadium. That project cost $26 million, and we have one of the best soccer stadiums in the country. We were able to host the Olympic Games, and we are the envy of many

other states because we have such a fantastic centre. What sort of support did we have from the Labor Party? Initially, they supported it. In fact, in 1995 Mike Rann put out a press release calling for it.

Mr KOUTSANTONIS: I rise on a point of order, Mr Speaker. The member is continually referring to members by their Christian names and not their titles. I ask that he refer to them by their titles in future debate.

The SPEAKER: I would direct members from both sides to use titles and not Christian names and surnames in this chamber.

Mr MEIER: Thank you, Mr Speaker. I will continue with some of the other key issues that have caused this state enormous harm. More than 65 state schools closed in the previous four years under Labor. We inherited a Country Fire Service debt of more than $13 million; a WorkCover unfunded liability of $300 million; school maintenance was in an absolute shambles; prisoners were serving as little as 25 per cent of their sentence; and we had a depressed rural sector which had received scant attention during the last 10 years. Of course, we also had the Multifunction Polis, which was consuming millions of dollars of taxpayers' funds with few or no results, and we had a youth unemployment rate in excess of 44 per cent. Thankfully, things have turned around and, in fact, in a way that the whole of Australia is now recognising. The House would be—

An honourable member interjecting:

Mr MEIER: Do you want me to identify it again? The House would be well aware that the *Financial Review* recently indicated that South Australia is in good shape and has experienced an impressive turnaround on growth. What ways has this government turned it around? Well, we have record exports. Members would be well aware of the export figures cited in this House on many occasions during question time and occasionally in grievance time as well. We have done things such as reduce the WorkCover liability to employers by some $108 million over the past two years, and we have managed to cut payroll tax by $22.5 million this year alone. There has been a $65 million reduction as a result of the abolition of the financial institutions duty, thanks to the introduction of the GST, which is a direct benefit to the states. Everyone here would recognise the benefits of GST. Remember the old system: wholesale sales tax, which was sometimes 2 per cent, 10 per cent, 12.5 per cent, 15 per cent, 22.5 per cent or 30 per cent—

The Hon. R.L. Brokenshire: Or 26 per cent.

Mr MEIER: Or 26 per cent. No-one had any idea what tax applied: 20 or 30 per cent was not unusual, or it could be 25 or 15 per cent and occasionally it was 10 per cent or a little less. It was the most confusing system anyone in the world could have invented. And what does the federal Labor Party want to do?

Mr Scalzi: They want to roll it back.

Mr MEIER: Yes, they want to roll it back. We saw Peter Costello put the two graphs together and they looked almost identical.

Mr KOUTSANTONIS: I rise on a point of order, Mr Speaker. The motion is that this House congratulates this government on having restored the confidence of South Australia. It says nothing about federal Liberal government initiatives such as the GST.

The SPEAKER: If you read the whole motion, you will see that it is a little broader than the first two lines. However, I ask the member to come back to the text of the motion.

Mr MEIER: I thank the honourable member for drawing my attention to that point, because it is sidetracking and misleading to identify how both federal and state Labor governments helped to ruin this state. But that is in the past. We can continue to look to the future with great hope and a sense of positiveness. I know that at least young people today have every chance of getting a decent job right here in this state—and what a huge turnaround that has been. Members may recall that I was dealing with the WorkCover reduction before I was interrupted. Whilst we have reduced our WorkCover levies by about $108 million, what has happened in New South Wales? They have increased the levy by $180 million. Some comparison with South Australia!

The SPEAKER: We have a point of order.

Mr KOUTSANTONIS: Thank you, sir. Again, the member is straying into debate about other states, not about South Australia.

The SPEAKER: I do not uphold the point of order. I think that the motion is a bit broader than the member is suggesting.

Mr MEIER: Mr Speaker, I appreciate your ruling, because I assume members would appreciate that the only way we can show how strong South Australia is and how positive things are here is to compare it with something, and comparing South Australia with other states is an easy way to do that. I hope the honourable member sees that. In fact, it is a pity that I do not have figures to compare us to other countries, because we are doing better than many other areas of the world.

But I want to get to other areas in which we have made enormous strides. Our health funding has increased by more than $800 million since 1993—a 35 per cent increase in health funding. Why has that occurred? It has happened not only because we appreciate the need for extra funding in health but also because we have the money to put into health. And why have we got it? We have got it because we have knocked the enormous debt down. Also, we have balanced budgets and restored the economy to such an extent that we are getting the returns that we should be getting and we are able to invest that money not only in health but also in education. Members will appreciate that the education budget this year is a record $1.83 billion (or $1 830 million)—

An honourable member interjecting:

Mr MEIER: A record. The Minister for Police says that the police budget is a record budget this year, too. In fact, we should not forget that, as a result of that increase in police spending, more than 200 extra police officers have been provided for in the last two budgets, with the police budget increasing by $114 million since the Liberal government took over in 1993.

So it has just been positive news, positive news and more positive news for South Australia and the people who live here. I shudder to think what would happen if Labor ever got back onto the Treasury benches, because we would go back to the deficits of $300 million plus; we would go back to the huge debt and we would hit the $9 billion to $10 billion figure again. It would be a tragedy for this state.

But there is more good news, and it keeps coming. Mineral exploration has trebled since 1993. I think we well know that mineral companies shut up if Labor comes into power because they know that Labor basically does not want to know about mineral exploration. They have continued to increase their exploration here. From the point of view of looking after the environment, we (as members are well aware) have dedicated $100 million to fight salinity and

improve water quality in the Murray River over the next few years—$100 million to the environment just for water quality! And, again, any member on the other side who attacks us for our lack of attention to the environment would be ashamed.

Members interjecting:

The SPEAKER: I warn the member for Peake for ignoring the chair.

Mr MEIER: We are able to undertake things for the rural sector, too. In fact, the Food for the Future program has helped take our exports from $3.8 billion when Labor was in power to $8.4 billion now. We have more than doubled the amount of our exports, and that is quite remarkable. And our figures are much better than those of the other states (if I am allowed to compare South Australia with other states). Our increase in the last year or so was something like 24 per cent compared to the increase in Victoria (and we often compare ourselves with Victoria) of only 18 per cent. I am sure that Victoria was thrilled to bits with an 18 per cent increase, but ours is 24 per cent. It is just so much better than the other states.

Also, the fibre and fabric industries forum has been created, and it seeks to double the value of South Australia's fabric industry by the year 2010, and is well on the way to doing it. FarmBis training program is helping our young farmers, and particularly helping them through training programs, as well as in other areas. Also, we have brought in the e-business campaign to assist small and medium business owners.

Debate adjourned.

[Sitting suspended from 1 to 2 p.m.]

QUESTION TIME

RIVERLINK

The Hon. M.D. RANN (Leader of the Opposition): I direct my question to the Premier. Given that TransGrid has estimated it will take only nine to 12 months to physically construct the Riverlink interconnector, what action will the government take to fast-track the Riverlink project, including lobbying NEMMCO to ensure it is online before the recommended time of the summer of 2004-05? Final approval for Riverlink is expected to be given by NEMMCO on 30 November. On radio today, the Treasurer said that the report released by NEMMCO today is recommending that Riverlink come online by the summer of 2004-05 but that there is an opportunity to bring that forward by another summer.

The government has recently said that it would fast-track the Riverlink interconnector if it received NEMMCO approval, and the Premier will remember that, in June, I negotiated with the New South Wales Premier, Bob Carr, and with Treasurer Michael Egan to have Riverlink given strategic project status to fast track planning approvals through the New South Wales government.

The SPEAKER: Order! That is not part of the explanation. The honourable Premier.

The Hon. R.G. KERIN (Premier): I was aware of that 2004-05 time line and it does seem a long way away. If we are going to have Riverlink built, it is important that it be done more quickly than that and we will do what we can to make that happen.

STATE ECONOMY

Mr SCALZI (Hartley): Can the Premier update the House on the latest positive economic signs showing that South Australia is once again one of the nation's best performing states?

The Hon. R.G. KERIN (Premier): There is no clearer barometer of how well an economy, families and people are travelling than their confidence to spend money, and one of the biggest investments that people make is either buying or building a home. The latest building approval figures released this week show that an increasing number of South Australians have taken that plunge into home ownership. For the year to September, building approvals in South Australia grew by 67 per cent, which leaves us second only to Victoria and well above the national average. That figure of 67 per cent for the year to date is excellent.

The other key indicator is how much people are prepared to spend when they go shopping, from our larger department stores right through to the smaller retail outlets. The latest retail figures again point to the fact that South Australians continue to have a lot of confidence to spend. South Australia has recorded its 11th consecutive month of strong growth in retail trade and, for September 2001, the value of retail trade in South Australia grew by 0.8 per cent, which is exactly double the national average. On eleven months of growth, that shows a lot of confidence. As has been the case in previous months, that result was largely driven by strong growth in the food retailing sector. Over the past year, retail trade in South Australia has grown by a very impressive 11.5 per cent, which is well in excess of the national average of 8.3 per cent.

Finally, this week also saw leading international financial forecaster, Moody's Investor Service, give the tick of approval to South Australia's finances by changing the state's financial outlook from stable to positive. That is a strong vote of confidence for the economic management and financial direction of the state coming from one of the world's most influential financial advisory groups. Moody's says that the change in outlook reflects our improving debt profile and that, by improving the state's debt burden, we now have far greater financial flexibility enabling us to spend in areas which are very important to the community, such as, health, education, law and order, and job creation.

Moody's forecast is just the latest in a long list of economic data which has been quoted in this House and elsewhere about how strong our economy is at the moment. The TMP job index shows that nearly 30 per cent of employers in South Australia are looking to hire new staff over the next three months. Getting our finances right and getting recognition for that is about creating an environment which gives businesses and investors the confidence to put up their money. Attracting this investment is about giving people—in many cases, our children—long-term security, certainty for the future and confidence in South Australia. The only people who are talking down the state at the moment seem to be the ALP through Kim Beazley. Thankfully, business is not listening to them. Business is getting on, and what we are seeing at the moment and what is reflected in the figures is some real growth that is occurring in the economy.

RIVERLINK

The Hon. M.D. RANN (Leader of the Opposition): My second question is also to the Premier. Given that the

government withdrew its support for Riverlink in 1998 at a crucial time in the building up of adequate power supplies in this state, does the Premier on behalf of his government now accept responsibility for the higher power prices being paid by businesses in South Australia and for the fact that we face the prospect of having insufficient power supplies for the coming summer?

Members interjecting:

The Hon. M.D. Rann: Well, you're the guys who privatised electricity.

The SPEAKER: Order!

Members interjecting:

The SPEAKER: Order, members on my right!

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! The Premier does not have the call yet.

The Hon. W.A. Matthew interjecting:

The SPEAKER: Order, the Minister for Minerals and Energy! The Premier.

The Hon. R.G. KERIN (Premier): I think we just had a rewrite of history. To say that higher power prices at this stage are the result of not supporting Riverlink is in itself a rewrite of history, but the opposition cannot say that Riverlink not being here is causing higher power prices now when the position put down by the opposition at the time was to go with Riverlink rather than build at Pelican Point.

The member for Hart constantly opposed Pelican Point. For this coming summer, we have Pelican Point now on line. Riverlink would not have been on line, so to say that any lack of support of Riverlink is causing higher electricity prices this year is not correct because, if Riverlink had been the way to go and we had taken the opposition's advice and ignored Pelican Point, our power capacity for this coming summer would have been much lower than it is, and that would have caused higher prices.

Members interjecting:

The SPEAKER: Order! The member for MacKillop.

SCHOOLS, PUBLIC

Mr WILLIAMS (MacKillop): Thank you, Mr Speaker. We will now have some honest questions. My honest question is to the Minister for Education and Children's Services. Will the minister advise the House of initiatives—

Members interjecting:

The SPEAKER: Order!

Mr WILLIAMS: Thank you, sir. I will start again with my honest question to the Minister for Education and Children's Services. Will the minister advise the House of initiatives that this government has taken to promote excellence in our public schools?

The Hon. M.R. BUCKBY (Minister for Education and Children's Services): I thank the member for his question, because this government has invested effectively and responsibly in education in this state. All students can now expect the best opportunities. Every South Australian is already a benefactor of this government's achievements in education, and let me just name but a few. We have made a substantial deposit in education over the last eight years. We have invested heavily in: the early years, reading recovery, VET in schools, Partnerships 21, e education, DECSTech 2001—I am nearly out of breath listing what we have done.

And the knockers on the other side, along with public education enemy number one (and we all know who that is) cannot detract from that evidence. Their whingeing and their whining, once again, is drowned out by credible endorsements, and let me list just a few: Professor Brian Caldwell of Melbourne University; the *London Times* on 13 September this year commented about our local management model being the best in the world; the Third International Maths and Science Survey in which our students came third in science in world competition and eighth in maths; our own basic skills test results, and particularly the year seven results that have just been released; and, the best endorsement of all, parent satisfaction surveys conducted over the last three years have consistently shown a very high satisfaction level.

Our policies and our initiatives do not stop there. This government established Windsor Gardens Vocational College and Christies Beach Vocational College in recognition of the alternative pathways that are available to our students. Their raging success is in stark contrast to when the previous Labor government bolted shut the doors of Goodwood Technical High School, which was the end for the students and, thankfully, the end for the ALP! So successful are our vocational colleges for our students and our community that in its last budget this government budgeted for a further two vocational colleges in our regional areas. What about another commitment by this state government: the Australian Maths and Science School located alongside Flinders University, the first of its kind in Australia with linkages to researchers and Flinders University. This goes hand in hand with other specialist schools such as our sports and music schools.

Let me recall just for a minute that when the opposition was in its death throes of government in 1992, a senate inquiry in South Australia found the following:

> the nation's worst provider of sporting programs. . . blames falling standards of school PE on the lack of commitment by the state government to address the issue.

That was from a senate inquiry into the previous Labor government in 1992—damning comments from that particular inquiry.

Unlike the opposition, this government recognises that it has a role in ensuring that our young people live healthy and active lives. In this year's budget, we introduced a four year commitment for the 'Active for Life' program: $16 million over four years, which gives schools the flexibility to bring in the local football coach or the local netball coach, or employ a specialist PE person to ensure that our young people are getting the activity they require to lead healthy lives. These quality programs are but just a small number of achievements that this government has made, and all these commitments are fully funded within a balanced budget and locked in for the next four years. There is a full-time commitment, unlike federal Labor's 'noodle nation' plan for education—a spaghetti of exorbitant promises that will not attract any funding for years to come. In fact, it relies on the vagaries of bridging finance—a path well trod. . . banks and Labor!

Mr FOLEY: I rise on a point of order, Mr Speaker. They can spend all question time trying to protect Rob Kerin from questions, but this is a federal election matter. The minister is not responsible for it.

The SPEAKER: Order! There is no point of order. Can the honourable member quote a standing order to substantiate that? The reality is that the member cannot.

Members interjecting:

The SPEAKER: Order! The member cannot quote a standing order because there is not one to support that point of order. There is no point of order.

The Hon. M.R. BUCKBY: Thank you, Mr Speaker. It shows just how sensitive the opposition is to the enormous improvements we have made in education over the last eight years, and we will keep going. I would just like to go back in time and talk about banks and Labor. It is a story we know well in South Australia—

An honourable member interjecting:

The Hon. M.R. BUCKBY: A very sad story, as the member for Adelaide points out.

Mr FOLEY: I rise on a point of order, Mr Speaker. Does the honourable member know standing order 98 as it relates to debate? Mr Speaker, you have ruled in this place consistently that the minister is not responsible for the federal Labor Party and, therefore, should not be providing that in his answer.

The SPEAKER: Order! As I understood it, the minister was comparing federal Labor policies which would impinge on the state education system. This House has traditionally allowed comparisons of policies to be used in question time.

The Hon. M.R. BUCKBY: Thank you, Mr Speaker—an excellent decision. When we talk about banks and Labor it should strike fear into the very heart of every South Australian, because well we remember what occurred just 10 years ago. South Australians do not ever want to go back and tread that path again. It was one huge deficit, one huge financial mess that—

Members interjecting:

The SPEAKER: Order!

The Hon. M.R. BUCKBY: —this government took on, and our economic management has got this state back on track. What we get with Labor is losses, liability and financial mess.

RIVERLINK

Mr FOLEY (Hart): I will do anything to protect Robert from questions! My question is directed to the Premier—

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: You can't hide him all question time.

The SPEAKER: Order! The member will come to his question.

Mr FOLEY: Will the Premier undertake to investigate what powers are available to the state government to stop possible legal action by the builders of the Murraylink unregulated interconnector to delay or prevent the construction of the Riverlink regulated interconnector, which we know would deliver cheaper power into our state?

Members interjecting:

Mr FOLEY: We know you spent three years opposing it.

Members interjecting:

The SPEAKER: Order! Members on both sides will settle down.

Members interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition.

Members interjecting:

The SPEAKER: Order! I warn the member for Bragg.

Mr FOLEY: I know, John, you spent three years stopping Riverlink. The government has been a big proponent and supporter—

Members interjecting:

The SPEAKER: Order! I warn the member for Waite.

Mr FOLEY: Thank you for your protection, sir. The government has been a big proponent and supporter of the Murraylink interconnector over the SNI Riverlink interconnector. It is understood Murraylink may attempt to take legal action to prevent competition from the Riverlink interconnector. What will you do about that if it occurs?

The Hon. R.G. KERIN (Premier): Listening to the member for Hart, you would think that power is about Riverlink and nothing else. We have heard nothing but Riverlink over the past couple of years as though it was the only solution to the power situation in South Australia. Meanwhile, while he has been singularly focused on Riverlink, we have gone ahead. We have seen Murraylink put in—

Mr Foley interjecting:

The SPEAKER: Order! The member for Hart is warned.

The Hon. M.D. Rann interjecting:

The SPEAKER: Order! I warn the Leader of the Opposition for the second time. The interjections are wearing very thin.

The Hon. R.G. KERIN: While members opposite have been singly focused on one, because some of their friends might want to build it, we have got on with the job. It was not we who stopped Riverlink to start with—and members opposite know that. It had to pass the NEMMCO test and they have now changed the proposal. The draft now has a tick from NEMMCO, and NEMMCO is saying that it should be ready in 2004-05. It is now up to Riverlink to get on with it.

As far as Murraylink goes, if there are in fact some issues—and that is for Murraylink and Riverlink to work out—

Mr Foley interjecting:

The Hon. R.G. KERIN: Yes, it is; it is about legal rights and, if it goes outside their legal rights, the courts will sort that out.

Members interjecting:

The SPEAKER: I warn the member for Elder; and the member for Bragg for the second time.

The Hon. R.G. KERIN: The situation in relation to electricity that should not be forgotten, the reason why we ran into strife, is that through the 1980s, pre-1993, there was no planning; there was no planning for the future at all. A situation evolved in South Australia where, through a lack of planning, no capacity was built for a long time. We have put in a lot of extra capacity. For some reason the Labor Party has been absolutely stuck on one project; it is a good project when it gets up, and it will bring more power to the state—that is not denied at all. But for members opposite to have a single focus on Riverlink and to ignore other options for bringing in electricity lacks focus and does not address the issue. For members opposite to say that if we had Riverlink on the way rather than some time in the future, versus Pelican Point, power would be cheaper is an absolute nonsense.

HEALTH, RURAL

Mr VENNING (Schubert): My question is directed to the Deputy Premier and Minister for Human Services. Can the minister advise the House about the extra funding and increased health services for people living in rural South Australia?

The Hon. DEAN BROWN (Deputy Premier): I am delighted to announce that I have just allocated an additional $3.5 million for country hospitals in South Australia, of which there are 65. The additional funding will be on the following basis: $1 million of new additional money for mental health care in country areas; $775 000 for targeted surgical activity in country hospitals; $1 million to fully fund

pay rises for nurses; and $488 000 for additional hospital retrievals into the metropolitan area and for services provided by the Royal Flying Doctor Service. That is a very significant increase in funding indeed for our country hospitals.

I will give some indication of where the extra activity will be: $90 000 for additional orthopaedic and ophthalmology work at the Port Lincoln Hospital and ear, nose and throat surgery at Ceduna; $175 000 for ophthalmology work at the South Coast Hospital, the Kangaroo Island Hospital and the Mount Barker Hospital, which also covers Murray Bridge; $50 000 for orthopaedic and ophthalmology services in the Mid North; $150 000 for dental procedures at Ceduna, ophthalmology work at Port Augusta, and orthopaedic work at Whyalla; $60 000 for orthopaedic work at Loxton, Waikerie and the Riverland Health Service at Renmark, and ophthalmology at the Riverland Health Service at Berri campus; $100 000 for the South-East for additional general surgery at Mount Gambier and Millicent; and $100 000 in the Wakefield area—and I know the member for Schubert will be pleased with this—for general surgery at the Wallaroo Hospital and at the Barossa Health Service. This shows the commitment by this government to provide extra services within our health services, both in the metropolitan area and in the country.

Members interjecting:

The Hon. DEAN BROWN: I notice the interjections from members opposite, and I know that the Labor Party has, as a key part of its federal platform, in conjunction with Labor South Australia, what they call 'Medicare alliance'. It has been signed up by Kim Beazley, the various Labor Premiers and the Leader of the Opposition here in South Australia. In their written document, they have promised growth funding for health services for South Australia, together with the other states. In fact, I was rather interested to note that I am the only health minister actually quoted in the Labor Party policy. So, apparently they give me some credibility and, therefore, I wanted to have a look at the impact of the Labor Party on South Australia. On reading the policy, I found that they were going to allocate funds for the following achievements within the health sector here in South Australia: ease the pressure in emergency departments of public hospitals; provide after-hour GP clinics in public hospitals; reduce waiting lists for elective surgery in public hospitals; provide special finance to help older people in public hospitals waiting for nursing home beds; re-equip our rural hospitals; provide more money for mental health services; provide more money for maternity care and palliative care.

I then got to the section of the policy that talked about the money. I looked to see how much money was allocated to achieve these enormous so-called benefits for health care in South Australia. There are two years left of the present Medicare Agreement, so I looked at those two years, that is, this year and next year, and found that the extra money allocated to South Australia for all those activities and to achieve a dramatic improvement in health care is the grand sum of $3.36 million. That is less than what I have just allocated to our country hospitals. I looked at the figure for the year after, because this has all been tail-ended, and it was $7 million.

This would be the greatest hoax inflicted on the South Australian people by Kim Beazley that I have ever seen in an election campaign. There is absolutely no way those stated claims could be carried out for $3.36 million. There is not a hope. So, despite all the bravado from Kim Beazley yesterday in his policy launch, I want South Australians to understand that this policy is full of promises, but it has no money whatsoever to back it up.

Members interjecting:

The SPEAKER: If the House will settle down, we will get on with question time.

RIVERLINK

Mr FOLEY (Hart): There is definitely a contrast between the leader and the deputy leader. My question is directed to the Premier. Following the approval of the Riverlink (SNI) interconnector by electricity market regulator, NEMMCO, does the Premier have full and complete confidence in the actions of his Treasurer and electricity minister, Rob Lucas, given that the Treasurer and government sought to delay approval of Riverlink following its decision to privatise ETSA? A press release by the Treasurer dated 15 June 1998 states:

> The South Australian government had actually recently written to NEMMCO asking that the decision on Riverlink be deferred.

The statement says that the government previously supported Riverlink, and I quote the Treasurer further:

> Since that time, however, the South Australian government has made a decision that its power assets should be sold.

On 5 September 1998, the former Premier warned that plans by the New South Wales government to revive Riverlink and send cheap power to South Australia could threaten the sale price of ETSA's generators. The Treasurer said that the issue is being handled by his ETSA sale consultants. That is what you said!

Members interjecting:

The SPEAKER: Order! The member will resume his seat.

The Hon. R.G. KERIN (Premier): Once again, there is a bit of rewriting of history within the context of what the member has said. One important thing I point out to the member is that there is no doubt that Riverlink has come a long way, and it has been given the tick. It is a draft at the moment, but we hope that that will be confirmed by NEMMCO. But it is important to note that this is a draft.

Mr Foley interjecting:

The Hon. R.G. KERIN: No, it is not undermining anything. We want Riverlink as well. But the public needs to be informed correctly, which has not always been the case as far as Riverlink goes.

Mr Foley interjecting:

The SPEAKER: The member for Hart is warned.

The Hon. R.G. KERIN: Once again, it is back to Riverlink and only Riverlink. Riverlink, as I said before, is important. It was not the state government that stopped Riverlink: NEMMCO never gave it the tick. That is a part of history which has been misrepresented time and time again. NEMMCO failed to give it the tick. The Riverlink people have now changed their proposition and it has been given a draft tick; we want to see it get the final tick and we want to see it in—there is no doubt about that. But it is not just about Riverlink and, once again, the focus is back on that. It is about power supply to South Australia and the options to get that power. The options that have been put in place have resulted in our getting power at a lot quicker rate than would be possible with the ALP's single focus on Riverlink. So, last year we did not run out of electricity, despite what has been said. We had systems problems last year—

Mr Foley interjecting:

The SPEAKER: I warn the member for Hart for the second time.

The Hon. R.G. KERIN: —not a lack of electricity. The member for Hart again speaks about prices. If you remove Pelican Point from the equation for the coming summer, which he would have done, prices would have been far higher than they are.

Mr Conlon interjecting:

The SPEAKER: I warn the member for Elder for the second time.

MAJOR EVENTS

Mr HAMILTON-SMITH (Waite): Can the Premier detail the importance of world-class events, such as the Mitsubishi Adelaide International Horse Trials, to South Australia?

The Hon. R.G. KERIN (Premier): There is absolutely no doubt that the major events strategy which has been put in place over the last few years is an enormous success. We have only recently had Tasting Australia, and that was a terrific event for Adelaide, but over the next 18 months the amount of publicity that will be generated for South Australia and South Australian product out of Tasting Australia will be enormous and will bring great benefits for the future.

The 2001 Mitsubishi Adelaide International Horse Trials is one of only three such 4-star competitions around the world and the only one in the southern hemisphere. This year a very high standard of competition has been attracted. There are 120 entrants, including the highest number of international riders yet, with 14 entrants coming from countries such as Sweden, the Netherlands, Italy, Germany, New Zealand and Great Britain. In Stuart Tinney and Matt Ryan we have two Olympic gold medal winners riding in the competition. Amongst the highlights, of course, will be the Adelaide City Council Cross Country Day on Saturday. That day is free to the public and is a perfect example of why South Australia is such a great venue for an event such as this.

On Friday evening there is the Clipsal Cinema Amongst the Stars, which will no doubt be a great family event and draw many people. Also, for the first time, the trans-Tasman competition between New Zealand and Australia will be included in the 4-star class. That has been contested in Australia every four years for the last 20 years. Australia has never defeated New Zealand, but we hope that this time it will change.

Our major events have really been a major success. There is no doubt that there is a range of events to satisfy different interests across the community but, with sports such as horseriding, cycling and motor racing, these events have a broader appeal than those which the people concerned normally support. A lot of people have become fans of those events.

The impact on the tourism and hospitality industry in South Australia is enormous, and we see a big flow over into regional areas, so regional tourism also benefits. There is no doubt that major events have made a terrific contribution to South Australia, and the horse trials over the next four days will be no exception.

LUCAS, Hon. R.I.

Mr FOLEY (Hart): I direct my question to the Premier. Given that the Premier has expressed confidence in the Treasurer's handling of the electricity portfolio, will the Premier confirm today that Rob Lucas will keep responsibility for electricity after the Premier's cabinet reshuffle?

The Hon. G.M. GUNN: I rise on a point of order, sir. The honourable member is asking a hypothetical question and I therefore ask you, sir, to rule it out of order.

The SPEAKER: Order! The chair does not believe it to be a hypothetical question.

Mr FOLEY: Mr Speaker, with your leave and that of the House, I would like to briefly explain this important question, given that the Independents who keep the government in office have an interest in this issue. On 2 May, the Premier, as Acting Premier, said, 'I have total confidence in the Treasurer for the job he has done as Treasurer and how he has handled this matter of electricity.'

The Hon. R.G. KERIN (Premier): I thank the member for Hart for the advice in the question. I do not know if this is the start of a volley of questions as to whether I have confidence in the Minister for Health, Minister for Government Enterprises, etc. If you ask enough of these questions, you will be able to write your own reshuffle, and that may be what happens. We are giving a lot of thought to portfolio areas right across the board. Watch this space, because sooner or later, you will know it all: it will all be revealed. However, I do not think that by my answering every individual question you will find out. It would take about three question times.

ENVIRONMENT, FUNDING

The Hon. D.C. WOTTON (Heysen): Can the Minister for Environment and Heritage advise the House of any new revenue streams for environmental spending?

The Hon. I.F. EVANS (Minister for Environment and Heritage): I thank the member for Heysen for his question.

Members interjecting:

The SPEAKER: Order! The minister has the call.

The Hon. I.F. EVANS: The parliament would be aware that, through both the federal and state governments, there have been significant increases in environmental spending over the past few years, and programs such as NHT, for which $19 million was recently announced, have all been good news for local environmental programs. So I was intrigued when I found a leaflet distributed by the Australian Democrats on environmental spending which hints that they might be spending more on the environment, and, as Minister for the Environment, I thought it was my duty to look at where they will get the money to spend on these environmental programs. We thought the smart thing to do would be—

The Hon. M.H. Armitage: The bottom of the garden.

The Hon. I.F. EVANS: Well, the bottom of the garden would be one, or through their basket weaving programs. However, we thought we would go back through some of their speeches on taxation. It may be of interest to the parliament to hear the comments of Senator Andrew Murray, who is their taxation spokesman. Senator Murray has said that much more revenue is needed and governments will have to raise more revenue. Clearly the Democrats are about an increase in taxation. He asked the question: why will revenue rise? Then Senator Murray said:

> Firstly because it can and the Australian tax take is far from excessive by OECD standards.

So the Democrats are on about a high tax agenda. The quote that I found most interesting was as follows:

> Second and most important, Australians by a large majority are demanding more expenditure, more intervention and bigger government.

I do not know about members opposite, but I have yet to have someone come into my office, petition me or write to me, saying, 'Can you make government bigger?' The Australian Democrats are out there saying that we should make government bigger and make taxation higher.

Mr Foley: How are they going to do it?

The Hon. I.F. EVANS: That is an interesting question from the opposition treasury spokesman. How are they going to do it? Senator Murray floats the concept of adopting the Ralph recommendation to reduce the FBT concessional treatment of company cars, something that will cost the Australian taxpayer, Australian businesses, some $700 million a year in revenue. So, in South Australia that would be about a $70 million hit to the South Australian business community if Senator Murray and the Australian Democrats have their way. For those who might be involved in property investment and negative gearing, the Australian Democrats have you in their sights, Mr Speaker, because Senator Murray says:

> There are many hundreds of millions of revenue legitimately waiting to be harvested here.

This is Senator Murray (the Australian Democrats spokesman on taxation) saying that they should collect up to $10 billion more in taxation. To put that into some sort of context, the state budget is $7 billion. This is a party that wants to get rid of state governments and add one complete state taxation onto the taxation costs of the Australian taxpayer. We thought we should do the right thing and look at the Australian Democrats' taxation policy. In that policy they speak about being ecologically sustainable. Being the minister for the environment, that was of some interest.

So, we looked at their taxation policy, and the interesting thing about it was that it was hard to find. It was hard to find because journalist Phil Coorey wrote an article for the first or second day of the federal election campaign in which he mentioned three words: 'Democrats and death duties'. That night, the policy disappeared off the internet. I find that rather amusing because Senator Murray is the spokesman for not only taxation but also the accountability of the Australian Democrats, and as soon as a question is asked about their policy, off it goes. This is a party that says that it stands for accountability, openness in government and honesty but, as soon as it gets a question on its policy, it goes off the internet site. So, on behalf of the Australian Democrats I table their policy so that the parliament can have a look at it.

The thing that really interests me is the reintroduction of death duties by the Australian Democrats. This is how they are going to fund their programs, including their environmental programs. The policy states:

> Assets shall be liable to taxation and shall include capital transfer taxes including inheritance tax and gift duties.

You cannot have an inheritance tax unless someone dies. So the Australian Democrats are saying that they will reintroduce death duties to Australia. It was the Tonkin government that got rid of death duties in this state. The Australian Democrats go further and say that not only will they reintroduce death duties and gift duties but they will also introduce 'wealth taxes imputed on the basis of asset value and the deemed potential income stream of the asset.' So, you will be taxed on the potential income stream of your asset. When the Australian Democrats say that they will spend more money on various programs, it is important that people realise where they will get the money from.

The Hon. D.C. Wotton: Is this the party that's giving its preferences to the ALP?

Members interjecting:

The Hon. I.F. EVANS: The interesting one, Mr Speaker—

Members interjecting:

The SPEAKER: Order! I ask the minister to start to wind up his answer.

The Hon. I.F. EVANS: In closing, I think we should understand this: the Australian Democrats is the party that is saying that it will take the GST off funerals, but it will tax your inheritance. That is an absolute nonsense for a national policy. When you vote for the Democrats you are voting for death duties, gift duties, and an income tax—and I did not mention this and I think I should. The Democrats are promoting an income tax that is linked to inflation. What that means is that income tax will increase with inflation—and I remind members of the Whitlam years when inflation was in the teens or greater. When you vote for the Democrats you are voting for death duties, gift duties, an income tax link to CPI, a capital gains tax, extra land taxes and indeed a wealth tax.

ELECTRICITY, PRICE

Mr FOLEY (Hart): I think we should move to an immediate no-confidence vote in the Democrats! My question is directed to the Premier—

Members interjecting:

The SPEAKER: Order! Members on my right will come to order.

Mr FOLEY: Will the Premier tell the House—

Members interjecting:

The SPEAKER: Order!

Mr FOLEY: My question is directed to the Premier. I can rule out all of what was just said. Can the Premier tell the House what has been the cost to South Australian business from the government's support for delaying approval of Riverlink in higher prices and lost production in sales since the last summer, given that Riverlink could have been up and running from that time? In early May, parliament heard from Business SA that a 10 to 30 per cent increase in electricity prices from 1 July this year could wipe out as much as $200 million annually in gross state product. Indeed, the actual increase has been between 35 and 100 per cent and the impact on gross state product of course is now much higher.

The Hon. R.G. KERIN (Premier): I welcome the question because, once again, we go back to comparing what they wanted with what we wanted. We have Pelican Point operating. If in fact we went down the track that the member for Hart has constantly suggested—

Mr Conlon interjecting:

The Hon. R.G. KERIN: No, you didn't want Pelican Point—

The Hon. G.A. Ingerson interjecting:

The SPEAKER: The Premier will resume his seat. I warn the member for Elder and the member for Bragg for the last time. If either member interjects again, their fate will be in the hands of the House.

The Hon. R.G. KERIN: To make the comparison, I point out two things. First, we fast-tracked Pelican Point. The Labor Party would not have had Pelican Point there now. Further, we were not the ones who rejected Riverlink. If

members put those two things together and consider the impact on business and on electricity prices for contestable customers, one scenario versus the other, they will see that, if in fact we went down the track of no Pelican Point—and we are still waiting for NEMMCO to tick off Riverlink—then the impact on business would have been far worse than it is.

GAMBLING

Mrs PENFOLD (Flinders): Will the Minister for Gambling outline to the House any recent initiatives which will help problem gamblers and curb problem gambling?

The Hon. R.L. BROKENSHIRE (Minister for Gambling): I thank the member for Flinders for this question because I know her concerns regarding problem gambling, which concerns, indeed, all members of this House have. It is actually the first question that I have had since I have been privileged to be the inaugural Minister for Gambling. In saying that, I acknowledge some hard work done by the member for Bragg. In fact, the member for Bragg has been commended by people with whom I have already had discussions for the way in which he managed a lot of issues with senior leaders of government over a period to get the initiatives up and running.

I have already spent a considerable amount of time with the Office for the Independent Gambling Authority, and I am pleased to be able to report to the House that many initiatives are already taking place and many more will take place in the next six months and in the future. Everyone knows that throughout Australia there is a significant gambling problem, and all states in Australia are looking at how they can tackle this very important reform from the point of view of assisting social issues across the country. We all know that the South Australian government has been responsible for supporting and helping to develop the ministerial council on gambling initiatives across jurisdictions.

However, at present an initiative has been put forward to freeze the number of gaming machines in South Australia. We have now issued mandatory codes of practice for responsible gambling and advertising for gaming machines; that came in on 1 October. Importantly, we have also initiated the voluntary barring for problem gamblers seeking help. I would appeal to anybody who acknowledges that they have a gambling problem to let us know so that they can be assisted with the voluntary barring code. I am pleased to see that the first person has now been registered in this state. Of course, by 1 January next—and we are overseeing this at present—autoplay will be removed from all gaming machines, and a $200 limit for all ATMs based in gaming facilities will also have to be in place.

These are just some of the initiatives that our government has been able to implement already, thanks to a lot of hard work by key people. As I said, there will be further changes. In the near future it is my intention to meet with all the key stakeholders, and I will report back to the House on that once I have done so. It is important that the hard work that has already been done is capitalised on as quickly as possible in the best interests of the communities and families of South Australia. It clearly has to be carried out in a balanced way. It does not just involve gaming machines; as we all know, people can get caught out by gambling addiction in a number of ways. One of those that is of great concern to me is internet gambling. If members think we have seen problems across Australia already with gambling, they should just wait until internet gambling really picks up. That is something that people will be able to get into in their own homes without any support or supervision, at any time of the day or night. Right across Australia we must look seriously at how we can get on top of that issue in the best way possible, as quickly as possible.

The final point I want to make in relation to the member for Flinders' question relates to what happened last Saturday. Last Saturday, the Independent Gambling Authority put out an advertisement calling for public comment for a draft code of practice for not only advertising but also responsible gambling in the casino. I ask anybody—and this includes members of parliament—who has an interest in this matter to be prepared to put forward their comments. We want to see this matter dealt with in a bipartisan way right across the state, and we want to hear about any initiative or opportunity anyone may have that will help to address this difficult situation. We want to see people enjoying their lifestyles. Most can do that: they can budget a few dollars, spend those few dollars and it does not cause a problem. However, sadly we see a small percentage get into difficult circumstances. We have seen them damaging themselves and their families, and sadly at times we see them under my care and control in correctional services. For that small percentage of people, we need to be very committed. I see it as a privilege to be the Minister for Gambling. I can let the House know that we will leave no stone unturned in ensuring that we do everything within our power to continue to lead Australia in this respect, as has already been recognised in our government's innovative initiative.

RIVERLINK

Mr FOLEY (Hart): Does the Premier now concede that his government has been actively opposing the building of the Riverlink interconnector even as late as last month, when the government's former chief electricity adviser sent an email to a former ETSA privatisation consultant, saying that she was sure he would be happy to hear that NEMMCO had 'canned' Riverlink for a second time? It was only after the government decided to privatise ETSA that former Premier John Olsen warned that the Riverlink interconnector would affect the sale price of ETSA. In an email to a former ETSA sales consultant recently, the Treasurer's former electricity adviser Alex Kennedy wrote:

> The Nick Xenophons etc. are still at it—and I am sure you will love to hear that today for the second time NEMMCO is announcing it has canned Riverlink.

Further, she stated:

> That being the case, Danny Price et al will be out in force again today. Will earn my dollars in the next week!

The Hon. R.G. KERIN (Premier): I am not aware of what goes around in some of these emails, but the email is obviously wrong, anyway. To base it on wrong fact, obviously someone got it horribly wrong.

VOLUNTEERS

The Hon. G.M. GUNN (Stuart): My question is directed to the minister responsible for volunteers. Can the minister advise the House on the government's most recent initiative and communication between the government and volunteers, particularly the outstanding service the volunteers provide to the people of South Australia for no cost?

The Hon. I.F. EVANS (Minister for Environment and Heritage): I have given a number of answers to the House

in regard to volunteers and volunteering, and the good work that the volunteering community and government has done over the past 12 months in the International Year of Volunteers. I remind the House that in 1999 we had a volunteer summit and workshops that worked through a range of issues that the volunteer community wanted to raise with government about government's making the average lot of the volunteer somewhat easier.

The community requested a closer relationship with the corporate sector, and we responded with the 100 hours program that involves the corporate sector with the volunteer community. The volunteer community also requested assistance in accessing media for those small organisations that could not get the good news story out there, and we responded by facilitating the community journalism program. They also requested greater recognition from both government and the community, and we responded by supporting the International Year of Volunteers campaign, setting up the Premier's Certificate of Appreciation, and also dedicating a permanent public holiday to volunteers. They also requested more training of volunteers, and we responded with around $300 000 worth of training across regional South Australia. I know that is of interest to the member for Stuart because it was free training right across regional South Australia.

They also raised issues in relation to liability insurance, and there is a bill before the House, on which I will not comment at this stage. If the bill is passed, ultimately the government will commit $100 000 towards the education and implementation program about that bill. They also raised with us the issue of increased insurance costs, and we responded by putting in place a volunteer risk management working group to look at how we can cap, reduce or control the insurance costs of volunteer groups.

We have also put out for discussion the concept of a volunteer alliance. The concept of a volunteer alliance is not new. They are of course throughout Wales, Scotland and Canada, to name a few areas that have taken up the concept of a volunteer compact or a volunteer alliance. We sent out something like 6 000 discussion papers, and 21 meetings were held around the state asking people whether there should be a closer working relationship between the volunteer community and government. Thirty formal submissions were received. Interestingly, there were three recurrent themes in relation to that particular concept. First, the volunteer community supported the mechanism that enabled a regular dialogue with government. It was not necessarily fixed on the concept of an alliance, but it liked the idea of regular dialogue with government.

Secondly, the volunteer community wanted to contribute to the development of government policies that might affect volunteering, particularly their programs. Thirdly, the volunteer community certainly did not want to be over-bureaucratised by government legislation or processes that might be imposed upon them. Having considered and looked at the responses to the alliance paper, we have decided that we will not proceed with an alliance at this stage. We are not ruling it out in the future. I advise the House today that we are forming a volunteer state council made up of the peak associations and interest groups around the state. Ultimately, they can decide whether or not they wish to have an alliance with government and approach the government to talk through the issues.

We are concerned that the alliance may over-bureaucratised the volunteer sector. The member for Elizabeth interjects. I know the Labor Party is running with a compact, but we have to be careful that we do not over-bureaucratise the volunteer sector. It is important that the state council properly represents the volunteer community's views to government. We look forward to working with the volunteer community in the development of their state council so that it can properly represent their views to government.

ELECTRICITY, NATIONAL MARKET

Mr FOLEY (Hart): My question is again directed to the Premier. Does the Premier support the entry of all South Australian homes into the contestable electricity market on 1 January 2003, the date previously established by the government for entry into the full market?

The Hon. R.G. KERIN (Premier): The member for Hart knows that at the moment we are considering all the options with respect to the future for electricity in South Australia. We are considering all the options, which all have different sorts of outcomes in terms of what the advantages and disadvantages may be. We will have a good look at all the options, and the member will find out in good time.

FORESTRY SA

Mr WILLIAMS (MacKillop): My question is directed to the Minister for Government Enterprises. In recognition of the importance of and growth in regional tourism, can the minister advise the House of initiatives that Forestry SA has taken to improve the provision of both information and facilities to visitors?

The Hon. M.H. ARMITAGE (Minister for Government Enterprises): Everyone realises just how important is regional tourism in South Australia, and I think that everyone also realises just how important are our forest reserves, so I thank the member for MacKillop for asking me a question which enables me to identify to the House what Forestry SA is doing to blend these two important elements of South Australia's economic future.

The forestry reserves provide a very unique opportunity for South Australians to enjoy recreation, and also for South Australians and interstate and international visitors to enjoy learning about an industry as part of a regional tourism facility. In addition, there is obviously a huge economic and employment contribution provided to South Australia. There are many forest reserves around, and those closest to Adelaide are obviously Kuitpo and Mount Crawford and, because of the geography of South Australia, those are the ones used most frequently for walking, dog sled racing, car rallies, picnicking, nature appreciation, and so on. The plantation areas of the forests are ideal for just that sort of recreation. I should point out that the South Australian forestry industry is totally plantation forest based: it is not in any way native forest.

There really is something for everyone in our forests. The community use of our forest reserves is very high, with more than 250 000 people visiting each year. Recently I was near the Kuitpo Forest and called into the recently completed Kuitpo Forest Information Centre. It has been recently upgraded to provide a real focus for public contact and, having been there with my family a number of years ago and, in fact, finding some difficulty in knowing the whereabouts of the various walking trails, and so on, I commended the forestry staff on having such a well developed public area with the information provided.

The Hon. Dean Brown interjecting:

The Hon. M.H. ARMITAGE: As the Deputy Premier and member for Finniss says, it is a facility in his electorate and he acknowledges the service it provides to all South Australians and visitors. It is a key service providing information for tourism and information about our valuable forestry industry. I would ask all members of the House to avail themselves of this wonderful facility and, indeed, to tell their constituents about it so that more South Australians can visit our wonderful forest reserves and learn about the importance of our industry to South Australia.

Mr McEWEN: I rise on a point of order, Mr Speaker. During question time, the Minister for Environment and Heritage tabled a document, for which I believe he has no responsibility, relating to the federal policy of another party. I ask, sir, that you rule on whether or not that can be validly received.

The SPEAKER: From my reading and memory of standing orders, ministers are free to table documents relating to their portfolios, and that has always been the practice in the past. But, if a minister has moved away from that practice and has tabled a document not specifically relating to his portfolio, it may be a matter for the Standing Orders Committee to look at next year. I suggest today, though, that this is a one-off incident. It does not happen frequently, but I remind the House that the standing order requires the document to be specific to the minister's responsibility.

Mr LEWIS: Mr Speaker, I have a further point of order on that very point. I thought that it was not just their portfolios but departmental papers relevant to their portfolio responsibilities; otherwise, they could be tabling newspapers and anything else—just saying that it is relevant to their portfolio.

The SPEAKER: Members and ministers can table statutes by command or by leave. It is only the minister who would actually know what is in that particular document. The standing order confines it to having a responsibility to the portfolio.

PUBLIC WORKS COMMITTEE: J.P. MORGAN CHASE AND COMPANY REGIONAL HUB BUILDING

Mr LEWIS (Hammond): I bring up the 161st report of the committee, on the J.P. Morgan Chase and Company Regional Hub Building, Stage I—Final Report, and move:

That the report be received.

Motion carried.

The Hon. DEAN BROWN (Deputy Premier): I move:

That the report be published.

Motion carried.

GRIEVANCE DEBATE

Mr KOUTSANTONIS (Peake): I am going to read a letter from a member of the community in Camden Park whose name is Mr Bill Thomas. It relates to parliamentary privilege and the abuse of it by Mrs Chris Gallus. The letter states:

I've been the proprietor of a business trading in my name for 34 years. The business has a national and international reputation in the field of video production. In 1996 I reported to the Australian Federal Police an act of video piracy which was damaging my business. The AFP decided to do nothing so I contacted my local Federal Member Mrs Gallus for assistance.

For two and a half years I found Mrs Gallus to be incompetent, unreliable and untruthful. For example, Mrs Gallus reported through the media that she had written many times and made numerous phone calls on my behalf to the AFP.

That is not true. The letter continues:

The AFP provided me with an official report which stated that Mrs Gallus wrote only one letter and made one phone call to them on my behalf.

At the time I was a member of the Liberal Party. I decided to see if the Federal Labor candidate for the seat of Hindmarsh, Steve Georganas, could help. He could and he did. He did more to assist me in two weeks than Mrs Gallus could do in two and a half years. The question is why could Mr Georganas help me, but the sitting member whose party is in government couldn't.

I upset Mrs Gallus by seeking and getting assistance from Mr Georganas. On 7 September 1998 she wrote to me saying that under the circumstances she could no longer see me and claimed that I abused her staff—

that is not true—

and that I made implied threats.

That is also not true. The letter continues:

I found her letter to be offensive. Her timing was bad because it was right at the beginning of the 1998 federal election campaign. It was clear that Mr Georganas was by far the better candidate to represent the seat of Hindmarsh. I was so delighted with his assistance and attitude that I sent out 55 000 letters into the Hindmarsh electorate urging the voters to support him.

Some weeks later I received a number of telephone calls from strangers suggesting that I should phone Mrs Gallus's office and hear what they are saying about me. I didn't bother until I heard a recorded message on my telephone answering machine. The language was disgusting. The caller accused me of being involved in the production of pornographic videos. I was shocked. A rumour such as this would ruin me overnight. I could not do anything about it. The same day I phoned Mrs Gallus's electorate office. I did not identify myself but the staff member did give her name. I made an inquiry about the Thomas issue and was told that:

> He's a troubled person. He was thrown out of this office and told never to come back again. He is not a nice person. He's involved in making pornographic videos. I don't know much more than that, it's only what others have told me.

It was about this time that I learnt that Mrs Crosio, the federal Labor member for Prospect, had clashed with Mrs Gallus in parliament. The pornography issue and the video privacy matter motivated me to contact Mrs Crosio. I sent her documents to quote from. Mrs Crosio quoted one of my letters in federal parliament during the adjournment debate. In response, Mrs Gallus said the following in the House of Representatives on 7 December 1998 under privilege:

> The letter that you quoted from was not the one I remember getting from Mr Thomas, which was highly threatening. In it he threatened to write about my character in ways I would not like to repeat in the House. It was an absolutely threatening letter. I might say that the letter did go around the electorate. Mr Thomas had told Senator Ferris that he was broke, so I can presume that the letter was paid for by the Labor Party. It was a particularly nasty personal letter, but I point out that, if he had no money, sending a letter around an entire electorate would be quite expensive. I think there was no doubt about it, especially as he turned up at the poll with the Labor Party and made some unfortunate comments to one of my staff members.

That was Mrs Gallus. In response, Mr Thomas said:

I have never written any such letter to Mrs Gallus, as she described. I have never been broke in my life. I attended the poll with the Liberal Party and sat with their members as I was a member [of the Liberal Party] at the time. I had a very friendly chat with one of Mrs Gallus's staff members. I find this personal attack on my reputation and financial status as highly offensive and damaging.

Mrs Gallus has been asked to produce this threatening letter. She can't because it doesn't exist. Mrs Gallus was asked to provide proof that I was broke. She has finally admitted after two and a half years,

'It was only an assumption.' I've applied for three Right of Replies in the federal parliament without success. As a result of this I was expelled from the Liberal Party on the grounds of disloyalty.

Mrs Gallus recently met with members of Save Our State Lobby Group and gave them an undertaking to retract her statement in the federal parliament. She has now reneged on that because it may damage her reputation. Mrs Gallus has damaged my business and reputation and has hurt my family. Unfortunately, when somebody throws mud. . . it sticks. I've now been forced to change the name of my business and trade under a different name. I've had to forfeit 34 years of hard earnt goodwill. I cannot seek compensation through the legal system due to the legal privilege Mrs Gallus enjoys. We can't have a politician abuse our parliamentary system in the way she has. Not one single citizen is safe because of this outrageous precedent that has now been set in place by Mrs Gallus. There is no place in our parliament for Mrs Gallus or this disgusting conduct.

Time expired.

Mr HAMILTON-SMITH (Waite): I rise to talk about the Australian Labor Party's Knowledge Nation policy and to point out to the House that the Labor Party just does not get it. There is an excellent editorial in the *Australian* today which gives a run down on Kim Beazley's policy and I commend it to all members of the House. There is also a terrific cartoon which depicts Mr Beazley with spaghetti and meatballs juggling on a GST rollback beach ball, and the quote says, 'Wow. . . ever seen anyone juggle so many spending plans while standing on a tax cut?'

The editorial in the *Australian* today just says it all. Sadly, it says, Mr Beazley's Knowledge Nation policy will not deliver in this year or any other. It goes on to say that the emptiness of the ALP's policies goes beyond Mr Beazley's funding timidity. Further:

It betrays Labor's inability to recognise that delivering better education means changing the way things are done, not just throwing more money at it. Knowledge Nation does nothing to deliver structural reform that rewards better teaching, provides flexibility, promotes true diversity and provides choice for parents and students alike.

The Labor Party has gone back to its roots and it has decided that it will throw money at the problem, notwithstanding the fact that it has not worked out how it is going to raise the money. The idea is that, if you throw money at education, something good will pop out at the end of it. That is in total contrast to the policies of the coalition and the Liberal Party. I cannot wait to see the state Labor Party's reiteration—the son of Godzilla version—of Knowledge Nation come the election. It will be priceless. The argument will be the more money you throw at education, the more good you will get. The *Australian* editorial really says it all:

Whatever the [Labor Party's federal] politicians pretend, a nation's knowledge comes less from government blueprints than from the nation's individuals seeing a way ahead for their children and themselves, working harder to achieve it and making the sacrifices required to become better and brighter. Individual Australians must make the personal commitment to invest their own scarce time and money in their own education. They must forgo the money they could earn by working at a lower-skilled job, or give up their spare time, so they can eventually get a higher skilled and better-paid job. But what happens to such enterprising Australians when they reasonably seek a return on investing in themselves?

The government, particularly a Labor government, seeks to punish them by taking half of everything they earn in taxation. You just don't get it. The idea is that you can pump billions into education but, if you are going to tax high income earners, the professionals, the people who make the biotechnology industries and high-tech industries blossom, if you are going to tax your university academics into oblivion, what is the point? The Labor Party talks about stemming the brain drain. Knowledge Nation will produce a whole lot more qualified people who will then rush off to somewhere where they can earn twice as much and pay half as much tax. You just don't get it.

Take a bit of advice from the Liberal Party. If you are going to have a policy such as Knowledge Nation, you have to develop the sort of linkages between business, government and our centres of innovation, such as universities, so that when people finish their university training, they have a job to go to, so they create intellectual property in concert with business, and so that our universities and our centres of innovation are working collaboratively with the businesses that are going to make the money to pay the taxes. Secondly, Labor should not come up with policies like Knowledge Nation and pretend that it cannot also consider tax reforms, the sort of tax reforms that our federal government has introduced and our state government has pursued.

The Labor Party has got it wrong federally with Knowledge Nation. It is a good idea, poorly implemented, and I hope that the state Labor Party is not going to try to reiterate it in the run up to the state election. If it is, I cannot wait to get my hands on it, because the answer is not about inputs: it is about outputs. It is about making people's lives better. It is about equipping them with the skills to get a job. It is not about keeping people at universities forever and ever.

Time expired.

Mr WRIGHT (Lee): Last week I asked the Minister for Recreation and Sport (Hon. Iain Evans) a series of questions about Mr Simon Forrest, the then Executive Director of Recreation and Sport. At the time of my questions, Mr Forrest was on long service leave and had been since August this year. You could call it special long service leave because the Executive Director went on leave after a fallout with the minister. In the sporting community, rumours have been circulating for some time about Minister Evans bumping off Mr Forrest, his Executive Director. I asked the minister a couple of pretty easy and simple questions, even by his standards, but he refused to answer the questions, and I have since learnt that he did not tell me the truth. It just so happens that the very next day after my questions, a dickybird called me and advised me—

Mr Venning: Mr Forrest.

Mr WRIGHT: It was not Mr Forrest, I hasten to add, and I say that very seriously. But a dickybird did call me and gave me some information.

Mr Venning interjecting:

Mr WRIGHT: Not at all. It just so happens that the people in the Office of Recreation and Sport were told last Friday that Mr Forrest was going to the Department of Justice. The minister would have known that, or at least he would have known that Mr Forrest was not coming back to Recreation and Sport, not coming back as his Executive Director. There is no way the minister would not have known that last Wednesday night when I asked him those questions. I understand that Mr Forrest started at the Department of Justice this week. I have done a little bit of backtracking on Mr Forrest. I understand that he is a permanent public servant and that he was made the CEO of Recreation and Sport in July 1997. I presume that he had a five-year contract. I do not know that for certain, but that is normally the case, and that would mean that his contract would be due to expire in July next year. He has been on long service leave since August this year, so we are basically talking about an 11 to 12 month period and a period of about nine months of his being forced

out of Recreation and Sport and going into the Department of Justice, keeping in mind that he has also been on forced long service leave for an additional two months. I also presume that the government will now advertise for a new Executive Director of Recreation and Sport, a new position, 12 months earlier than Mr Forrest's position is due to expire.

Members interjecting:

The ACTING SPEAKER (Mr Scalzi): Order!

Mr WRIGHT: I also suggest that not only did the minister bump off his executive director, he is a bully. Why would he, in the dying days of this government, bully a person out of their position and their contract? What is his right beyond the four-year term of this government to upend a contract, advertise for a new position, and put in place a new contract when the government has already reached its expiry date? Not only has Minister Evans been pork barrelling taxpayers' money on the eve of the state election, he also bumps off his executive director.

I wonder whether there is a connection with this 84 per cent of former Living Health money which, out of the blue, went to two schools (Blackwood and Heathfield), one in the minister's electorate and one next-door. I wonder whether the former executive director raised his eyes and said, 'Minister, this is not the way to go.' Not only has the minister bumped off and bullied his Executive Director out of his position, he has no right to make an appointment in the dying days of this government and he has no right to put in place a new contract.

Time expired.

Mr VENNING (Schubert): I think it is a shameful use of parliamentary time for the honourable member to speak like that. It is an attack on the minister, who is not here, and I think it is terrible.

Mr Wright interjecting:

The ACTING SPEAKER: Order! The member for Lee will resume his seat. The member for Schubert has the call.

Mr VENNING: I can not believe the schizophrenia of some people. I, along with the Hon. Malcolm Buckby—

An honourable member interjecting:

The ACTING SPEAKER: Order!

Mr Hanna interjecting:

The ACTING SPEAKER: Order, the member for Mitchell!

Mr VENNING: I hope these interjections are going on the record. I, along with the Hon. Malcolm Buckby, hosted a—

Mr Wright interjecting:

The ACTING SPEAKER: Order! The member for Lee will come to order.

Mr VENNING: Can I have the clock started again? I have not even started my speech yet, and I have lost a minute.

An honourable member interjecting:

The ACTING SPEAKER: Order!

Mr VENNING: I, along with the Hon. Malcolm Buckby, hosted a showcase dinner here in Parliament House on Tuesday evening. Eight other members (including three ministers) attended to sample some of the magnificent produce provided by Nuriootpa High School, which is in my electorate. It was an opportunity for the Hon. Malcolm Buckby and me to allow Nuri High School to showcase many of the extracurricular activities for which it is now renowned, including aquaculture, winemaking, racehorse ownership and husbandry, beef growing and hospitality—and the list goes on.

We dined on some magnificent barramundi and drank some very fine wine which the school produced. Mr Kevin Hoskin, the Agricultural Coordinator of Nuri High, and the Principal, Mr Pat White, attended the dinner with us, and they highlighted the excellence of their activities. What we are talking about here is pioneering activity at this school. Not only does this school produce its own very fine wine—it is the first school in Australia to have a liquor trading licence—it also commercially produces barramundi and, to top it off, but also it offers thoroughbred horse racing courses to potential students right across Australia. I believe that the school's racehorse raced yesterday in Melbourne.

An honourable member interjecting:

Mr VENNING: This is a secondary public school in South Australia. I will briefly give the history of how this tremendous enterprising centre started operating at Nuri High School. In 1992, the school became the first in Australia to commercially operate a winery with one barrel of shiraz produced and some of that wine being sold. From that time, we have seen this develop into the school having its own winery (the Nurihannam Winery) where it produces four different wines: two shiraz, a chardonnay and a port. Its production has increased twentyfold since that start in 1992 and it has won awards and gained high ratings at wine shows. The course now averages 75 students per year in the vines and wines subject. Wine is exported to the United States and other countries and throughout Australia, and the winery is receiving an increasing volume of visitors from Australia and overseas, because these courses are truly unique.

However, the operation has outgrown the current facility, which uses part of the school's shearing shed. The opportunity exists to build a wine education centre which will allow not only for the winemaking program to expand and develop but also to achieve a huge number of other objectives. The centre could cater for training in food and hospitality, tourism, laboratory work, cellar, retail, etc. The vision is to build a facility that has a 100 year life expectancy which can cater for the needs of today and be viable well into the future. The school's aims have been simple: to be commercial (meeting industry standards with industry support); to involve students with real-life experiences so that they have an understanding of the industries that surround them in their district, state and country; to inspire a work ethic, pride and hope in its students; to start students thinking about careers and pathways while still at school; to provide nationally accredited training modules that lead students into certificate, diploma and degree courses operated by TAFE and other providers; and to support companies, industries and organisations that are involved with the school.

I congratulate and commend the school, the Principal, Mr Pat White, the Agricultural Coordinator, Mr Kevin Hoskin, and all others involved in what is an Australia first initiative which is leading school students in an extremely worthwhile direction. As always, I am very proud of my electorate of the Barossa and, indeed, this school. It is a public school, and I would argue that it is the best in Australia.

Ms BEDFORD (Florey): Today, I would like to advise the House of the marvellous event that was held between 20 and 22 September this year showcasing SAPOL and the wonderful South Australian Police Band. The Sensational Adelaide International Police Tattoo was just that—sensational. Ten months in the planning, this gestation period was watched over by a team of dedicated police officers

seconded to SAPOL Public Affairs. The event management team reported to a board of management consisting of representatives from SAPOL and Australian Major Events chaired by Superintendent Roger Zeuner. Project Manager, Senior Sergeant Bob Fisher, had a new idea following his involvement in the Police Expo open days at Fort Largs. Tattoo Artistic Director, Sergeant Ken Eakin, was the producer and artistic director of the former Glenelg Tattoos. His drill routines and entertainment ideas for the South Australian Police Band have received international acclamation and established the band as one of the best international display bands.

Senior Constable Greg Schar was the Event Coordinator. Media/marketing was ably controlled by Senior Constables Kerry Spencer and Jo Anne Fisher. The Volunteer Coordinator was Keith Allan. Administrative support came from Deslie Zecchini, not forgetting the input from Senior Constables Joseph O'Connell and Mark Holloway. Chief Inspector John Fitzgerald made a sterling cameo as South Australia's Father of Federation (among other things) and Chief Inspector Peter Graham made a fantastic contribution as MC.

Senior Constable Alistair Robertson undertook the demanding role of logistics and security. To give members an idea of what is involved in that, groups were brought to Adelaide from every state and the Northern Territory. Also, international bands came from Scotland, Singapore and Nepal; and a contingent came from the Royal Canadian Mounted Police, who performed on horseback using South Australian police horses, making the performance all the more special, and highlighting the capabilities of our state's horses.

The Entertainment Centre was carpeted with 1 800 metres of carpet tiles, secured with over 6 000 metres of double-sided tape; and 120 metres of potted flowering plants were used, having been raised by the company during the four months prior to the event. The backdrop to the event was a scale replica of the original police barracks situated behind the museum on North Terrace, where about 40 per cent of the original building and the main gate have been preserved in their original position. It was created by Gary Gaston, who used 350 square metres of canvas, 10 000 staples, 120 litres of paint and 1 000 metres of timber in the construction.

There were four trucks of lighting and sound equipment, and it took two days to install 400 overhead floodlights, stage scans and over 100 metres of suspended trusses. The 630 performers and support staff, 60 of whom liaised and marshalled the performers, had to be fed, accommodated and transferred between destinations and the airport.

I must mention the difficulties faced by the intrepid management team when they were landed with the problems of September 11 and the collapse of Ansett Airlines, which, up until then, was a bronze sponsor of the event. I know how hard it was for the Ansett staff who had taken this event to their hearts to see their participation cut short in such a dreadful way. It must be said that Virgin Blue stepped in and assisted in travel plans at the last minute, and it should be commended for its help.

The Adelaide Entertainment Centre staff have reported that the tattoo was the biggest event ever held at the centre, as other shows run for only one or two performances. Bass reported that word of mouth ticket sales generated from the opening night were the biggest ever seen, and this is against the backdrop of the two biggest disasters we have seen lately happening consecutively.

The event was spectacular. It is now available on a video through the Police Historical Society. It opened with a fanfare composed and arranged by SAPOL's own Constable David Polain and featured didgeridoo by Gary Manygurritj of the Northern Territory Police, part of the emphasis on Australia's indigenous heritage in the opening and closing sequences. For me, though, the highlights were the drill by the South Australian Police Department and the Royal Canadian Mounted Police Mounted Cadre and the fantastic performances of the South Australian Callisthenics Junior and the Senior Display Teams under the direction of Glenys Anderson. I am very proud of the girls and their support network of family and clubs.

The wonderful music from all Australian bands, especially the totally entertaining Itchy Feet Pep Band and Adelaide's own John Reynolds Raiders Drum Corps, were complemented by the band of Her Majesty's Royal Marines, Scotland, and the Singapore Police Force Band and Gurkha contingent of the Pipes and Drums. However, the real stars, of course, were the men, women, horses and dogs of SAPOL, with all their equipment and operational roles on show. It certainly was a sensational event, and congratulations should be handed out to all involved.

Mr De LAINE (Price): On 27 September, in this House I raised the matter of a letter from the State Secretary of the ALP, Ian Hunter, to my personal assistant, Mrs Lorraine Harris, threatening expulsion from the party over a technical breach of party rules by her signing a letter for me. The letter was not widely circulated. I might add that only 40 letters were sent out to personal friends of mine. Obviously, one of them has reached the hands of the party, so obviously one person is not really a friend of mine.

Since that day my personal assistant has received a letter from the State Secretary of the ALP advising her that the party State Executive has upheld his recommendations and that she is expelled from the party retrospective 29 August this year in breach of rule 39.1. Mrs Harris has been a loyal member of the ALP for the past 19 consecutive years, and overall for some 25 years, and has worked for me for the past 12 years. Prior to that, she was the personal assistant to June Appelby, a former Labor whip in this parliament, and before that she was personal assistant to a former federal Labor minister, Senator Jim Cavanagh. In addition, her brother is a former Labor member of this parliament and her uncle was a long-serving and well respected Labor senator for South Australia. In other words, she has an impeccable record of loyalty to the ALP.

Now she has been expelled from the party because of my actions in resigning from the party and because she was doing her best to perform her duties as my personal assistant. Members of this parliament, no matter to which party they belong, know only too well the tremendous job that personal assistants do for us, and we would all say that we would be lost without them. Yet this is a case of a personal assistant doing her job and supporting her MP to the best of her ability, and what does she get? Expulsion from her party. This is outrageous, and I see it as nothing more than discrimination towards a staff member of a member of parliament.

I say 'discrimination' because of the vast difference in the way in which the ALP has treated my personal assistant and other party members. I contrast the ALP's behaviour with what the State Executive and the State Council did with respect to the complaints relating to Jeremy Moore, the endorsed ALP candidate for the state for the fifth position on

the Legislative Council ticket for the coming state election. Mr Moore admitted to being a member of the No GST Party, which ran a so-called independent candidate in the Federal seat of Adelaide in the 1998 federal election. Invoices for posters used in the campaign were sent to his office, but the ALP said that there was no breach of rule 39.1, even though, in my view, it is a clear case of assisting a non-ALP candidate against an endorsed ALP candidate. However, no action was taken.

The SDA, the largest trade union affiliate of the ALP in South Australia, in the 1998 federal election campaign, donated funds to the same No GST candidate for Adelaide. Indeed, the State Secretary of the SDA, Mr Don Farrell, has publicly stated that his union did financially support that No GST candidate. The SDA (as was Mr Moore) was judged by the ALP State Executive not to have breached rule 39.1, or any other rule, but again, in my view, it was a clear breach of rule 39.1.

I have in my possession a copy of a letter written by the member for Spence in December 1993 asking volunteers to hand out a second how-to-vote card at polling booths requesting people to vote for Independent Labor candidate Norm Peterson in the Legislative Council and for the member for Spence in the House of Assembly. This is supporting a non-ALP candidate against an endorsed ALP candidate in the Legislative Council and breaches rule 39.1. Then there was the much publicised case where Justice Mullighan in the Supreme Court found Ian Hunter and the entire ALP State Executive guilty of breaches of party rules. I repeat: they were found guilty by the Supreme Court of breaching party rules—you cannot get a much higher authority than that.

Yet all the people I have mentioned have not been expelled from the ALP. Why not? The case of my personal assistant being expelled for her minor misdemeanour smacks of discrimination compared to these other cases. My challenge to the ALP is this: it cannot have it both ways.

Time expired.

AGRICULTURAL AND VETERINARY PRODUCTS (CONTROL OF USE) BILL

The Hon. R.G. KERIN (Premier) obtained leave and introduced a bill for an act relating to agricultural chemical products, fertilisers and veterinary products; to repeal the Agricultural Chemicals Act 1955, the Stock Foods Act 1941 and the Stock Medicines Act 1939; to amend the Agricultural and Veterinary Chemicals (South Australia) Act 1994 and the Livestock Act 1997; and for other purposes. Read a first time.

The Hon. R.G. KERIN: 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 has been developed in response to feedback received on a Green Paper circulated for public comment from December 1998 to March 1999, following a review of South Australia's legislation regulating agricultural and veterinary chemicals and stock foods. As a result of the review, the proposed legislation will repeal the *Agricultural Chemicals Act 1955*, *Stock Foods Act 1941* and the *Stock Medicines Act 1939*, and provide a comprehensive legislative framework to regulate the use of agricultural and veterinary chemical products, as well as provide for the regulation of fertilisers and stock foods.

The proposed legislation will operate within the context of the Agvet Code of South Australia (the Agvet Code), which forms part of a national scheme adopted in this State under the *Agricultural and Veterinary Chemicals (South Australia) Act 1994*. This scheme regulates the manufacture and supply of agricultural and veterinary chemical products through a product evaluation and registration system. The Bill will complement this scheme by dealing with issues relating to the use and disposal of agricultural and veterinary chemicals. To this end, it seeks to manage and reduce the risk of unintended harm to plants, animals, trade, human health and the environment by encouraging the responsible use and disposal of agricultural and veterinary chemical products and fertilisers.

General Duty

Part 2 of the Bill imposes a general duty of care on a person who uses or disposes of agricultural and certain veterinary chemical products and fertilisers. In using or disposing of these products, a person is required to take reasonable care to prevent or minimise harm to the health and safety of human beings and the environment. In the case of agricultural chemical products, the duty extends to preventing or minimising contamination of land, animals and plants (in terms of chemical residues), outside the area intended to be treated with the particular product. In using or disposing of agricultural and veterinary chemical products and fertilisers, a person is required to take appropriate measures such as observing label instructions, giving consideration to prevailing weather conditions and maintaining equipment used for applying the chemical products.

The object of the general duty is to manage the risk of harm by modifying behaviour and encouraging responsible use and disposal of chemical products and fertilisers. Failing to comply with the duty of care therefore does not of itself constitute an offence. Compliance with the duty is instead enforced by the issuing of a compliance order under Part 5 of the Bill, which may, for example, require a person to cease a particular activity, or to take specified action. If a compliance order is not observed, a penalty will apply.

If the use or disposal of an agricultural or veterinary chemical product results in damage to the environment, or adversely affects the safety of food or the health or welfare of members of the community, it is intended that recourse be made to other relevant legislation such as the *Environment Protection Act 1993*, the *Public and Environmental Health Act 1987*, the *Food Act 1985* (and prospectively the *Food Act 2001*) and the *Occupational Health, Safety and Welfare Act 1986*.

Offences

In order to support the operation of the National Registration Scheme set up under the Agvet Code and administered by the National Registration Authority, Part 3 of the Bill provides for various offences to regulate the use and possession of agricultural and veterinary chemical products. Whether or not a particular chemical product or constituent should be registered under the Agvet Code, involves a thorough evaluation by the National Registration Authority of the possible harmful effects that using or handling the product may have on human beings, plants, animals, trade and commerce and the environment. Once a product is registered, a corresponding label setting out a wide range of information including instructions for its safe use and handling must also be registered. The National Registration Scheme also involves a permit system which will operate in conjunction with the proposed legislation. A permit issued by the Authority may provide for the availability of a particular product (which may or may not be registered), in specified circumstances or under certain conditions and it is intended that such a permit would be recognised under the Bill.

Agricultural Chemical Products

Within the framework of the National Registration Scheme, Division 1 of Part 3 sets out offences relating to the use of agricultural chemical products. A person is prohibited from using or possessing an agricultural chemical product that has not been registered by the National Registration Authority unless the Authority has authorised its use or possession under a permit. If a product is registered, a person must also comply with any mandatory instructions on the label for the product (as prescribed by the regulations). The Bill also imposes responsibilities on a person carrying on an agricultural business to comply with instructions regarding a withholding period that may apply in relation to the use of an agricultural chemical product. Particular emphasis is given to trade products that are supplied before a relevant withholding period has expired, following application of the chemical product. In this case, the manager must supply the recipient of the trade products with a written notice of the withholding period that applies, the particular chemical product used and when it was last used.

Fertilisers

The Bill seeks to ensure that fertilisers meet prescribed standards and do not contain unacceptable impurities such as heavy metals and that labelling of fertilisers enables informed choice by users.

Veterinary Chemicals Products

In 1999, the Agricultural and Resource Management Council of Australia and New Zealand endorsed a set of nationally agreed principles for the control of veterinary chemical use. The Bill seeks to implement the proposed principles in South Australia.

As with the controls on use of agricultural chemical products, Division 3 of Part 3 of the Bill seeks to control the use of veterinary chemical products within the framework of the National Registration Scheme. The Agvet Code through the registration system, regulates the supply and manufacture of veterinary chemical products. The Code does not, however, cover those products that are prepared by a veterinary surgeon in the course of his or her practice. The Bill provides scope for greater control on the supply and use of substances prepared by veterinary surgeons, and imposes greater responsibilities on veterinary surgeons in terms of the instructions that must be given to non-veterinarians treating trade species animals, particularly in relation to withholding periods. The Bill also places controls on the manner in which a non-veterinarian may treat a trade species animal with a veterinary chemical product. Where the product is not registered, or is used in a manner that contravenes the label (in the case of registered chemical products), the person must comply with the written instructions of the veterinary surgeon responsible for treating the animal. The Bill also imposes obligations on the person responsible for the management of a trade species animal if the animal or its products are supplied before a relevant withholding period has expired.

Regulations

Further scope for controlling the use of agricultural and veterinary chemical products is provided through the regulations. Under Part 6 of the Bill, the regulations may prescribe conditions to enable the use of particular chemical products to be tailored to take account of particular circumstances and local conditions. The regulations may, for example, prohibit the use of a particular chemical product in a specified location—a measure which may be necessary to protect the unique characteristics of that particular area. Or, it may be necessary to restrict the time of year or season in which a particular chemical product is used. The regulations may also provide for a licensing system, to ensure that people using chemical products have the necessary training or experience.

Minimising risk to trade

Part 4 of the Bill provides a further mechanism, in the form of trade protection orders, by which the risk of serious harm to trade arising from the use or disposal of agricultural and veterinary chemical products, may be prevented or reduced. An example of a trade protection order may be to prohibit the harvesting or sale of a particular type of trade product, or to direct the recall or destruction of a particular trade product.

Stock Foods

The *Livestock Act 1997* currently contains provisions relating to the feeding of livestock. By amending the *Livestock Act 1997* to provide for regulations that may prescribe standards for stock food and regulate its manufacture, packaging, labelling and supply, the Bill will provide additional means to ensure stock food meets nationally agreed standards.

Enforcement

Part 5 of the Bill deals with issues of enforcement, and includes provisions relating to the appointment of authorised officers and their powers. It also provides for the issuing of compliance orders by the Minister for the purpose of securing compliance with a requirement of the Bill.

In summary, the Bill aims to encourage responsible chemical use in the community by providing a clear framework for chemical users. The new legislation will operate within the context of the National Registration Scheme for agricultural and veterinary chemical products and ensure that South Australia meets its obligations for controlling use of these chemical products. The Bill aims to maximise the economic benefits of using agricultural and veterinary chemicals and fertilisers, while managing the risks of such use in terms of threats to market access, public health, non-target organisms and the environment.

I commend this bill to honourable members.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause sets out the interpretation of certain words and phrases used throughout the measure. Some important definitions include 'agricultural chemical product', 'trade species animal', 'trade species plant', 'veterinary product' and 'withholding period'. Many of the definitions correspond with the definitions used in the AGVET Code.

Clause 4: Eligible laws for purposes of Agvet Code permits

This clause sets out the provisions of the Bill that are 'eligible laws' for the purposes of the definition of 'permit' in *Agricultural and Veterinary Chemicals (South Australia) Act 1994*.

PART 2

GENERAL DUTY

Clause 5: General duty

This clause sets out the duty of care a person has in using or disposing of agricultural chemical products, fertilisers or particular veterinary chemical products. In using these substances a person must take all reasonable and practicable measures to prevent or minimise contamination of animals, plants and land through 'spray drift', harm to the health or safety of human beings and unintended harm to the environment. The reference to 'contamination' is in terms of chemical residues, and the relevant residue limits for trade species plants and animals are set out in the *Maximum Residue Limits Standard* published by the National Registration Authority.

The clause also sets out the factors that may be relevant in determining whether the duty of care has been complied with. These include the nature of the product used, the weather conditions, the nature of the area surrounding the site where the product is used, whether any equipment used was in good repair, and the terms of a label or permit for a particular product. Failure to comply with the duty of care does not constitute an offence in itself, but may result in the issue of a compliance order.

PART 3

OFFENCES

DIVISION 1—AGRICULTURAL CHEMICAL PRODUCTS

Clause 6: Use or possession of unregistered agricultural chemical product

This clause prohibits the possession of an unregistered agricultural chemical product unless the person has a permit issued by the National Registration Authority. There is a defence if the person can show that the product was registered when it came into the person's hands and that no more than four years (or such other period specified by the Minister in the *Gazette*) has elapsed since the product was deregistered. There is a maximum penalty of $35 000.

Clause 7: Mandatory instructions on approved label for registered agricultural chemical product

It is an offence for a person to contravene a mandatory instruction on the label of a registered agricultural chemical product, unless authorised by a permit issued by the National Registration Authority. The maximum penalty is $35 000.

Clause 8: Container for agricultural chemical product

Except where the product is about to be used, an agricultural chemical product must be kept in a suitable container (not a food or drink container) that clearly identifies the product. There is a maximum penalty of $10 000.

Clause 9: Responsibilities in relation to withholding periods

This clause makes it an offence for a person managing or carrying on an agricultural business to contravene instructions on the label of a registered agricultural chemical product regarding a withholding period. Where the agricultural chemical product is used in relation to trade products, and those trade products are supplied before the withholding period expires, the person who carries on or manages the business must give the recipient of the products notice in writing of the withholding period, the chemical product used and the date it was last used. There is a penalty of $35 000 for an offence against this clause.

DIVISION 2—FERTILISERS

Clause 10: Standards for fertiliser

This clause requires that fertiliser must not be supplied by a person unless it is labelled and packaged in accordance with the regulations and meets the standards relating to the level of impurities, composition, quality or manufacture of the fertiliser, as set out in the regulations. Contravening such a regulation can result in a maximum penalty of $35 000.

DIVISION 3—VETERINARY PRODUCTS

Clause 11: Supply of prescribed substances prepared by veterinary surgeon

This clause provides that a person must not supply or have in their possession for supply, a substance prescribed by the regulations that has been prepared by a veterinary surgeon in the course of the

veterinary surgeon's practice, unless the person has a permit issued by the National Registration Authority. There is a maximum penalty of $35 000.

Clause 12: Treatment of animal with, or possession of, prescribed substance

This clause provides that a person must not treat an animal, or have in their possession a substance (other than an unregistered veterinary chemical product) prescribed by the regulations, unless that person has a permit issued by the National Registration Authority. There is a maximum penalty of $35 000.

Clause 13: Treatment of trade species animal by injection

Except in accordance with a National Registration Authority permit, a trade species animal must not be injected with a registered veterinary chemical that is only for oral or topical use. The maximum penalty is $35 000.

Clause 14: Treatment of trade species animals in unauthorised manner

This clause makes it an offence for a trade species animal to be treated with a veterinary product in an unauthorised manner (maximum penalty $35 000). This includes treating animals in the following manner except in accordance with a veterinary surgeon's written instructions or a permit:

(a) treating the animal in a manner that contravenes a mandatory instruction on the label,

(b) using an unregistered product (there is a defence if the product was deregistered less than four years ago),

(c) treating a major food species animal with a product not registered for that particular species,

(d) treating a minor trade species with a product not registered for that species or a related species.

The veterinary surgeon has an obligation to provide written instructions about the treatment and treatment period to the person apparently in charge of the animal. Failure to do so may result in a maximum penalty of $10 000.

Clause 15: Container for prescribed veterinary product

Unless for immediate use, a prescribed veterinary product must be kept in a suitable container (not a food or drink container) that clearly identifies the product. Maximum penalty is $10 000.

Clause 16: Responsibilities of veterinary surgeon in relation to withholding periods

This clause provides that a veterinary surgeon treating a trade species animal with a veterinary product must provide the person in charge of the animal with written instructions regarding any relevant withholding period including details of the treatment and treatment period and requiring the animal to be readily identifiable. There is a maximum penalty of $35 000.

Clause 17: Responsibilities of manager in relation to withholding periods

A person responsible for the management of a trade species animal treated with a veterinary product resulting in a withholding period for the animal or its products, must ensure that the animal and its products are readily identifiable for the duration of the treatment and the withholding period. If the animal or its products are supplied during the treatment period or the withholding period, the recipient must be given written notice of the treatment and withholding period, the veterinary product used and when it was last used. Non-compliance with this clause may result in a maximum penalty of $35 000.

PART 4
TRADE PROTECTION ORDERS

Clause 18: Trade protection orders

This clause provides that the Minister may make a trade protection order to prevent or reduce the possibility of serious harm to trade arising from the use or disposal of agricultural and veterinary products. The orders may do a range of things including prohibiting a trade product from being harvested or sold, recalling a trade product that has been sold, prohibiting the carrying on of a particular activity in relation to a trade product or imposing conditions relating to the taking and analysis of samples of a trade product.

Clause 19: Special provisions relating to recall orders

A trade protection order that requires the recall and/or disposal of a trade product may also require the disclosure of certain information to the public or other class of persons. A person bound by a recall order is liable for any costs incurred by the Minister in relation to the order.

Clause 20: Manner of making order

This clause states that a trade protection order may be in writing addressed and served on particular persons, or it may be addressed to several persons, a class of persons or to all persons, in which case, notice of the order and its terms must be published in an appropriate newspaper. The order is binding on the persons to whom it is addressed and has effect for 90 days unless revoked sooner.

Clause 21: Compensation if insufficient grounds for order

If a person believes there were insufficient grounds for making a trade protection order, the person may apply for compensation from the Minister for loss suffered. A person may appeal to the Administrative and Disciplinary Division of the District Court if dissatisfied with a decision of the Minister to pay, or refuse to pay compensation.

Clause 22: Failure to comply with order

A person who contravenes or fails to comply with a trade protection order may be liable for a maximum penalty of $35 000.

PART 5
ENFORCEMENT
DIVISION 1—AUTHORISED OFFICERS

Clause 23: Appointment of authorised officers

The Minister may appoint authorised officers for the purposes of the Act, on such conditions set out in the instrument of appointment.

Clause 24: Identification of authorised officers

An authorised officer must have a photo identity card, which should be produced for inspection when the officer is exercising the powers under this Act.

DIVISION 2—POWERS OF AUTHORISED OFFICERS

Clause 25: Powers of authorised officers

An authorised officer has certain powers in relation to the administration and enforcement of the Act, including entering and inspecting premises (either by consent or under a warrant), requiring a person to answer questions or provide information, copying documents, testing products and equipment, taking samples and collecting evidence.

Clause 26: Warrants in urgent circumstances

A warrant may be issued by telephone, fax or other prescribed means if required urgently. A magistrate issuing such a warrant must inform the officer of its terms and make a record of it. The officer has one day to forward a completed form of the warrant in those terms to the magistrate concerned.

Clause 27: Offence to hinder, etc. authorised officers

It is an offence for a person to hinder, obstruct, threaten, abuse or otherwise refuse to cooperate with an authorised officer exercising the powers under this Act. Doing so, may result in a maximum penalty of $5 000.

Clause 28: Offences by authorised officers

It is an offence for an authorised officer to address offensive language to another person or, without lawful authority, to hinder or obstruct or use or threaten to use force in relation to another person in the course of exercising powers under this Act.

DIVISION 3—COMPLIANCE ORDERS

Clause 29: Compliance orders

This clause provides for the issuing of compliance orders by the Minister as a means of enforcing the provisions of the Act. The orders are in the form of a written notice served on a person and must set out the requirement of the Act to which it relates. The order may specify that a person discontinue or not undertake a particular activity, impose conditions on a undertaking a particular activity, or require that specified action be taken.

If urgent action is required, an authorised officer may issue an emergency compliance order orally, which will cease to have effect within 72 hours, unless it is confirmed by a written order issued by the Minister. An order may be varied or revoked by the Minister.

It is an offence to fail to comply with an order, which has a maximum penalty of $35 000. If a person fails to comply with an order, an authorised officer may take the action required, and the Minister may recover any costs incurred in doing so. There is a penalty of $5 000 for hindering or obstructing a person complying with an order.

Clause 30: Appeal

A person has 28 days to appeal to the Administrative and Disciplinary Division of the District Court against a compliance order or a variation to an order.

PART 6
MISCELLANEOUS

Clause 31: False or misleading information

A person must not make false or misleading statements in relation to information provided under the Act.

Clause 32: Statutory declarations

The Minister may require any information supplied under this Act to be verified by statutory declaration.

Clause 33: Offences by body corporate

If a body corporate is guilty of an offence, each member of the governing body and the manager are guilty of an offence and are liable to the same penalty.

Clause 34: Recovery of technical costs associated with prosecutions

If a person is found guilty of an offence, the Court must, on the application of the Minister, order the convicted person to pay the reasonable costs incurred in the taking and analysis of samples and tests required in investigating and prosecuting the offence.

Clause 35: General defence

There is a general defence to an offence under the Act for the defendant to prove that the particular offence was not committed intentionally and it did not result from a failure to take reasonable care.

Clause 36: Civil remedies not affected

This clause provides that civil rights or remedies are not affected by the Act, and that complying with this Act does not necessarily mean that a duty at common law will be satisfied.

Clause 37: Confidentiality

Confidential information obtained in connection with the administration or enforcement of the Act must not be disclosed except in specified circumstances. There is a maximum penalty of $10 000.

Clause 38: Immunity from liability

No personal liability attaches to the Minister, authorised officer or other person in carrying out their duties under the Act in good faith. Any such liability lies instead against the Crown.

Clause 39: Service

This clause sets out the manner in which any documents are to be served under the Act.

Clause 40: Evidence

This clause sets out evidentiary provisions in relation to the proof of documents and authorised officers in proceedings under the Act.

Clause 41: Incorporation of codes, standards or other documents

Codes, standards and other documentation may be incorporated by the regulations or an order made under this Act, in which case copies must be available for inspection by the public without charge.

Clause 42: Regulations

This clause sets the various regulations that can be made under the Act. These include regulations that may provide for a licensing system for the use of agricultural and veterinary products, prohibit the use or disposal of particular agricultural and veterinary products in particular locations or by specified means, prescribe various conditions for the use of agricultural and veterinary products, regulate equipment, require records to be kept and information to be provided, fix fees and prescribe fines.

SCHEDULE

Repeals and Amendments

Clause 1: Repeal of Agricultural Chemicals Act

Clause 2: Repeal of Stock Foods Act

Clause 3: Repeal of Stock Medicines Act

These clauses repeal the Agricultural Chemicals Act 1955, Stock Foods Act 1941 and the Stock Medicines Act 1939.

Clause 4: Amendment of Agricultural and Veterinary Chemicals (South Australia) Act

This clause makes technical amendments to the Agricultural and Veterinary Chemicals (South Australia) Act 1994.

Clause 5: Amendment of Livestock Act

This clause amends the Livestock Act 1997 to include regulation making powers in relation to standards and composition of stock food and its manufacture, packaging, labelling, sale and supply. It also removes the provision in the Act dealing with the feeding of ruminants and other livestock with a view to this matter being dealt with in the regulations.

Ms HURLEY secured the adjournment of the debate.

AQUACULTURE BILL

The Hon. R.G. KERIN (Premier) obtained leave and introduced a bill for an act to regulate marine and inland aquaculture; to amend the Environment Protection Act 1993 and the Fisheries Act 1982; and for other purposes. Read a first time.

The Hon. R.G. KERIN: 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.

Background

The purpose of this Bill is to improve the regulation of aquaculture in South Australia and to ensure the long term sustainability of the industry.

Aquaculture is an important and growing industry in this State and has significant benefits to regional South Australia. Its estimated value in 1999-2000 was $260 million, directly employing over 1 100 people. In addition, it generated $193 million and employed a further 1 400 people in associated industries. The estimated value of the industry in the year 2002-03 is in excess of $330 million.

The Bill proposes the most fundamental reform of South Australian aquaculture legislation since the Fisheries Act was introduced in the early 1980s. This reform is necessary to ensure that the legislation keeps pace with the rapid growth of the aquaculture industry and the significant changes in technology that have occurred and will continue to occur.

The Bill provides for an integrated licensing and tenure system aimed at achieving an ecologically sustainable aquaculture industry in South Australia.

In a move to modernise the legislation, State Cabinet in December 1999 approved action to prepare an Aquaculture Bill to rectify the shortcomings of the *Fisheries Act 1982*, which currently regulates aquaculture.

Development of the Bill has been overseen by an interagency steering group of representatives of government bodies involved in regulating the industry and has been done in consultation with a community reference group which includes representatives from the aquaculture industry, the conservation movement, local government and the scientific community.

Following extensive industry and community consultation on a Discussion Paper released in August 2000, which set out a number of legislative options, Cabinet in May this year approved the drafting of an Aquaculture Bill.

In July this year, Cabinet approved the public release of a Consultation Draft *Aquaculture Bill 2001* which was the subject of extensive industry and community consultation between 18 July 2001 and 15 September 2001.

The Bill

The objects of the Bill are first, to promote the ecologically sustainable development of marine and land based aquaculture; second to maximise the benefits to the community from the State's aquaculture resources; and third to ensure the efficient and effective regulation of the aquaculture industry.

The Bill adopts a definition of ecologically sustainable development which has been designed to ensure consistency with the Commonwealth Environment Protection and Biodiversity Conservation legislation and the Intergovernmental Agreement on the Environment and relevant policy in this area. This definition encompasses the economic, social and physical well being of our communities while maintaining natural and physical resources, protecting biological diversity and ecological processes and avoiding adverse effects on the environment.

The Bill has been developed to comprehensively address resource and environmental management responsibilities associated with the aquaculture industry. This objective will be achieved through the introduction of an integrated licensing system and resource management framework with close linkages with the Environment Protection Authority.

Policies

The Bill provides for the making of aquaculture policies by the Minister. These policies will be key planning and management tools for the aquaculture industry. Policies may identify specific aquaculture zones and exclusion zones in marine areas and may prescribe conditions and offences under the Bill. Draft aquaculture policies are to be widely advertised and will be subject to Parliamentary scrutiny.

The Bill recognises the need to ensure consistency between aquaculture policies and other planning instruments. In particular, the proposed marine planning framework will play a significant role in shaping aquaculture policy in the State's marine waters.

The Bill also provides for an Aquaculture Advisory Committee to be made up of representatives from government, research, industry, environmental conservation and from local government. Its role is to provide advice to the Minister on aquaculture and the administration of the legislation.

Licences

The Bill requires any person conducting aquaculture to have a licence granted by the Minister, a requirement which applies to aquaculture carried out in State waters as well as land based

aquaculture. This overcomes the inconsistent manner in which the present legislation regulates the two types of aquaculture. Aquaculture licences may be granted for up to 10 years and are renewable for successive terms.

The Bill introduces a licensing system and resource management framework to comprehensively address the resource and environmental management responsibilities associated with the aquaculture industry.

In the case of marine based aquaculture a 'corresponding licence' will apply in addition to the relevant lease. The term 'corresponding licence' relates to an aquaculture lease and means the aquaculture licence in respect of all or part of the area of the lease authorising the same class of aquaculture as that specified in the lease.

Leases

The Bill provides a flexible approach to the granting of rights to occupy State waters and provides security for aquaculture operators while protecting the interests of the community. Under the Bill, a licence may not be granted for aquaculture in State waters unless the area is subject to a lease granted by the Minister. The Bill allows for four types of lease, namely pilot, development, production and emergency leases.

Pilot leases may be available outside of an aquaculture zone for the purpose of aquaculture research or trials. They have a maximum term of 12 months with renewal up to 3 years. Pilot leases may, under certain conditions, be converted to development leases.

Development leases may only be granted in an aquaculture zone, have a maximum term of 3 years (renewable up to 9 years) and may, subject to certain conditions, be converted to production leases.

Production leases may only be granted in an aquaculture zone, have a maximum term of 20 years and are renewable for successive terms.

Emergency leases are only available in an emergency zone and have a maximum term of 3 months renewable up to 6 months.

The power of the Minister to grant an aquaculture lease is subject to the requirement under section 15 of the *Harbors and Navigation Act 1993* that the concurrence of the Minister responsible for the administration of that Act is obtained.

The Bill provides for the establishment of a Tenure Allocation Board to advise the Minister on the allocation of pilot, development and production leases.

The competitive allocation process will ensure a fair and efficient means of allocating the State's marine aquaculture resources.

The Bill provides for the establishment of marked-off areas to ensure the protection of aquaculture stock. It is intended that marked-off areas will be set by licence condition and will be kept to the minimum size required to protect stock and not unduly restrict public access.

Aquaculture leases will provide security of tenure, whilst licences will accommodate flexible regulatory and management practices.

Planning and development

Development planning and development approval for aquaculture, both land based and in State waters, will continue to occur in accordance with the *Development Act 1993*.

Development Plans established under the *Development Act 1993* will be able to adopt aquaculture policies.

Existing rights of public consultation and participation in the assessment of aquaculture development proposals under the *Development Act 1993* are not affected by the Bill.

Role of EPA

In order to gain the benefits of an integrated licensing system while ensuring adequate environmental safeguards, the Environment Protection Authority will play a key role in approval and monitoring of aquaculture development. The Bill requires that prior to the Minister granting a licence, the Environment Protection Authority approve the licence and any amendment of conditions.

While the current aquaculture licensing provisions of the *Environment Protection Act 1993* will be revoked, the breadth of aquaculture operations examined by the Authority will increase. Accordingly, the Authority will be supported by increased resources to undertake its role in accordance with a service level agreement with Primary Industries and Resources SA.

Importantly, the Environment Protection Authority will retain existing powers to enforce the general environmental duty and environmental harm under the *Environment Protection Act 1993* as it relates to aquaculture.

To achieve efficient and effective administration of the Act, a Memorandum of Understanding will be developed between Primary Industries and Resources SA and the Environment Protection Authority.

Appeals

The Bill provides for appeals on licensing decisions by the Minister to be made to the District Court by the applicant.

Transitional provisions

The transitional provisions contained in the Bill provide that the Minister must, without any requirement for an application or payment of a fee, grant an appropriate aquaculture licence or lease to any person entitled to carry on aquaculture operations immediately before the commencement of the Bill. It is anticipated that the transitional provisions will fully bring the existing operators into line with the objects of the Bill on a staged basis.

Competition review

A National Competition Policy review of the Bill indicates that restrictions on competition of the licensing, leasing and aquaculture policy aspects of the Bill are outweighed by the public benefits (ecological, social and economic) that flow from the proposed legislation.

Fund

An Aquaculture Resources Management Fund will be established for the purposes of any investigations or other projects relating to the management of aquaculture resources or towards the costs of administration of this Act.

Other legislation

Following advice from the Attorney-General's Department, no specific mention has been made in the Bill to Native Title. The advice is that the *Native Title Act* 'future act' provisions would seem to apply without the need for any specific reference in the State legislation.

The Bill also makes consequential amendments to the *Fisheries Act 1982* and the *Environment Protection Act 1993*. The Bill is intended to streamline the regulation of the aquaculture industry and not to supersede relevant legislation except as specifically provided in the consequential amendments. The Bill provides that it operates in addition to other relevant legislation. The operation of the *Development Act 1993* will continue in relation to aquaculture development.

Conclusion

The Bill is an important development in the regulation and long term sustainability of the aquaculture industry in South Australia.

I commend the bill to the House.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Interpretation

This clause sets out definitions for terms used in the measure. Some key terms include 'aquaculture', 'aquaculture lease', 'aquaculture licence' and 'aquaculture policy'.

Clause 4: Ecologically sustainable development

For the purposes of this measure, ecologically sustainable development is development that balances the economic, social and physical well-being of a community and the protection of natural and physical resources, biodiversity and ecological processes.

Clause 5: Crown bound

This measure binds the Crown.

Clause 6: Application of Act

This measure applies to the State, State waters and waters beyond State Waters to the extent of the extraterritorial power of Parliament.

Clause 7: Interaction with other Acts

This measure does not limit or derogate from the provisions of any other Act.

PART 2

OBJECTS OF ACT

Clause 8: Objects of Act

The objects of the measure are to promote ecologically sustainable development of aquaculture, to maximise community benefit from the State's aquaculture resources and to regulate the aquaculture industry efficiently and effectively.

PART 3

EFFICIENT ADMINISTRATIVE PRACTICES

Clause 9: Efficient administrative practices

This clause recognises the need for administrative cooperation in the operation of other relevant legislation to ensure the efficient and effective regulation of the aquaculture industry.

PART 4
AQUACULTURE POLICIES
DIVISION 1—GENERAL

Clause 10: Interpretation

A reference to an aquaculture policy (including a draft policy) also includes a reference to an amendment or revocation of an aquaculture policy.

Clause 11: Nature and content of policies

This clause provides for the making of aquaculture policies by the Minister. Aquaculture policies may identify various zones in which different classes of aquaculture may be permitted or excluded. A zone may also be identified (a prospective aquaculture zone) as an area in which investigations may be carried out to determine whether in fact, aquaculture of a particular class should be permitted. An aquaculture policy may also set out matters that must be taken into account in determining an application for an aquaculture lease or licence, as well as conditions that will form part of the lease or licence. An aquaculture policy may vary in its terms depending on the area, zone and class of aquaculture to which it applies.

Clause 12: Procedures for making policies

This clause sets out the procedures for making an aquaculture policy. A draft policy must be prepared in consultation with the Aquaculture Advisory Committee (AAC) set up under Part 10 of this measure, and along with an explanatory report, the Minister must refer the policy to any prescribed body and any public authority affected by the policy. An advertisement must also be published in the *Gazette* and a newspaper advising where copies of the draft policy and report may be obtained and inviting submissions from interested persons. If there are any proposed alterations to the policy as a result of the consultation process, the Minister must obtain the advice of the AAC. The Minister may then approve the draft policy (as altered) by notice in the *Gazette* and fix a date for its operation.

Clause 13: Parliamentary scrutiny

Once approved by the Minister, an aquaculture policy must be referred to the Environment, Resources and Development Committee of the Parliament for consideration. The Committee may object, approve or suggest amendments to the policy. The Minister may accept any suggested amendments, and give notice in the *Gazette*. If the Committee objects to the policy, it must be laid before both Houses of Parliament, either of which may pass a resolution to disallow the policy. In this case, the policy would then cease to have effect.

Clause 14: Certain amendments may be made by Gazette notice only

A minor change to an aquaculture policy may be made by notice in the *Gazette* (substantive changes must comply with the procedure for making a policy outlined above).

Clause 15: Availability and evidence of policies

Copies of an aquaculture policy must be available for inspection and purchase by the public.

DIVISION 2—CONTRAVENTION OF MANDATORY PROVISIONS

Clause 16: Offence to contravene mandatory provisions of policy

It is an offence to contravene a mandatory provision of an aquaculture policy, and there is a maximum penalty of $35 000 for doing so.

PART 5
REQUIREMENT FOR LICENCE

Clause 17: Requirement for licence

A person must not carry on aquaculture without an appropriate licence. There is a maximum penalty of $35 000.

PART 6
LEASES
DIVISION 1—GENERAL

Clause 18: Application of Part

This Part, which deals with aquaculture leases, applies to State waters and adjacent land (within the meaning of the *Harbors and Navigation Act 1993*).

Clause 19: Requirement for lease

An aquaculture licence cannot be granted in relation to an area unless the Minister has granted an aquaculture lease for that area.

Clause 20: Concurrence under Harbors and Navigation Act

If an aquaculture lease involves land vested in the Minister responsible for the administration of the *Harbors and Navigation Act 1993*, then that Minister must concur with the grant of the aquaculture lease in relation to that land.

Clause 21: Leases not permitted in respect of aquaculture exclusion zones

An aquaculture lease may not be granted in relation to an area that falls within an aquaculture exclusion zone.

Clause 22: General process for grant of leases

An application for an aquaculture lease must be made under this Part in the required form and must contain the necessary information (verified by statutory declaration, if required by the Minister). If a lease is granted, notice must be published in the *Gazette*. If an application is refused, the Minister must give reasons if requested by the applicant.

Clause 23: Certain lease applications to follow public call for applications

An aquaculture lease may be granted through a public call for applications made in accordance with the procedure approved by the Aquaculture Tenure Allocation Board (ATAB), set up under Part 10 of this measure.

Clause 24: Grant of leases to be preceded by decision as to licences

An aquaculture lease must not be granted unless the Minister has decided that a corresponding licence will be granted under Part 7 of the measure.

Clause 25: Form of leases

An aquaculture lease must specify the class of aquaculture that may be carried out under the lease and may contain other conditions including the term of the lease, the rent or other amounts payable and grounds for cancellation.

Clause 26: Classes of leases

There are four classes of aquaculture lease: a pilot lease, a development lease, a production lease and an emergency lease.

DIVISION 2—PILOT LEASES

Clause 27: Pilot leases outside aquaculture zones

A pilot lease may only be granted in relation to an area that is outside an aquaculture zone (as determined by an aquaculture policy).

Clause 28: Allocation process for pilot leases within prospective aquaculture zones

A pilot lease that involves an area in a prospective aquaculture zone may only be granted through a process approved by ATAB involving the drawing of lots.

Clause 29: Term of pilot leases

A pilot lease is for a term of 12 months or less and may be renewed subject to the terms of the lease and a maximum aggregate of three years.

Clause 30: Pilot leases not transferable

A pilot lease can not be transferred.

Clause 31: Licences may only be held by lessees

Only the lessee under a pilot lease can hold the corresponding aquaculture licence.

DIVISION 3—DEVELOPMENT LEASES

Clause 32: Granting of development leases limited to aquaculture zones

A development lease can only be granted in relation to an area in an aquaculture zone.

Clause 33: Competitive allocation process required

A development lease can only be granted through a tendering or other competitive process approved by ATAB.

Clause 34: Conversion of pilot leases to development leases

The holder of a pilot lease may apply to have the lease converted to a development lease within 60 days before the end of the term of the lease, if the area of the pilot lease is within an aquaculture zone and the Minister is satisfied that aquaculture carried on under the pilot lease meets the performance criteria set out by the pilot lease.

An application for conversion may also be made within 60 days of the end of the last term for which the pilot lease may be renewed if the Minister is satisfied the conversion is consistent with the objects of this measure and any relevant aquaculture policy, and is satisfied that aquaculture carried on under the pilot lease meets the performance criteria set out in that lease. In this case, the Environment Protection Authority must also approve the conversion.

An applicant for conversion of the lease must provide the Minister with any information required, and may have to verify that information by statutory declaration.

Clause 35: Term of development leases

A development lease is for a term of three years or less and may be renewed subject to the terms of the lease and a maximum aggregate of nine years.

Clause 36: Transfer of development leases

A development lease may be transferred with the consent of the Minister.

DIVISION 4—PRODUCTION LEASES

Clause 37: Conversion of development leases to production leases

A lessee of a development lease may apply to the Minister to convert the lease to a production lease. An application may be made within 60 days of the end of the term of the development lease if the relevant area is within an aquaculture zone and the Minister is satisfied aquaculture carried out under the lease meets the performance criteria set out in the development lease.

The lease may also be converted if an application is made within 60 days of the end of the last term for which the development lease may be renewed if the Minister is satisfied the conversion of the lease to a production lease is consistent with the objects of this measure and any relevant aquaculture policy, and is satisfied aquaculture carried out under the development lease meets the performance criteria specified in that lease. Approval of the EPA is also required before the lease may be converted in these circumstances.

An applicant for conversion of the lease must provide information required by the Minister, and may need to verify the information by statutory declaration.

Clause 38: Term of production leases

A production lease has a maximum term of 20 years and is renewable for successive terms subject to the terms of the lease.

Clause 39: Transfer of production leases

A lessee may transfer a production lease, but must give notice of the transfer to the Minister along with any other prescribed details of the transfer.

DIVISION 5—EMERGENCY LEASES

Clause 40: Granting of emergency leases limited to aquaculture emergency zones

An emergency lease may only be granted in relation to an area that is within an aquaculture emergency zone.

Clause 41: Granting of leases in circumstances of emergency

An emergency lease may be granted if the aquaculture emergency zone relates to the class of aquaculture carried out by the applicant under their aquaculture lease, and there is an emergency resulting in a need to protect the environment or aquaculture stock.

Clause 42: EPA to be notified of emergency lease

The Minister is to ensure that the Environment Protection Authority is notified immediately of the grant of an emergency lease.

Clause 43: Only holder of leases affected by emergency may hold emergency leases

An emergency lease can only be held by the holder of the lease that is affected by the emergency.

Clause 44: Term of emergency leases

An emergency aquaculture lease has a maximum term of three months and may be renewed subject to the terms of the lease and a maximum aggregate of six months.

DIVISION 6—OCCUPATION OF MARKED-OFF AREAS

Clause 45: Exclusive occupation of marked-off areas

A lessee has the right of exclusive occupation of the area marked-off under the aquaculture lease subject to provisions of the lease.

Clause 46: Control of marked-off areas

If requested by an authorised person, a person must leave a marked-off area of an aquaculture lease immediately unless they have a reasonable excuse. That person must not re-enter the area without the permission of the authorised person, and must not use offensive language if asked to leave. If requested by an authorised person, a person who has been asked to leave must give their name and address. The authorised person must not use offensive language or behave offensively in exercising the power under this measure. The powers of an authorised person under this provision may be limited by the lease or a corresponding licence.

Clause 47: Interference with stock or equipment within marked-off areas

It is an offence to interfere with or take aquaculture stock or equipment in a marked-off area of an aquaculture lease. A person convicted of an offence under this clause may be ordered to pay compensation for loss or damage due to the offence.

Clause 48: Offence to pretend to be authorised person

It is an offence to pretend to be an authorised person.

PART 7

LICENCES

Clause 49: Applications for licences

An applicant for an aquaculture licence must apply in the required form and provide such information as required by the Minister (which must be verified by statutory declaration if requested).

Clause 50: Grant of licences

The Minister may grant a corresponding licence in relation to an application for an aquaculture lease, or a public call for applications for an aquaculture lease, if the Minister is satisfied it would be consistent with the objects of this measure and any relevant aquaculture policy, and notice of the application has been advertised in a newspaper inviting submissions from interested persons. The Minister must also be satisfied that the applicant is a suitable person (having regard to any prior offences against this measure or a similar Act relating to aquaculture, fishing or environment protection). The EPA must also give its approval before the licence is granted.

A licence (other than a corresponding licence) may be granted by the Minister if the grant of the licence is consistent with the objects of this measure and any relevant aquaculture policy and the applicant is a suitable person. The Minister must also publish in a newspaper, notice of the application and invite submissions from interested persons. The EPA must also give its approval before the licence is granted.

Clause 51: Licences may be held jointly

An aquaculture licence may be held jointly by two or more persons, who will be jointly and severally liable to meet obligations under the licence.

Clause 52: Variation of licence conditions

If a licence contains standard conditions prescribed by an aquaculture policy, those conditions may be varied by the Minister by giving notice to the licensee in accordance to the relevant aquaculture policy. A non-standard licence may be varied at the request of the licensee, or by the Minister, if he or she is satisfied it is necessary to avoid significant environmental disaster and the variation has been approved by the EPA.

Clause 53: Term of licences

The maximum term for a licence is ten years and is renewable for successive terms. Where the licence is a corresponding licence, the term of the licence is co-extensive with the term of the aquaculture lease to which it relates, and will be automatically renewed on renewal of the lease.

Clause 54: Corresponding licences terminated on termination of lease

If an aquaculture lease is cancelled, any corresponding licences are also cancelled.

Clause 55: Transfer of licences

An aquaculture licence may be transferred with the consent of the Minister.

Clause 56: Surrender of licences

An aquaculture licence may be surrendered with the consent of the Minister.

Clause 57: Suspension or cancellation of licences

The Minister may suspend or cancel a licence if there is proper cause to do so (there is proper cause to do so if the licensee obtained the licence improperly or failed to comply with a condition of the licence or committed an offence against this measure or another relevant Act relating to aquaculture, fishing or environment protection). Before a licence is suspended or cancelled, the Minister must give written notice to the licensee setting out the matters alleged to constitute proper cause, and the action the Minister proposes to take. The licensee must be given reasonable opportunity to show cause why the proposed action should not be taken.

Clause 58: Power to require or carry out work

The Minister may direct a licensee to take action required by a condition of the licence, or require the removal or stock or equipment on the cancellation or termination of a licence. If a person fails to comply with such a direction, the Minister may cause the required action to be taken and recover the costs from the person.

PART 8

REFERENCE OF MATTERS TO EPA

Clause 59: Reference of matters to EPA

This clause sets out the matters under the measure that are to be referred to the EPA for consideration. In doing so, the EPA may request it be provided with information to enable it to respond. The determination of the EPA's response is governed by the same criteria as apply under the *Environment Protection Act 1993*. A person directly affected by a response of the EPA in relation to a matter referred to it, must be notified of that response. The EPA must, if requested by the Minister, give a written statement of reasons for any negative response.

PART 9

APPEALS

Clause 60: Appeals

This clause sets out those persons entitled to appeal a decision of the Minister made under this measure to the Administrative and

Disciplinary Division of the District Court. These include an applicant for an aquaculture lease where the Minister has refused to grant a corresponding licence or has made the licence subject to certain conditions; an applicant who has been refused a corresponding licence or an aquaculture licence; and the holder of a licence where the Minister has varied the conditions, is refusing to consent to the transfer or surrender of the licence, or has suspended or cancelled the licence. An appeal must be instituted within one month of the making of the decision being appealed, or where applicable, within one month of the receipt of written reasons for the Minister's decision by the person appealing the decision. Where a matter has been referred to the EPA, a response of the EPA against the granting of a licence will be appealable as a decision of the Minister and the EPA will be a party to an appeal against any decision of the Minister in relation to the matter referred.

PART 10
ADMINISTRATION
DIVISION 1—MINISTER

Clause 61: Power of delegation

The Minister may delegate his or her functions and powers under this measure.

Clause 62: Acquisition of land

Land may be acquired by the Minister for the purposes of this measure in accordance with the *Land Acquisition Act 1969*.

DIVISION 2—AQUACULTURE ADVISORY COMMITTEE

Clause 63: Establishment of Aquaculture Advisory Committee

This clause establishes the Aquaculture Advisory Committee (AAC).

Clause 64: Functions of AAC

In addition to other functions that may be assigned to it, the functions of the AAC are to advise the Minister on matters relating to aquaculture and on the administration of this measure and the policies governing its administration.

Clause 65: Membership of AAC

This clause sets out special requirements for the membership of the AAC.

Clause 66: Terms and conditions of membership

A member of the AAC is appointed for a term not exceeding three years (and may be eligible for reappointment). The Governor may remove a Committee member for breach of a condition of appointment, misconduct or failing to carry out his or her duties. A position is vacated if a member dies, resigns or is not reappointed on expiration of the term of appointment.

Clause 67: Remuneration

A Committee member is entitled to remuneration, allowances and expenses as determined by the Minister.

Clause 68: Disclosure of interest

An AAC member who has a conflict of interest in relation to a matter being considered by the Committee, must disclose that interest and not take part in any deliberations or decisions of the Committee in relation to the matter.

Clause 69: Validity of acts of AAC

A vacancy in its membership, or a defect in the appointment of a member will not invalidate an act or proceeding of AAC.

Clause 70: Procedures of AAC

This clause sets out the procedures of AAC proceedings and decision making processes and includes provisions covering quorums, presiding members, voting, telephone conferences and minute keeping.

DIVISION 3—AQUACULTURE TENURE ALLOCATION BOARD

Clause 71: Establishment of Aquaculture Tenure Allocation Board

This clause establishes the Aquaculture Tenure Allocation Board (ATAB).

Clause 72: Functions of ATAB

In addition to any other functions assigned by the Minister or this measure, the functions of ATAB are to advise the Minister on matters relating to the allocation of tenure for aquaculture.

Clause 73: Membership of ATAB

This clause sets out the special membership requirements of the Board.

Clause 74: Terms and conditions of membership

A member of ATAB is appointed for a term not exceeding three years (and may be eligible for reappointment). The Governor may remove a Board member for breach of a condition of appointment, misconduct or failing to carry out his or her duties. A position is vacated if a Board member dies, resigns or is not reappointed on expiration of the term of appointment.

Clause 75: Remuneration

A Board member is entitled to remuneration, allowances and expenses as determined by the Minister.

Clause 76: Disclosure of interest

An ATAB member who has a conflict of interest in relation to a matter being considered by the Board, must disclose that interest and not take part in any deliberations or decisions of the Board in relation to the matter.

Clause 77: Validity of acts of ATAB

A vacancy in its membership, or a defect in the appointment of a member will not invalidate an act or proceeding of ATAB.

Clause 78: Procedures of ATAB

This clause sets out the procedures of ATAB proceedings and decision making processes and includes provisions covering quorums, presiding members, voting, telephone conferences and minute keeping.

DIVISION 4—FUND

Clause 79: Aquaculture Resource Management Fund

An Aquaculture Resource Management Fund is established. The Fund is to consist of the following money:

- the prescribed percentage of fees (other than expiation fees);
- expiation fees and the prescribed percentage of penalties recovered in respect of offences;
- rent or any other amount (not being fees) paid to the Minister;
- any money appropriated by Parliament for the purposes of the Fund;
- any money paid into the Fund at the direction or with the approval of the Minister and the Treasurer;
- any income from investment of money belonging to the Fund;
- any other money paid into the Fund.

The Fund may be applied by the Minister for the purposes of any investigations or other projects relating to the management of aquaculture resources and towards administrative costs.

DIVISION 5—PUBLIC REGISTER

Clause 80: Public register

This clause requires the Minister to maintain a public register of aquaculture leases and licences that includes details about the terms and conditions of each lease or licence, the names of the lessees or licensees, a description of the area covered by the lease or licence, details of environmental monitoring reports and any other information the Minister considers appropriate (other than commercially sensitive information).

Clause 81: Public register to be available for inspection

The register must be available for free inspection by the public during normal office hours at a public office and on the internet. Copies must also be available for purchase for a reasonable fee.

DIVISION 5—FISHERIES OFFICERS AND THEIR POWERS

Clause 82: Fisheries officers and their powers

Fisheries officers may exercise the powers they have under the *Fisheries Act 1982*, in the administration and enforcement of this measure.

PART 11
MISCELLANEOUS

Clause 83: Annual reports

A report must be provided to the Minister on the operation and administration of this measure during the previous financial year, and the report must be laid before both Houses of Parliament.

Clause 84: Immunity of persons engaged in administration of Act

No liability attaches to a person who exercises or discharges their powers and functions under this measure in good faith, but any such liability attaches instead to the Crown.

Clause 85: False or misleading information

It is an offence for a person to make a false or misleading statement in relation to the provision of information in accordance with this measure.

Clause 86: Service of documents

This clause sets out the requirements for the service of any documents under this measure.

Clause 87: Continuing offence

This clause provides that if a person is convicted of an offence that relates to a continuing act or omission, the person may be liable to an additional penalty for each day that the act or omission continued (but not so as to exceed one tenth of the maximum penalty for the offence).

Clause 88: Liability of directors

If a corporation commits an offence against this measure, each director of the corporation may also be prosecuted for the offence, and if guilty, may be liable for the same penalty as fixed for the principal offence.

Clause 89: General defence

This clause provides a general defence where a defendant proves the alleged offence was not committed intentionally and did not result from any failure of the defendant to take reasonable care to avoid commission of the offence.

Clause 90: Evidentiary

To assist in proceedings for an offence against this measure, this clause provides that certain matters, if certified by the Minister, alleged in the complaint, or stated in evidence, will be proof of the matter certified, alleged or stated, in the absence of proof to the contrary.

Clause 91: Regulations

The regulations that may be made under this measure include regulations for the provision of information, records and returns relating to aquaculture leases or licences, payment of fees, exemptions from provisions of this measure, and fines not exceeding $5 000 for an offence against a regulation.

SCHEDULE

Consequential Amendments and Transitional Provisions

The Schedule sets out consequential amendments to the *Environment Protection Act 1993* and the *Fisheries Act 1982*. It also sets out a transitional provision in relation to persons lawfully carrying on aquaculture prior to the commencement of this measure.

Ms HURLEY secured the adjournment of the debate

VICTIMS OF CRIME BILL

The Legislative Council agreed to amendments Nos 2 to 4 made by the House of Assembly without any amendment, disagreed to amendment No. 1, for the reason indicated, and has made in lieu an alternative amendment, indicated by the following schedule, to which it desires the concurrence of the House of Assembly:

Clause 20, page 15, line 26—Before 'the amount' insert:

if the numerical value so assigned is 2 or less, no award will be made for non-financial loss but, if the numerical value exceeds 2,

Schedule of the Reason for disagreeing with the foregoing amendment

Because the Legislative Council's amendment is fairer than the amendment proposed by the House of Assembly.

STATUTES AMENDMENT (ATTORNEY-GENERAL'S PORTFOLIO) BILL

Received from the Legislative Council and read a first time.

The Hon. M.K. BRINDAL (Minister for Water Resources): 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 will make a number of minor, uncontroversial amendments to legislation within the Attorney-General's portfolio.

Administration and Probate Act

Section 121A of the *Administration and Probate Act* currently requires an applicant for administration or probate or an applicant for the sealing of a foreign grant of probate or administration to provide the Court with a statement of all the deceased person's assets and liabilities known at the time of the application. The section further provides that, once the administration or probate is granted or sealed, the administrator or executor of the estate is under an obligation to inform the court of any other assets or liabilities that come to his or her attention during the execution or administration of the estate.

The statement of assets and liabilities proves useful by providing essential information to a person with an interest in the administration of an estate and who is considering whether or not to bring a family provision application. It also ensures that there is a comprehensive list of the estate's assets and liabilities, which can be referred to if there are concerns about the administration of the deceased's estate at a later date.

While, in general, there are substantial merits in requiring an applicant to provide the court with a list of all the deceased's assets and liabilities, the benefits that such a comprehensive statement bring are likely to be outweighed by the cost of compiling such a statement in circumstances where the deceased's connection to Australia is tenuous. As such, the Government is satisfied that only Australian assets should be disclosed in accordance with the requirements of section 121A of the Act where the deceased's last domicile was not Australia, and where the deceased was not a resident of Australia at the time of death. This Bill ensures that section 121A of the Act is amended accordingly.

Criminal Law Consolidation Act

Presently, only a few provisions in the *Criminal Law Consolidation Act 1935* give rise to the need for Regulations and, where this is the case, a specific regulation making power has been included in the body of the particular section. There is no general regulation making power in the Act. A recent proposal to prescribe the form of a warrant for a detention order under section 269O of the Act, which deals with defendants who are declared liable to supervision, highlighted the difficulties of not having a general regulation making power in the Act. It was not anticipated that regulations would be required so no specific regulation making power was enacted in connection with section 269O. Given that there was also no general regulation making power in the Act, there was no power to prescribe the form of the warrant by regulation.

Although the lack of a general regulation making power has only been identified as a problem in relation to section 269O of the Act, it is foreseeable that the issue may again arise in the future, particularly with the spate of amendments resulting from the staged reform of the criminal law. As a result, the Bill introduces a general regulation making power into the Act to allow the Governor to make regulations as are contemplated by the Act, or as are necessary or expedient for the purposes of the Act.

It is also necessary to make two technical amendments to the *Criminal Law Consolidation Act* to correct omissions made when the mental impairment provisions were inserted.

Section 269G should have provided for the Court to direct that a person who was found to be mentally incompetent under that section be declared liable to supervision under the relevant Part. However, when the amendments were made, the words 'declared liable to supervision under this Part' were unintentionally omitted from this section. The Bill will therefore amend the Act to correct this error.

When the power to detain for the Governor's pleasure was removed and replaced with the provisions regarding persons being declared liable to supervision, one reference to the power to detain for the Governor's pleasure was accidentally retained. The Bill will strike out section 354(4), which contains this reference. Section 354(4) relates to the powers of the appellate court to quash a conviction and order detention where it appears to the court that the appellant was 'insane' at the time of commission of the offence. In place of section 354(4), the Bill amends section 269Y of the Act dealing with appeals, which is located in Part 8A of the Act relating to mental impairment, to confer equivalent powers on the appellate court where the court is of the opinion that the appellant was mentally impaired or unfit to stand trial.

Criminal Law (Sentencing) Act

Section 71(8) of the *Criminal Law (Sentencing) Act* enables the Court to deal with the situation where a person who has been given a community service order obtains remunerated employment which makes it difficult for the person to comply with the order. The section currently gives the Court two options:

- revoke the community service order; or
- impose a fine not exceeding the maximum fine that may be imposed for the offence in respect of which the community service order was made (or, if the order was made in respect of more than one offence, for the offence that attracts the highest fine).

It is the latter of these options that creates the problem. An anomaly arises because of the operation of section 70I of the Act, which provides for the court to revoke a fine which has been imposed where the defendant is unable to pay the fine and instead require the defendant to perform community service.

A practical example will probably serve to best illustrate the problem. The Magistrates Court has recently had to deal with two files where the defendants had not complied with a community service order as a consequence of obtaining full time work. Both persons were before the Court on alleged breaches of community service orders arising from the provisions of section 70I.

The first defendant (A) had an alternative sentence of 212 hours in lieu of $2 667 of unpaid penalties. The second defendant (B) had a sentence of 104 hours in lieu of $1 383. Neither of them had done any of the hours due. A's most serious offence was 'break and enter' and so theoretically A could have been fined up to $8 000—he could, therefore, have been reinstated to the full extent of the monetary penalties he owed prior to his alternative sentencing. B's most serious offence, on the other hand, was driving an uninsured vehicle which carries a maximum fine of $750, which is much less than the $1 383 owed by him prior to the alternative sentence and therefore the maximum he would be required to pay in the changed circumstances would be $750.

It is not difficult to envisage a situation arising where two people owe the same amount of money but are subject to considerable difference in their fines because of the different nature of the matters on which they were first penalised.

The Bill will therefore amend the *Criminal Law (Sentencing) Act* so that the Court can impose an appropriate maximum fine, taking into account all the offences for which the original penalty was imposed (ie so that the fine cannot exceed the total of the maximum penalties that could be imposed in respect of each of the offences to which the sentence relates).

Evidence Act

Section 6(4) of the *Evidence Act* requires a witness who wishes to affirm to recite the entire affirmation. Where a witness is swearing, however, section 6(1) provides a formula for swearing an oath which simply requires the witness to state 'I swear' after the oath has been tendered to him or her.

There is no need for different practices to apply to oaths and affirmations, given that they now have equal status. Further, problems can arise where the witness is illiterate or has forgotten his or her glasses and is therefore unable to read the form of affirmation.

In the Northern Territory, the form of affirmation used in the Courts is for an officer of the Court to ask the witness 'Do you, X, solemnly, sincerely and truly affirm and declare etc', to which the witness replies 'I do'. In Victoria, individual witnesses are required to recite the whole oath or affirmation, but where more than one person swears or affirms at the same time, then those persons may be administered an oral oath or affirmation, to which the response is 'I swear by Almighty God to do so' or 'I do so declare and affirm' as appropriate.

It would seem appropriate that the same procedure apply to oaths and affirmations. The Bill will therefore amend the *Evidence Act* to provide that those who wish to affirm can do so by having the affirmation read out to them and saying 'I do solemnly and truly affirm'.

Further amendments are required to the *Evidence Act* to address an anomaly regarding the form and admissibility of proof of convictions in the District Court. Sections 34A and 42(1) of the *Evidence Act* predate the creation of the District Court and deal only with convictions on indictment in the Supreme Court. These sections are to be amended to deal with admissibility and proof of convictions in the District Court in the same way as they deal with admissibility and proof of convictions in the Supreme Court.

Section 34A provides that, where a person has been convicted of an offence, and the commission of that offence is in issue or relevant to any issue in a subsequent civil proceeding, the conviction shall be evidence of the commission of that offence admissible against the person convicted or those who claim through or under him. The provision was inserted into the *Evidence Act* to abrogate the common law rule in *Hollington v Hewthorn & Co Ltd* that evidence of a conviction cannot be used to prove the facts on which the conviction was based. The benefits of the provision include ensuring that highly probative evidence is not excluded, as well as saving time and expense involved in re-litigating issues which have already been resolved, to a higher standard of proof, in prior criminal proceedings.

Currently section 34A provides that convictions other than upon information in the Supreme Court shall not be admissible unless it appears to the court that the admission is in the interests of justice. There is no justification for distinguishing between the admission of Supreme Court and District Court convictions. The amendment also removes the distinction between types of offences completely, so that convictions for summary offences are admissible in the same way as convictions for indictable offences. The current distinction confuses questions of admissibility with questions of weight. This conforms with the approach in the Commonwealth and New South Wales Evidence Acts to the admission of prior convictions in subsequent civil proceedings. The new section 34A will also apply to a prior finding by a court exercising criminal jurisdiction that an offence has been committed, but where no conviction has been recorded.

Partnership Act

Section 10 of the *Partnership Act* provides that partners will be liable for any loss, injury or penalty incurred as a result of any wrongful act or omission of another partner acting in the course of partnership business or with the authority of the other partners.

The Law Society has expressed concern that there is the potential for partners in law firms to incur liability under this section based on the activities of their partners where those partners act as directors of outside companies. While there are times when this activity has a substantial connection with the partnership, there are other times when such a connection may be exceedingly tenuous.

In particular, if the only connection between the partnership and the directorship is that the partners have consented to the partner acting as a director of a company, or that more than one partner is a director of the company, then it is very difficult to establish the requisite connection. To hold the (non-director) partners liable for the acts or omissions of the director partner in these circumstances does not accord with the principle underlying section 10, which is to prevent partners from using the partnership structure to escape liability in circumstances where the partners derived a benefit from the acts of their partner. Therefore, the Bill amends section 10 to provide that a partner who commits a wrongful act or omission as a director of a body corporate is not to be taken to be acting in the course of partnership business or with the authority of the partners' co-partners only because the partner obtained the agreement or authority of the partners' co-partners, or some of them, to be appointed or to act as a director of the body corporate or any co-partner is also a director of that or any other body corporate.

Public Assemblies Act

The *Public Assemblies Act* is committed to the Minister for Justice but the amendment is included in this Bill for the sake of convenience.

The *Public Assemblies Act* creates a system whereby members of the public who wish to hold public assemblies can notify named authorities of their intentions. If the proposal is not disapproved, then the participants in that assembly are immune from civil and criminal liability by reason of the obstruction of a public place. The three authorities to whom notice may be given are the Chief Secretary, the Commissioner of Police and the clerk of the council in whose area the proposed assembly is to be held. Once one of these authorities is notified of a proposal, it is his or her duty to inform the other two.

There is some uncertainty as to who now exercises the powers of the Chief Secretary, a position which no longer exists. It appears that the powers and functions of the Chief Secretary have been ultimately transferred to the Minister for Environment and Heritage. However, this is not certain.

It is questionable whether the Minister for Environment and Heritage is the appropriate Minister to be exercising the powers under the *Public Assemblies Act*. The powers contained in this Act may be considered to be more appropriately exercised by the Minister for Justice. The intention of the *Public Assemblies Act* is to provide a mechanism by which members of the public can inform authorities of proposed assemblies and gain protection from criminal liability arising from obstruction of a public place, therefore it is desirable for it to be clear on the face of the Act who the authority is to whom notice should be given. Therefore the amendment provides that this will be the Minister for Justice.

Real Property Act

The only Act within the Attorney-General's Portfolio which refers to the Chief Secretary is the *Real Property Act*. Section 210 of that Act provides for the Chief Secretary to countersign a warrant under the hand of the Governor in relation to acceptance by the Registrar-General of liability in claims for compensation from the Assurance Fund under the *Real Property Act*. This role would be more appropriately exercised by the Attorney-General and this Bill amends the *Real Property Act* to replace the reference to the Chief Secretary with a reference to the Attorney-General.

Summary Offences Act

The *Summary Offences (Searches) Amendment Act* amends the *Summary Offences Act* to regulate the procedures for intimate and intrusive searches of detainees by police, including the videotaping of such procedures. While the amending Act imposes a heavy penalty for unauthorised playing of a videotape recording of an intimate search, it is desirable that there also be the ability to prescribe a penalty for breaching certain provisions in the Regulations, including the prohibition against copying a videotape and failing to return it for destruction. The Bill amends the *Summary Offences Act*

to include a power to make regulations prescribing penalties not exceeding $2 500 for breach of a regulation.

Trustee Act

The *Trustee Act* (s. 69B) provides that applications for the variation of a charitable trust may be considered either by the Supreme Court or, if the value of the trust property does not exceed $250 000, by the Attorney-General. This amount was fixed in 1996. To maintain the status quo, the amount should now be adjusted for inflation. The amendment increases the amount to $300 000. This increase exceeds the effects of inflation and ensures that the amount will remain relevant for some time into the future. This is important given that the requirement to apply to the Supreme Court would involve a large amount of cost to a small trust.

Trustee Companies Act

The *Trustee Companies Act* regulates the powers and activities of certain bodies prescribed to be trustee companies under Schedule 1 of the Act. An amendment is required to Schedule 1 of the Act to replace the reference to 'National Mutual Trustees Limited' with a reference to 'Perpetual Trustees Consolidated Limited' to reflect the change of name of that body (from National Mutual Trustees Limited to AXA Trustees Limited to Perpetual Trustees Consolidated Limited).

Workers Liens Act

The Bill makes various amendments to the *Workers Liens Act* to clarify the jurisdiction of the courts under the Act and make other changes consequent on the replacement of the former local courts with the new Magistrates and District Courts. It is not clear pursuant to the transitional provisions of the legislation relating to the transition to the new Courts that the District Court has jurisdiction under the Act. In particular, the amendments make it clear that the District Court may exercise jurisdiction under section 17 of the Act in relation to applications to direct the Registrar-General to make a memorandum that a lien has ceased.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation

This clause provides that a reference in the Bill to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

PART 2

AMENDMENT OF ADMINISTRATION AND PROBATE ACT 1919

Clause 4: Amendment of s. 121A—Statement of assets and liabilities to be provided with application for probate or administration

This clause sets out the disclosure requirements where a deceased person was not domiciled in Australia at the time of death. Disclosure need only by in respect of the assets situated, and liabilities arising, in Australia. The insertion of new subsection (7a) clarifies where assets and liabilities will be deemed to be situated where that is unclear or where they are situated partly in Australia and partly elsewhere.

PART 3

AMENDMENT OF CRIMINAL LAW CONSOLIDATION ACT 1935

Clause 5: Amendment of s. 269G—What happens if trial judge decides to proceed first with trial of objective elements of offence

This clause amends section 269G of the *Criminal Law Consolidation Act* to clarify the effect of finding the objective elements of an offence proved, followed by a finding that a defendant is mentally incompetent to commit an offence. In such circumstances, the defendant will be found not guilty and declared liable to supervision under Part 8A of the Act. Paragraphs *(a)* and are consistency changes in respect of certain phrases in Part 8A: the court must now *find* the defendant not guilty rather than *record a finding* that the defendant is not guilty.

Clause 6: Amendment of s. 269Y—Appeals

This clause clarifies the powers of the appellate court on an appeal under section 269Y. The court has the power to confirm, set aside, vary or reverse a decision, direct a retrial or make any finding or exercise any power that could be made or exercised by the court of trial and make any ancillary orders or directions.

Clause 7: Amendment of s. 354—Powers of Court in special cases

This clause removes subsection (4) which relates to an appeal on the grounds of insanity and the keeping of a defendant "until the Governor's pleasure is known". This provision has been superseded by the provisions of Part 8A of the *Criminal Law Consolidation Act*, and the amendments in this Bill to section 269Y of the Act.

Clause 8: Insertion of Part 12

This clause inserts a general regulation making power to enable the Governor to make regulations for the purposes of the *Criminal Law Consolidation Act 1935*, and a specific power to make regulations imposing penalties not exceeding $2 500.

Clause 9: Further amendments of principal Act

This clause refers to further amendments to the *Criminal Law Consolidation Act 1935*, which are set out in the Schedule to this Bill.

PART 4

AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988

Clause 10: Amendment of s. 71—Community Service orders may be enforced by imprisonment

This clause amends section 71 of the principal Act to address an anomaly that arises where the court has revoked a fine imposed on a defendant and substituted a community service order under section 70I of the Act. If the defendant is subsequently unable to perform the community service because they have obtained employment, the court under section 71(8) of the Act may impose a fine in relation to the offence or offences to which the community service order relates. Currently, where there is more than one offence involved, the maximum fine that can be imposed in this situation can not exceed the maximum for the offence that attracts the highest fine. The amendment allows for the imposition of a maximum fine that cannot exceed the total of the maximum penalties that could be imposed in relation to each of the offences to which the sentence relates. This allows the court to impose a penalty on the same basis as the original penalty (in accordance with section 18A of the Act).

PART 5

AMENDMENT OF EVIDENCE ACT 1929

Clause 11: Amendment of s. 6—Oaths, affirmations, etc.

This clause amends section 6 of the principal Act so that the procedure for making an affirmation is similar to the procedure for taking an oath.

Clause 12: Substitution of s. 34A

This clause is similar to the existing provision relating to proof of commission of an offence but differs in that it now includes previous findings by a court of the commission of an offence (that is, where no conviction is recorded) and it removes the proviso that restricts the admissibility of previous offences in lower courts to where such admissibility is in the interests of justice.

Clause 13: Amendment of s. 42—Proof of conviction or acquittal of an indictable offence

This clause updates the existing reference in the Act to the "Chief Clerk", to the "Registrar".

PART 6

AMENDMENT OF PARTNERSHIP ACT 1891

Clause 14: Amendment of s. 10—Liability of firm for wrongs

This clause amends section 10 of the Partnership Act, which deals with the liability of a partnership for the wrongful acts or omissions of partners. The amendment makes it clear that a partner who commits a wrongful act or omission as a director of a body corporate is not to be taken to be acting in the ordinary course of business of the partnership, or with the authority of the other partners, by reason only of the fact that the partner obtained the agreement or authority of the co-partners (or some of them) to be appointed or to act as a director or because any co-partner is also a director of that, or any other, body corporate.

PART 7

AMENDMENT OF PUBLIC ASSEMBLIES ACT 1972

Clause 15: Amendment of s. 4—Notice of Assembly

This clause updates the current reference in the Act to Chief Secretary, to Minister for Justice.

PART 8

AMENDMENT OF REAL PROPERTY ACT 1886

Clause 16: Amendment of s. 3—Interpretation

This clause strikes out the obsolete term "Chief Secretary" and makes express the District Court's jurisdiction in section 191 and Schedule 21.

Clause 17: Amendment of s. 210—Persons claiming may, before taking proceedings, apply to the Registrar-General for compensation

Clause 17 updates the obsolete reference to "Chief Secretary" in section 210 of the Act to "Attorney-General".

Clause 18: Amendment of Sched. 21—Rules and regulations for procedure in the matter of caveats
This clause makes express the District Court's jurisdiction in Schedule 21.

PART 9
AMENDMENT OF SUMMARY OFFENCES ACT 1953

Clause 19: Amendment of s. 85—Regulations
This clause inserts a power to make regulations imposing a penalty not exceeding $2 500 for a breach of the regulations.

PART 10
AMENDMENT OF TRUSTEE ACT 1936

Clause 20: Amendment of s. 69B—Alteration of charitable trust
This clause sets an increased ceiling limit of $300 000 on the value of trust property in respect of which a trust variation scheme may be approved by the Attorney-General.

PART 11
AMENDMENT OF TRUSTEE COMPANIES ACT 1988

Clause 21: Amendment of Sched. 1
This clause updates the name of the trustee company formerly called "National Mutual Trustees", to "Perpetual Trustees Consolidated Limited".

PART 12
AMENDMENT OF WORKER'S LIENS ACT 1893

Clause 22: Amendment of s. 2—Interpretation
This clause updates the definition of "Court" to reflect the jurisdiction of the District Court.

Clause 23: Amendment of s. 17—Proceedings to compel Registrar-General to record lien in event of refusal
This clause gives express power to the District Court to direct the Registrar-General to make a memorandum of cessation of lien.

Clause 24: Amendment of s. 18—Judge or magistrate may make order
This clause removes the term "special" before magistrate, reflecting current usage.

Clause 25: Repeal of s. 35
This clause repeals section 35 of the Act.

Clause 26: Amendment of s. 36—Jurisdiction etc. of courts preserved
This clause makes a consequential amendment to section 36 with the effect of preserving the jurisdiction of any court, not just the Supreme Court or local courts.

Clause 27: Amendment of s. 42—Application of proceeds of sale
This clause provides that if the sale of goods held on lien yields a surplus (after payment has been taken by the person entitled to the lien), the surplus is to be paid to the Magistrates Court and held for the benefit of the person entitled to it.

SCHEDULE

Further Amendment of Criminal Law Consolidation Act 1935
The Schedule updates the style, terminology and obsolete references in the *Criminal Law Consolidation Act 1935.*

Ms HURLEY secured the adjournment of the debate.

RETIREMENT VILLAGES (MISCELLANEOUS) AMENDMENT BILL

Received from the Legislative Council and read a first time.

The Hon. DEAN BROWN (Minister for Human Services): I move:

That this bill be now read a second time.

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

Leave granted.

The *Retirement Villages Act 1987* ("the Act) regulates the rights of residents of retirement villages by providing that certain matters be outlined in residence contracts and that certain information be provided prior to settlement. The Act also imposes some miscellaneous duties on administering authorities of retirement villages.

There are approximately 300 retirement villages in South Australia. They provide appropriate accommodation for many older people. Most residents indicate a high level of satisfaction with the arrangements in their village and the great majority of retirement villages are generally well managed. However, there are several aspects of the current regulatory regime which could be improved.

In January 2000, a Discussion Paper entitled *Issues associated with the Regulations under the Retirement Villages Act 1987* was released for public discussion.

The Discussion Paper was widely circulated and there was extensive consultation between retirement village residents and their representatives, residents' committees, retirement village owners and administering authorities, other interested individuals and the Office for the Ageing (OFTA). Submissions were received from a number of interested persons and the issues were examined by the Retirement Villages Advisory Committee (RVAC) which consists of resident and industry representatives as well as officers from OFTA.

The Bill has been prepared as a result of this consultation process.

It is usually provided in the residence contract that the resident is responsible for the payment of recurrent (or so-called maintenance) charges until such time as the resident's unit is re-licensed. As the process of re-selling or re-licensing can often take some months, considerable hardship can occur and the resident's funds can be diminished, if not exhausted, by the continuing obligation. The Government considers that the Act should set a maximum period in respect of which these amounts should be chargeable. That period is sufficient time for a unit to be redecorated (if necessary) and re-licensed. There have been complaints that some administering authorities are dilatory in re-marketing of a unit and that the continuing contribution of the resident has meant that there has been no incentive to hasten the re-marketing process.

After considerable consultation, the Government has decided that six months should be fixed as the maximum period in respect of which recurrent charges can be charged to residents after the date of vacant possession. After that time, the Bill stipulates that the administering authority will be responsible for meeting these charges. There will be a provision for administering authorities to apply to the Residential Tenancies Tribunal in individual cases where imposition of a six month period would be harsh and unreasonable.

To reduce opportunities for dispute and disagreements and to ensure that residents (and administering authorities) are aware of the process for re-marketing a unit after it is vacated, residence contracts will be required to set out the procedures and the respective rights and responsibilities of both administering authorities and residents in relation to the re-marketing of the unit. It is envisaged that issues such as the appointment of a selling agent, an advertising regime and consultation in relation to these matters will be included in the contract.

Presently, there is no universal requirement that the financial statements which are required under Section 10(5)(a) of the Act to be presented to residents are audited. As residents place a great reliance on these statements, the Bill introduces a requirement that the statements and balance sheet be audited by a suitably qualified person.

On occasion, issues arise in retirement villages which give rise to a desire on the part of residents to know the current financial position which may affect current or anticipated expenses, some of which will be borne by residents. However, administering authorities are only obliged to present financial statements at the annual meeting. The Bill introduces a provision which allows a resident or a residents' committee to require the delivery of interim financial statements. The cost of preparing such statements will be with the person (or committee) making the request.

The Bill also addresses a number of definitional and minor administrative matters and other amendments to bring the legislation into line with other legislative or administrative changes. They include:

- Correction of references to various bodies eg 'Commissioner' to 'Minister'; 'Companies (SA) Code' to '*Corporations Act 2001 of the Commonwealth*'; 'Commission' to 'Corporate Affairs Commission' or 'Australian Securities and Investment Commission' where appropriate
- Clearer definitions of resident/spouse
- Clarification of delegation for the administration of the Act

In addition to the foregoing amendments incorporated in this Bill, it is intended to amend all Regulations made under the Act to incorporate the following changes.

The Regulations will require an administering authority to issue to prospective residents a copy of the Code of Conduct which outlines significant obligations of the administering authority. This copy of the Code of Conduct will be in addition to the Disclosure Statement which is already required to be issued to prospective residents.

To reduce disputes about resident obligations to pay or contribute to refurbishment, the Regulations will require administering authorities to complete a 'Premises Condition Report' at the commencement and conclusion of each occupancy. This report will provide a statement concerning the condition of fixtures, fittings and furnishings.

In line with the requirements of the Commonwealth *Aged Care Act 1997* and to ensure that retirement village residents are not disadvantaged in comparison to others in the community, when moving to a higher level of care, the Regulations will be amended to stipulate that assessment by an Aged Care Assessment Team will be required.

In order to reduce uncertainty in relation to the use and management of specific purpose funds, the expression 'specific purpose funds', eg capital replacement, long-term maintenance, are to be defined in the compulsory Disclosure Statement. These funds must only be used for their designated purpose.

The Regulations will require that any exemptions granted to a retirement village under the Act be noted in the Disclosure Statement.

The Regulations will also require the administering authority to undertake reasonable consultation with residents where matters could have a significant impact on their financial affairs, amenity or way of life.

Regulation of the retirement village industry operates to encourage transparency in the contractual relationship between a resident and a provider of retirement village accommodation and services. Hence, the legislation and any Regulations should continue to seek to provide the clarification of the rights, obligations and relative risk for residents and administering authorities, whilst protecting the legitimate property interests of the both parties.

This transparency should occur not only at the time of entering a contract, but also during the period of residency and after the resident vacates the accommodation for whatever reason.

The *Retirement Villages (Miscellaneous) Amendment Bill 2001* will improve legislative protection for retirement village residents and require increased disclosure and transparency in relation to the mutual rights and obligations of residents and administering authorities.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Interpretation

The definition of "resident" is to be revised to provide specifically that a resident must be a party to a residence contract, or a spouse of such a person (whether or not the spouse was the person's spouse at the time the person commenced occupation of the relevant unit), although the extension of the definition to spouses will be subject to any provision in the residence contract. A spouse will include a *de facto* spouse.

It is also to be made clear as to when a person will be taken to have ceased to reside in a retirement village for the purposes of the Act.

Clause 4: Repeal of s. 5

The Commissioner for Consumer Affairs no longer assumes responsibility for the administration of the Act.

Clause 5: Amendment of s. 6—Creation of residence rights

Section 6(3) of the Act provides that a statement provided to a resident under the section will prevail over any inconsistent contractual term. However, the resident should be able to elect to rely on the contractual term.

Clause 6: Amendment of s. 8—Premiums

This clause is consequential.

Clause 7: Amendment of s. 9A—Arrangements if resident is absent or leaves

These amendments provide for a scheme under which the administering authority will assume initial responsibility for maintenance and other recurrent charges after a resident leaves the retirement village. If the resident is subsequently entitled to a refund of a premium, then the administering authority will be entitled to recover an amount equal to what would have been the resident's liabilities for these charges over the prescribed period (as defined). However, a right of recovery cannot be for an amount exceeding the amount of premium repayable to the resident. If an administering authority fails to make a payment under this scheme, it must keep a record of the outstanding payment and identify it in relevant financial statements. Furthermore, it cannot seek to recover the amount of the outstanding payment from other residents.

Clause 8: Amendment of s. 10—Meetings of residents

Financial statements provided for the purposes of an annual general meeting of residents will now be required to be audited by a registered company auditor.

Clause 9: Insertion of s. 10AAA

A resident or a residents' committee will now be entitled to request and receive a quarterly financial report. An administering authority will be able to require the payment of a specified amount to cover the cost of preparing and providing a report, provided that information about this fee is provided to the resident at the time of the request, and that the fee is reasonable in the circumstances.

Clause 10: Amendment of s. 14—Tribunal may resolve disputes

The maximum penalty for a breach of an order of the Tribunal (other than an order for the payment of an amount) is to be increased from $2 500 to $10 000.

Clause 11: Amendment of s. 16—Lease of land in retirement village

Clause 12: Amendment of s. 17—Termination of retirement village scheme

These amendments are consequential.

Clause 13: Amendment of s. 18—Certain persons not to be involved in the administration of a retirement village

The opportunity is being taken to update a reference so as to refer to the new *Corporations Act 2001* of the Commonwealth.

Clause 14: Amendment of s. 22—Offences

This amendment is consequential.

Clause 15: Insertion of s. 22A

This amendment will provide a specific power of delegation for the Minister in the administration of the Act.

Clause 16: Amendment of s. 23—Regulations

The regulations will be able to require the provision of certain policies to residents.

Clause 17: Amendment of Schedule 1

These amendments correct out-dated references.

Clause 18: Amendment of Schedule 3

Clause 19: Amendment of Residential Tenancies Act 1995

Related penalties are to be increased.

Clause 20: Transitional provisions

The amendments made by clause 7*(b)* and *(c)* of this measure will not apply to existing residence contracts until 1 January 2004. The Governor will be able to make regulations to deal with other saving or transitional matters.

Mrs GERAGHTY secured the adjournment of the debate.

STATUTES AMENDMENT (ROAD SAFETY INITIATIVES) BILL

Received from the Legislative Council and read a first time.

The Hon. M.K. BRINDAL (Minister for Water Resources): I move:

That this bill be now read a second time.

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

Leave granted.

The Bill amends both the *Motor Vehicles Act 1959* and the *Road Traffic Act 1961* to provide for a range of measures to improve road safety practices across South Australia—and to reduce the State's road deaths, injuries and related health costs.

Last year (2000) road fatalities in South Australia rose to 166—a 9.99 per cent increase over the previous year, the highest increase of any Australian State and Territory. The majority of these deaths occurred in rural areas of the State (99 fatalities) and the majority of the people injured or killed on rural roads were rural people.

In November last year all Commonwealth, State and Territory Ministers of Transport endorsed a new National Road Safety Strategy to the year 2010. The Strategy includes a National Target to reduce road fatalities by 40 per cent per 100 000 population—from 9.3 in 1999 to no more than 5.6 in 2010.

Based on the National Fatalities Target, the South Australian challenge is to reduce road fatalities to no more than 86 by 2010—65 less than in 1999, when South Australia's total fatalities were 10.1 per 100 000 population.

While the Government accepts that a target of 86 road deaths by 2010—plus any amount of injuries—represents a tragic and far from acceptable loss of life each year on our roads, the target has been set acknowledging that the rate of decline has remained relatively flat since the early 1990's. A similar pattern is evident in the National Road Toll.

SOUTH AUSTRALIAN ROAD FATALITIES
1970, 1980, 1990-2000

YEAR	FATALITIES
1970	349
1980	269
1990	225
1991	184
1992	164
1993	218
1994	163
1995	182
1997	149
1998	168
1999	153
2000	166

The highest number of fatalities of 382 were recorded in 1974.

The road safety measures embraced in the Bill have all been in place (in various forms) in all or some other States and Territories for some years. They all complement and reinforce the drink driving and speeding measures that over time have shown to significantly influence the road toll trends in South Australia.

Overall, the package is designed to send a strong message to the community about the unacceptability of certain behaviours on the road, as well as ensuring anyone who disregards the safety of others on the road, is appropriately penalised.

1. Unlicensed Drivers (Clause 5)

The issue of unlicensed drivers is one that frequently arises, usually following an adverse Court case—such as that recently completed in which a young girl tragically lost her life when a car driven by an unlicensed driver was involved in a crash. In this case, it is understood the driver had never held a licence—and was already being investigated by police in relation to a number of prior traffic offences.

It is difficult to gauge accurately the extent of the problem of unlicensed driving. However, available statistics indicate that two percent of fatal crashes involve an unlicensed driver. An even greater number of unlicensed drivers are involved in non-fatal crashes.

Unlicensed driving reflects a total disregard for the basic principle of road safety that a driver must be trained, and prove their competency to an appropriate standard, before being allowed to drive on the State's roads. Without this training, the unlicensed driver is placing their own life—and the lives of other road users—at serious risk.

Generally, comprehensive and third party property damage motor vehicle insurance policies will not cover vehicles damaged in a crash if a vehicle is being driven by an unlicensed driver. Consequently, an innocent party can be left in the position of having to meet the full cost of repairs to their own vehicle notwithstanding that the other party was at fault.

The present penalty for unlicensed drivers in South Australia is a maximum fine of $1 250, with an expiation fee of $188. The choice of expiating the offence implies that this infringement is relatively minor.

The insufficiency of the current penalty in South Australia becomes very apparent when compared with the penalties applied in other jurisdictions. Only Western Australia has a lower penalty than that applying in South Australia. All other jurisdictions have a minimum penalty of at least $2 000—and all include an option of imprisonment with periods ranging from 3 months to 3 years.

The Bill therefore proposes a significant separation amongst categories of offence. The proposed section 74(1) deals with situations were a person is driving unlicensed but has previously held an appropriate licence. This would include, for example, people who might have let their licence lapse through forgetfulness or while they were overseas. While there is no wish to sanction any form of unlicensed driving, the Bill recognises this is a lesser offence and the current maximum penalty of $1 250 is maintained. It is proposed to continue to allow this offence to be expiated.

In contrast, the proposed section 74(2) deals with persons who have never held a drivers licence or who do not hold a licence for the class of vehicle they are driving—for example a heavy vehicle licence. This is the most serious offence and the penalty is appropriately severe—a fine of up to $2 500 for a first offence. A second offence within a three year period will attract a penalty of up to $5 000 or 12 months imprisonment, with an automatic disqualification from holding or obtaining a drivers licence for a minimum period of three years. This offence will not be expiable.

It should be noted that persons who drive when they have been disqualified from holding a licence or while their licence is suspended—that is, persons who are deliberately flouting a previous penalty—are already addressed under section 91 of the *Motor Vehicles Act*. This is an extremely serious offence with an appropriately severe penalty—imprisonment for up to six months, or up to two years for a second or subsequent offence.

Meanwhile, it is noted that New Zealand has recently introduced regulations for the immediate roadside impounding of vehicles driven by unlicensed or disqualified drivers. This initiative will be monitored by the Government, to assess its effectiveness as a road safety measure.

In addition, Transport SA have been asked to investigate options that would require persons who have been disqualified from driving due to either a road rules / safety test or irresponsible practices to undertake a training or awareness course before they are able to regain their licence. The premise for such an initiative is that a driver who loses their licence for irresponsible behaviours should not automatically regain their licence, but be required to demonstrate their driving competence and/or be made aware of the consequences of poor driving practices. Already this Government has introduced the Driver Intervention Program for disqualified holders of learner's permits and provisional licences and essentially the options to be investigated would build on the success of this program.

2. Production of a Driver's Licence (Clause 6)

Currently, Section 96 of the *Motor Vehicles Act* requires that if a driver of a car or motor cycle does not have a licence immediately available, it must be produced within 48 hours at a police station designated by the police officer, but conveniently located for the driver. This means that the police officer later viewing the licence will invariably not be the apprehending officer. It is therefore impossible to be sure that the person producing the licence was in fact the person spoken to by the police in the first instance. The use of photographic licences has reduced the potential for a person to produce a forged licence or one issued to another person. However, it does not prevent the giving of fraudulent information to the apprehending officer.

The offence in section 96 carries a maximum penalty of $250 and is not expiable. It is proposed to amend section 96 to create an expiable offence for the driver of a car or motor cycle who fails to produce his or her licence within seven days to a specified police station. The driver will be required to provide a specimen signature to the apprehending officer. The increase in time allowed for producing the licence—from 48 hours to seven days—will allow the Police to contact the nominated police station and advise of the details of the driver. The requirement for a specimen signature will be used to confirm the identity of the person subsequently producing a licence at a police station. The Commissioner of Police must ensure that specimen signatures obtained under the provision are destroyed when they are no longer required by the police. This will be implemented by the Commissioner putting in place procedures for dealing with the specimen signatures which police officers will be obliged to comply with as part of the performance of their duties.

In the event that the driver does not comply with the requirement to produce a licence within seven days, an expiation notice will be issued.

The proposed amendments reflect Victorian practices which have proved to be very successful:

- persons who are not carrying their licence at the time of the police request, are provided with a written direction which they have signed—serving as a reminder that they will incur an expiation fee if they fail to produce their licence at the nominated police station within seven days;
- the driver's signature provides police with a cross-check of the driver's identity. (In Victoria, it has been found that drivers are more reluctant to provide a false identity if they are required to produce a signature in addition to their name and address—which, in turn, eliminates the need for the police to seek additional identification documents to support the claims of the person reporting to them);
- with the introduction of an expiation fee, the offence is less resource intensive for the police, as currently, offenders can only be prosecuted through the Courts.

A combination of these factors in Victoria has led to an increase in drivers carrying their licences when they are driving—which, in

turn, has aided the police in Victoria in detecting and tracing stolen vehicles and in identifying and enforcing licence conditions.

The proposed amendments to Section 96 do NOT introduce the New South Wales' requirement—where, for some years, it has been compulsory for ALL drivers to carry their licence at all times while driving. Nor does it extend to all South Australian drivers the compulsory carriage of a licence that already applies for drivers of heavy vehicles, learner drivers, provisional drivers and bus drivers, when driving.

3. Negligent Driving (Clause 7)

On 13 June 2001, three school girls from Loreto were struck by a vehicle while crossing Portrush Road. One of the girls died two days later as a result of the accident. On the basis of the evidence available, the driver was charged with careless driving under section 45 of the *Road Traffic Act*—which carries a maximum fine of $1,250.

This case highlighted a 'gap' that exists in South Australia's road traffic laws whereby there is presently no provision for dealing with negligent or careless driving which results in death or serious injury.

This clause amends section 45 of the *Road Traffic Act* (Careless driving) so that it also deals with negligent driving, and introduces penalties for negligent/careless driving that results in death or grievous bodily injury.

Penalties for negligent or careless driving which results in death or serious injury will be:

	Fine	Imprisonment	Licence disqualification
Death			
First offence	$5,000	One year	At discretion of the court
Subsequent offence	$7,500	18 months	At discretion of the court
Grievous bodily injury			
First offence	$2,500	6 months	At discretion of the court
Subsequent offence	$5,000	One year	At discretion of the court

These penalties are expressed as maxima which will allow courts to set an appropriate penalty in any given case, taking into account all the circumstances.

The courts' discretion to disqualify an offender from driving following conviction of a motor vehicle related offence already exists in section 168 of the *Road Traffic Act*.

In determining what constitutes a subsequent offence for the purpose of assigning the new penalties, a court will not only have regard to prior negligent/careless driving offences under the amended section 45, but also offences under section 46 of the *Road Traffic Act* (driving dangerously) and section 19A of the *Criminal Law Consolidation Act 1935* (death or injury from reckless driving). This ensures that related driving offences—ie driving dangerously or reckless driving which has previously caused grievous bodily injury or death will count in assigning a penalty.

4. Excessive Speeding (Clauses 8 and 9)

Currently, disqualification from holding a licence is not a penalty for any of the existing speeding offences in the *Road Traffic Act* (except indirectly through the accumulation of demerit points).

Currently, the police deal with excessive speeding by charging the driver with dangerous driving under section 46 of the *Road Traffic Act*, which states that "a person must not drive a vehicle recklessly or at a speed or in a manner which is dangerous to the public". The disadvantage of dealing with excessive speeding in this way is that there is no clear guidance to drivers, the police or the Courts about the speed limits that will lead to licence disqualification—a deficiency magnified by the fact that prosecution of the offence necessitates calling of witnesses to give evidence that the speed was dangerous in the circumstances.

It is proposed that the general offence of reckless/dangerous driving should remain. However, to reflect the high road safety risk associated with excessive speed, it is proposed to create a new specific offence of exceeding any maximum speed limit by 45 km/h or more. This offence will apply equally to exceeding the maximum speed for a class of vehicle (eg B-doubles that attract a maximum speed limit of 100 km/h); to exceeding the maximum speed for a class of person (learner's permit and provisional licence holders) or when a lower maximum speed is set to cater for particular circumstances (road workers present, school zones or local/residential street limits).

The proposed penalty for the new speeding offence is consistent with that of the general offence of reckless/dangerous driving—that is, a minimum three months' licence disqualification. The penalty would not be expiable, and would only apply where the driver is convicted by a Court. Where a speeding offence is detected by a speed camera, an expiation notice would not be issued. Instead, the police would undertake an investigation to establish the driver of the vehicle who would then be prosecuted through a Court.

NSW, Victoria and the Northern Territory have already introduced compulsory loss of licence for excessive speeding—above 30 km/h—while Western Australia, Tasmania and the ACT are at various stages in advancing similar proposals.

5. Mobile Random Breath Testing (Clause 10)

Random breath testing (RBT) stations have proven to be a very effective road safety measure—addressing both education and enforcement issues. However, the operation of RBT stations, as currently allowed for under the *Road Traffic Act*, are not an effective—or an efficient—use of police resources in areas of low traffic volumes. Also, RBT sites established on multi-lane roads require a portion of the road to be closed, creating a traffic hazard and unnecessarily interfering with the free flow of vehicles not identified for testing.

Mobile RBT will overcome these difficulties—and enable testing to be undertaken in conjunction with normal police patrol duties.

Mobile RBT entails an extension of the existing RBT powers set out in section 47E(2a) of the Act, to remove the need for the police to establish reasonable grounds prior to stopping a vehicle and/or requiring a driver to submit to an alcotest or breath analysis. Such a measure does not create a situation unique in South Australian law. There are many examples of provisions in the *Road Traffic Act*, the *Harbours and Navigation Act*, the *Summary Offences Act* and the like where a person must respond to police or an authorised officer without the need for a reasonable belief that an offence has been committed.

The matter of mobile RBT was considered in 1998 by the Environment, Resources and Development Committee, as part of its consideration of rural road safety issues.

The Report notes (pg xvi) 'The Committee is supportive of further investigation into the introduction of mobile random breath testing units whilst noting the concern of the public in relation to the potential infringement of civil liberties. The Committee is aware that current detection methods are NOT working in rural South Australia, and understands that there needs to be a new approach.'

Mobile RBT is already used in ALL other Australian jurisdictions. However, to accommodate these concerns, it is proposed that mobile RBT be available to police only during recognised holidays and on four other occasions within any given twelve month period (each of 48 hours' duration), to be determined by the Minister for Police, Correctional Services and Emergency Services. Holiday periods will include long weekends and school holidays—periods of maximum on-road activity. At these critical periods in road safety terms, the mobile RBTs will also act as a disincentive for the intransigent drink/driver, through an increased prospect of being detected.

6. Digital Cameras (Clause 11)

Digital cameras are capable of operating in low light settings and, if used in darkness, require a low intensity flash to illuminate the vehicle. Thus the technology is most suitable for enforcement of speeding by heavy vehicles in isolated areas. Currently, the camera flash can be seen at long distances and drivers may therefore be warned of the presence of cameras, thereby negating their deterrent effect.

To allow for the introduction of digital cameras in South Australia, the *Road Traffic Act* must be amended to provide for the definition of 'photograph' to include a digital, electronic or computer generated image. The regulations which prescribe the procedure for operation and testing of speed cameras will also need to be amended to cover both conventional and digital cameras.

Security concerns arising from the introduction of digital cameras have been addressed. Privacy is assured as the images will not be

accessible to unauthorised persons. Encryption will be required at the time the information is electronically transmitted from the camera—and images will not be able to be viewed without the encryption key. To prevent the alteration of the digital image and/or the information associated with it, the original image is burnt electronically onto a magneto-optical disc which forms part of the camera and traffic speed analyser unit. Once burnt onto the disc, these images cannot be overwritten. This eliminates the risk of tampering, as any attempt to do so will be obvious to the operator viewing the images—and the batch can be rejected immediately.

NSW, Victoria, Tasmania, Northern Territory and the ACT have all introduced digital technology for cameras used to detect speeding offences

6. Fixed Housing Speed Cameras (Clause 13)

Fixed housing speed cameras are already used in New South Wales, Victoria and Tasmania—in tunnels, on bridges and on freeways. In a number of overseas countries, the fixed housings represent the normal way of mounting speed cameras—rather than on vehicles or portable tripods as is generally the case in Australia.

Fixed housing speed cameras can operate on either wet film or digital photography. They enable a more resource-effective use of speed/red light cameras at road crash black spots—or on a long stretch of road when rotated through a number of fixed housings. Research has shown that vehicle speeds are reduced around the fixed speed camera locations—and that they are particularly effective in addressing speeding by heavy vehicles.

The *Road Traffic Act* currently provides for the operation of fixed housing cameras. However, section 175 which covers proving the accuracy of equipment used to detect offences states that the traffic speed analyser component of a speed camera will be taken to be accurate '…on the day of a test and the day following.' This precaution has long been required for mobile cameras which are set up on the side of the road or mounted in a motor vehicle. However, the precaution is not necessary for speed cameras in fixed housing because their calibration and accuracy remains stable for much longer, thus eliminating the need for daily testing.

Based on the practice in other jurisdictions, testing for accuracy for fixed cameras will only be necessary every 7 days. The Bill provides for this new timeframe.

In line with Government policy, Transport SA will work with the Police to ensure that appropriate signage is installed to alert motorists of the presence of fixed housing speed cameras. In addition, the Minister for Police, Correctional Services and Emergency Services will work with the Police to develop options to inform the public, via the media and the internet, of the location of cameras.

Overall this road safety package focuses on extra enforcement and educative measures relating to drink driving and speeding, in an earnest effort to reduce two of the principal causes of road crashes in South Australia—and ultimately reduce road deaths, injuries and related health costs across the State.

I commend the Bill to all Honourable Members.

Explanation of clauses

PART 1

PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

Clause 3: Interpretation

These clauses are formal.

Clause 4: Minister to report on operation of Act

The Minister is required to table a report to Parliament on the amendments contained in this measure within 12 sitting days after the second anniversary of its commencement.

PART 2

AMENDMENT OF MOTOR VEHICLES ACT 1959

Clause 5: Substitution of s. 74

This clause substitutes a new section 74 into the principal Act. Subclause (1) makes it an offence, punishable by a maximum fine of $1 250, for a person to drive a motor vehicle on a road if the person is not authorised to drive that class of motor vehicle on a road but has previously been so authorised under the principal Act or the law of another State or Territory.

Subclause (2) makes it an offence for a person to drive a motor vehicle on a road where the person is not and has never been authorised, under the principal Act or the law of another State or Territory, to drive a motor vehicle of that class on a road. The maximum penalty for a first offence is a fine of $2 500 and for a subsequent offence a fine of $5 000 or imprisonment for one year. In addition, subclause (5) provides that a person convicted of a subsequent offence against this provision will be disqualified from holding or obtaining a licence for a minimum of three years.

Clause 6: Amendment of s. 96—Duty to produce licence

This clause amends section 96 to provide that a person who does not produce his or her licence immediately in response to a request by a member of the police force must provide a specimen of his or her signature and must then produce the licence within seven days to a specified police station. Provision is also made for the destruction of specimen signatures.

PART 3

AMENDMENT OF ROAD TRAFFIC ACT 1961

Clause 7: Amendment of s. 45—Negligent or careless driving

Section 45 of the principal Act currently imposes a maximum penalty of $1 250 for the offence of driving a vehicle without due care or attention or without reasonable consideration for other persons using the road. The clause adds a reference to negligent driving and increases the penalty to—

- If the driving causes the death of another—
  - for a first offence—a maximum of $5 000 or imprisonment for one year
  - for a subsequent offence—a maximum of $7 500 or imprisonment for 18 months
- If the driving causes grievous bodily harm to another—
  - for a first offence—a maximum of $2 500 or imprisonment for six months
  - for a subsequent offence—a maximum of $5 000 or imprisonment for one year.

The clause also adds a provision requiring factors to be taken into account by the court in considering whether an offence has been committed against the section. The factors are the same as those that apply in relation to the offence against section 46 of reckless and dangerous driving.

Clause 8: Insertion of s. 45A

This clause inserts a new section 45A in the principal Act making it an offence, punishable by a minimum fine of $300 and a maximum fine of $600, to drive a vehicle at a speed that exceeds, by 45 kilometres per hour or more, the applicable speed limit. In addition, a person convicted of such an offence will be disqualified from holding or obtaining a licence for a minimum of three months.

Clause 9: Amendment of s. 46—Reckless and dangerous driving

This clause amends section 46 to ensure that its disqualification provisions are consistently worded with other disqualification provisions in the principal Act.

Clause 10: Amendment of s. 47E—Police may require alcotest or breath analysis

This clause amends section 47E to give the police power to require the driver of a vehicle to stop the vehicle and submit to an alcotest during a prescribed period (which is defined in proposed subclause (8)).

Clause 11: Amendment of s. 79B—Provisions applying where certain offences are detected by photographic detection devices

This clause inserts a definition of "photograph" into section 79B of the principal Act, so that term will include an image produced from an electronic record made by a digital or other electronic camera and makes other consequential amendments.

Clause 12: Substitution of s. 79C

This clause replaces the offence of interfering with photographic detection devices and provides that a person who, without proper authority or reasonable excuse, interferes with a photographic detection device or its proper functioning is guilty of an offence punishable by a maximum penalty of $5 000 or imprisonment for one year.

Clause 13: Amendment of s. 175—Evidence

This clause amends section 175 of the principal Act to provide that a certificate tendered in proceedings certifying that a traffic speed analyser had been tested on a specified day and was shown by the test to be accurate constitutes, in the absence of proof to the contrary, proof of the facts certified and that the traffic speed analyser was accurate to that extent not only on the day it was tested but also on the day following the day of testing or, in the case of a traffic speed analyser that was, at the time of measurement, mounted in a fixed housing, during the period of six days immediately following that day.

Mrs GERAGHTY secured the adjournment of the debate.

LIQUOR LICENSING (REVIEWS, APPEALS AND NOISE COMPLAINTS) AMENDMENT BILL

Second reading.

The Hon. M.K. BRINDAL (Minister for Water Resources): 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 makes amendments to procedural provisions of the Liquor Licensing Act relating to reviews and appeals, and also makes some significant changes to the provisions relating to noise and disturbance complaints. The latter provisions arise from the recommendations of a Working Group representing a range of stakeholders concerned in the issue of live music in hotels. The Bill also makes some minor technical amendments to the Act, in light of comments of the Supreme Court in a recent case.

To deal first with the issue of reviews and appeals, the Bill would alter the appeal pathway available to parties who wish to challenge a decision of the licensing authority constituted of the Liquor and Gaming Commissioner. To understand the reasons for this proposed change, it is necessary to understand the current structure of the licensing authority and the appeal and review pathways.

The licensing authority consists of the Liquor and Gaming Commissioner and the Licensing Court. An applicant for a licence, or a transfer or removal of licence, or for variation of conditions, must initially apply to the Commissioner. If the matter is contested, the Commissioner will endeavour to conciliate the matter. However, if conciliation does not succeed, there are two options. If the parties agree, the matter can be heard by the Commissioner. If either party does not wish the matter dealt with by the Commissioner, it will be heard by the Licensing Court. The exception is limited licence applications, that is, applications for a licence for a special occasion. These must be dealt with by the Commissioner.

If the matter is heard by the Licensing Court, then any appeal against the resulting decision lies to the Supreme Court, by leave. If, however, parties elect to have the matter heard by the Commissioner, then a party dissatisfied with the Commissioner's decision may (in general) seek a review of that decision by the Licensing Court. This is a matter of right and proceeds as a rehearing, that is, the Court can receive further evidence in its discretion. There is no further appeal from the Licensing Court's decision.

The Government considers that it is anomalous that the Act allows the same decision, ie whether and on what conditions to grant an application, to be made either by the Commissioner or the Court, using exactly the same criteria and principles, but does not direct appeals against these identical decisions to the same authority. It also means that the Licensing Court acts either as the first instance decision maker, or as the review authority, at the option of the parties. This structure does not appear to be replicated elsewhere in our statute book, nor in the structures of licensing authorities of other States.

In case Members are not aware, it may be helpful if I make clear that at present, whether the parties elect to proceed before the licensing authority constituted of the Commissioner or the licensing authority constituted of the Court, the process is very similar. In both cases, the Act provides that the licensing authority must act without undue formality. The strict rules of evidence do not apply but the authority may inform itself as it sees fit. Whether constituted of the Court or the Commissioner, the authority has similar powers to summon witnesses, require the production of documents and require answers to questions. In either case, the parties are entitled to be legally represented, witnesses give sworn evidence, which is transcribed, and the authority publishes written reasons for decision. There is of course no difference in the applicable law or the considerations which go into deciding the application.

As it is the same authority, performing the same function, whether constituted of the Court or of the Commissioner, the Government considers that it would be more sensible to provide that, whichever primary decision-maker is used, the appeal should be the same. This will clearly put the Court and the Commissioner on an equal footing, and will treat like decisions alike. For this reason, this Bill would abolish the present review of the Commissioner's decisions by the Licensing Court and instead provide for an appeal from such decisions to the Supreme Court, just as applies in the case of first instance decisions of the Licensing Court.

Some minor points need to be understood. One is that it is not intended to alter the position with appeals from limited licence applications. These are licence applications seeking the grant of a short duration, one-off licence for a special occasion such as a festival. They are small matters not justifying the attention of the Supreme Court. The Bill proposes that these remain the exclusive province of the Commissioner at first instance, and be reviewed by the Court as provided in s. 22. Second, the Bill provides that all appeals to the Supreme Court are to be as of right on a question of law, and by leave on a question of fact. At the moment, the Act requires leave for all appeals from the Licensing Court, even on questions of law, but no leave for a review of the Commissioner's decision. In assimilating the two, the Bill removes the requirement for leave where the appeal is on a question of law. The intention is that the Supreme Court be the final arbiter of disputed points of law and that parties are entitled to have access to the Court for this purpose, but that on questions of fact, the preliminary scrutiny of the Court is required to see that the matter merits its attention.

The Bill also adds a new provision that the licensing authority may grant an application on an interim basis, or specify that a condition of a licence, permit or approval is effective for a specified period. There is no such express power in the Act at present. This puts beyond doubt that the authority may grant approval on an interim basis, for a trial period, before deciding to confirm or alter it. This is desirable because a licensing decision can have significant consequences both for the parties and for the community in general, and it can be valuable for the authority to be able to evaluate the likely consequences of the proposed decision, through practical trial, before committing itself to a final decision. Indeed, this is often welcomed by the parties as it gives the applicant the opportunity to prove the decision desirable and the respondent the opportunity to assess the real effects of the decision, before it becomes final.

Further, the Bill makes two minor technical amendments to the Act, arising out of the decision of the Supreme Court in the case of Liquorland (Aust) v Hurley's Arkaba Hotels, a judgment of the Full Supreme Court handed down on 18th July 2001. It adds to section 61(1) the missing words 'the removal of'. That is, the applicant for removal of a hotel licence must show that the removal of the licence, rather than the licence itself, is necessary in order to provide for the needs of the public in that locality. This is obviously the meaning of the section and the words were simply omitted in drafting.

The Bill also makes a minor alteration to the provisions of s. 77 relating to objection to an application. In the Liquorland case, the Court noted that the grounds of objection to a retail liquor merchant's licence in s. 77(5)(c) fail to mirror the matters which the applicant must prove, that is, that the existing licensed premises in the locality do not adequately cater for the public demand for liquor for consumption off licensed premises, and the licence or the removal is necessary to satisfy that demand. The amendment would repair this defect by deleting the word 'provide' and substituting 'adequately cater'. Clearly it is the intention of the Act that the objections to be taken relate to the criteria for the grant of the application.

Finally, the Bill seeks to address issues related to noise and disturbance complaints. A number of the provisions of the Bill have been incorporated as a result of the work of the Live Music Working Group, which sought to find an acceptable solution to the competing concerns of local residents and live music venues, which can sometimes result in noise complaints.

The Bill would amend the objects of the Act to refer to the 'live music industry' as one of the industries associated with the liquor industry. That is, it will be an object of the Act to further the interests of the live music industry, among others. The Bill provides that the objects of the Act must be regarded in deciding any matter before the licensing authority. This provision is intended to recognise the value and importance of this industry in South Australia and to make its interests a relevant consideration in licensing matters. For example, in deciding a noise complaint involving a live music venue, the Commissioner or the Court would have to consider, among other things, the furtherance of the interests of the live music industry.

The Bill also goes further, as a result of the recommendations of the Working Group, and adds new provisions designed to balance the interests of local residents and of licensees, in the process of dealing with noise and disturbance complaints. The Bill proposes that when a complaint is made, the Commissioner should serve a copy on the licensee within 7 days, and that there should then be a 14 day period before the matter progresses to conciliation or hearing. This is to ensure that the licensee is aware of the concerns being

raised by the complainant, and also provides an opportunity for the licensee to address the problem, if he or she agrees that there is a problem, or for the parties to seek to resolve the matter directly if so minded.

Thereafter, a conciliation will normally be held, but the Bill also provides for a party to apply to the Commissioner to proceed directly to a hearing. This can occur if the Commissioner is satisfied that good reason exists. It will be for the Commissioner to consider this on a case by case basis.

Further, the Bill creates a new option for the parties to a complaint which is not resolved in conciliation. Rather than having to go the Licensing Court, as at present, the parties can agree to have the matter determined by the Commissioner. So the Bill puts parties to such a complaint in a similar position to parties to a contested application, in having the choice whether to have the Commissioner or the Court determine the matter. The provision does not, however, alter the present position where either party for any reason objects to the Commissioner determining the matter. Either party can still insist that the matter go before the Court.

Finally, the Bill sets out a list of matters which it is proposed should be regarded by the licensing authority in determining a complaint. These include the period of time over which the activity complained of has been occurring, the unreasonableness or otherwise of the activity, the trading hours and character of the business conducted at the licensed premises, the desired future character of an area, as provided in any relevant Development Plan, and relevant environmental policies or guidelines. These are all factors to be weighed, although none is necessarily decisive, and any other relevant matters must also be considered. It is intended that by spelling out these matters in the Act, it is made clear that the history of the activity at the premises, such as a history of live music, can be taken into account, as can whether the activity or noise from the premises is reasonable (or not) in all the circumstances, and factors such as whether the area is residential, commercial or mixed use. That is, the complaint is not decided in isolation, but is considered in context.

Of course, the Bill does not propose to apply any fixed rule in dealing with these complaints, nor does it propose to privilege any category of complainants or respondents. Each complaint must be considered individually on its merits, having regard to all relevant factors. The Government believes that this is the approach most likely to lead to a just result.

The amendments proposed by the Bill are intended to make the procedures in this jurisdiction more internally consistent and more effective. I commend the bill to honourable members.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that this Act will be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Objects of this Act

This clause amends the objects section of the Act by, firstly, including the live music industry in the list of associated industries the interests of which are to be furthered, and secondly, by providing that the Commissioner and the licensing Court must have regard to the objects of the Act when making any decision under the Act.

Clause 4: Amendment of s. 22—Application for review of Commissioner's decision on application for limited licence

This clause limits the power of the Licensing Court to review decisions of the Commissioner to only those decisions relating to the grant of limited licences. The Commissioner is also required to give written reasons for any such decision. What is meant by a review being conducted as a "rehearing" (the current subsection (4)) is spelt out as it is in the *District Court Act* for the District Court when hearing an administrative appeal.

Clause 5: Repeal of s. 27

This clause repeals section 27 (Appeals from orders and decisions of the Court). The appeal provision is reinserted by clause 10 of this Bill.

Clause 6: Amendment of s. 53—Discretion of licensing authority to grant or refuse application

This clause makes it clear that a licensing authority (i.e., the Court or the Commissioner, as the case may be) may grant an application on an interim basis, or impose a condition for a specified period, and give any necessary consequential procedural directions.

Clause 7: Amendment of s. 61—Removal of hotel licence or retail liquor merchant's licence

This clause makes a small amendment to clarify that an applicant for removal of a licence to a particular locality must satisfy the licensing authority that *removal* of the licence to that locality is necessary to satisfy the needs of the public in that locality.

Clause 8: Amendment of s. 77—General right of objection

This clause makes a minor amendment to achieve consistency of expression between section 58 (grant of hotel licence or retail liquor merchant's licence) and section 61 (removal of such a licence).

Clause 9: Amendment of s. 106—Complaint about noise, etc., emanating from licensed premises

This clause makes several amendments to section 61. Firstly, the Commissioner must cause complaints to be served on licensees within 7 days of lodgement. No meeting or hearing can be held for a period of 14 days. Secondly, it is provided that a party can request that the matter proceed direct to a hearing without attempting conciliation, but, for this to happen, the Commissioner must concur. Thirdly, the Commissioner will determine a complaint if the parties so request. Fourthly, in determining a complaint, the Commissioner or the Court (as the case may be) must now take into account various matters. The period of time over which the subject matter of the complaint has been occurring must be considered, as must any significant changes in its level or frequency. The unreasonableness (or reasonableness) of the actual behaviour or noise is to be assessed. The trading hours and character of the licensee's business, the locality's desired future character set out in any relevant Development Plan and any applicable environment protection policies or EPA guidelines must also be taken into account.

Clause 10: Insertion of Part 10A

This clause inserts a new Part dealing with both appeals from decisions and orders of the Licensing Court and from those of the Commissioner. Appeals lie to the Full Court of the Supreme Court as of right on questions of law, and by leave of the Supreme Court on questions of fact. The Supreme Court may substitute its own order or decision in the matter if it thinks fit.

Clause 11: Amendment of s. 128—Commissioner may review order

This clause makes it clear that the Commissioner's decisions on reviewing barring orders made by licensees are not appealable.

Clause 12: Further amendment of principal Act

SCHEDULE: Statute Law Revision Amendments

This clause and the Schedule make several non-substantive amendments of a statute law revision nature.

Mrs GERAGHTY secured the adjournment of the debate.

CORONERS BILL

Second reading.

The Hon. M.K. BRINDAL (Minister for Water Resources): 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.

Several amendments were made in another place which will be the subject of further amendment here. I commend this Bill to the House.

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
- a patient in an approved treatment centre under 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 (who will be a stipendiary magistrate) appointed by the Governor.

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 on an inquest but must, unless of the opinion that it is not warranted in the circumstances, 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: Annual report

The State Coroner must, on or before 31 October in each year, make a report to the Attorney-General on the administration of the Coroner's Court and the provision of coronial services under this Act during the previous financial year, including all recommendations made by the Coroner's Court under Part 4 during that financial year. The Attorney-General must, within 12 sitting days after receiving such report, cause copies of it to be laid before both Houses of Parliament.

Clause 40: 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 41: 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 42: Rules of Court

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

Clause 43: Regulations

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

Clause 44: 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.

Mrs GERAGHTY secured the adjournment of the debate.

VOLUNTEERS PROTECTION BILL

Adjourned debate on second reading.

(Continued from 2 October. Page 2350.)

The Hon. M.D. RANN (Leader of the Opposition): The opposition supports this bill. Like the government, we recognise that over 400 000 South Australians provide vital voluntary services that help make our community work. Of course, the intention of the bill is to reduce the liability, exposure and potential costs of litigation to volunteers in order to encourage and support voluntary services in our community. I always think it is important to say on the record that our volunteers fight fires, deliver meals, patrol beaches, give blood, read to the blind, serve food to the homeless, support special events, run sports clubs for kids, clean up our national parks and, of course, serve our community in countless other ways. In 1999, the state government sponsored a volunteer summit and forum in Adelaide to identify the needs of the volunteer community.

According to the government, about 350 volunteers participated in the process, and this bill is one of the recommendations that came out of that process. Certainly, it is true that there is a concern among volunteers that it is a real and, indeed, increasing fear that they may face potential liability in carrying out their community work. The volunteer community believes that the willingness of volunteers to offer their services to organisations is sometimes deterred by the perception that they may be held to be personally liable for actions arising out of their services through community organisations. Obviously, that would be a genuine concern.

The basic aim of this bill is to provide protection from liability to volunteers in many circumstances, other than defamation and the liability that falls within the ambit of compulsory third party insurance. Instead, it attaches the liability to the community organisation for which the volunteer works. Certainly, while Labor supports the legislation, as it is legislation which will in some way protect volunteers, there are certainly a number of deficiencies in the bill. Rather than waste the time of the House, because I want to be supportive of the bill, I might put a few questions on notice ahead of the committee stage.

Certainly, the scope of the legislation is extremely limited. There is some doubt as to whether there is any significant number of claims against volunteers who are good Samaritans. The legislation transfers liabilities to community organisations which may create cost pressures for very small incorporated bodies. Of course, the scope is limited to civil liability; there is still no personal accident protection. The bill does not cover many of the concerns raised by Volunteering SA, and there does not appear to have been adequate consultation with that body, although I am aware that the minister did send out many thousands of papers. Concerns have been expressed that there could have been greater consultation with Volunteering SA, the peak body. The legislation does not appear to cover people volunteering for unincorporated bodies or on their own. I would like the minister to address that situation, perhaps in reply.

The questions I would like him to address include: how many volunteers in South Australia have been sued by claimants because of their actions, and what is the total cost of these claims? What is the government's estimate of how many volunteers have been discouraged from volunteering because they are frightened or nervous about being sued? Is the government planning any extension to this legislation, for instance, personal accident cover? I know there have been negotiations on that score, and I wonder what the government's position is and what it believes the impost to the state would be in terms of personal accident cover. Finally, how will the government ensure that community-based organisations are not forced to close because of costs associated with public liability insurance or costs associated with claims?

In terms of the ALP's general policy position, we support this legislation but would like to see some of those questions answered. We also believe that a volunteering compact should be negotiated with the voluntary sector, which would be a new agreement to determine the future relationship between the state government and the voluntary sector. Certainly, Labor is committed to that in government and it would be a recognition by my government that we will work with the voluntary sector in a partnership based on shared values and mutual respect, and our volunteering compact will be more than words, more than just a formal recognition of the vital contribution that volunteers make to our community.

Once agreed, the South Australian volunteering compact will provide the framework for a stronger and more mature framework between government and volunteers and will recognise the diversity of the voluntary sector. At the heart of our proposed volunteering compact will be a commitment to better consultation and a plan to work together to develop understanding and a sustainable growth for the sector. Our volunteering compact will reflect Labor's commitment to promoting and encouraging voluntary activity in all areas of South Australian life. It will also draw on the experience of the Blair Labour government in Britain in dealing with the complementary roles of the government and the voluntary sector in the delivery of public policy and services. Of course, in so doing we must ensure that volunteers are not exploited at the expense of paid employment; and that is why the United Trades and Labor Council will be consulted to ensure this does not happen.

The volunteering compact will be a joint undertaking for a Labor government and voluntary organisations to work together. It will recognise and support the independence of the voluntary sector, including its rights to criticise, comment upon and challenge government policy irrespective of any funding relationship that might exist. It will also recognise the independence of voluntary organisations to determine and manage their own affairs, and at the same time mutual interdependence will be recognised as the core of the partnership between government and the volunteering sector.

Labor's volunteering compact will also provide for codes of practice to be developed in key areas such as funding, policy development and consultation; for example, a code of practice on funding would have to recognise the independence of voluntary organisations and provide for the allocation of resources against clear and consistent criteria including value for money. We hope that the volunteering compact will also include a commitment by voluntary organisations to maintain high standards of governance and conduct, meet reporting and accountability obligations to funding bodies

and users, and develop quality standards appropriate to each organisation.

That explains briefly what we intend to do. We have pleasure in supporting this bill, but I hope the minister will explain just what the impact of possible law suits has been in terms of membership of voluntary organisations and individuals' commitment; and what examples he can provide where volunteers have indeed been sued in undertaking their services on behalf of the community.

The Hon. I.F. EVANS (Minister for Environment and Heritage): I thank the Leader of the Opposition for indicating the Labor Party's support for the bill and also for his comments. I appreciate that he is under time constraints and needs to attend a community function. I will address the issues he raises in his contribution.

The bill is restricted to those volunteers involved in volunteering for incorporated associations or incorporated groups rather than unincorporated. In relation to cover for volunteers volunteering in an unincorporated capacity, it is very difficult to bring any credibility to the argument, for example, whether they were doing authorised work, and so on, whereas if you have an incorporated association with a membership it does bring some credibility to the argument that the person was a volunteer and was doing the work as authorised by the volunteer group.

We took the view that this is the first time government in Australia has tried this type of legislation, so we would restrict it to incorporated associations. It does not mean that a method cannot be developed in the future for those volunteering in unincorporated groups to somehow be covered, but at this stage we could not think of a simple system to do that which would bring with it the right checks and balances. We freely admit that this bill is not perfect, but we think the principle is right. It is an Australian first and there is an opportunity for future governments to come back to review if they find a circumstance or a better way of doing it. We would be prepared to look at that if it was put to the parliament at any stage. That is the reason why it has been restricted to those involved in incorporated groups. There are checks and balances and they are volunteering and undertaking authorised activities or going about voluntary activities on behalf of the group.

The leader asked for estimates of volunteers who might not be volunteering as a result of there not being legislation or the possibility of being sued. The reality is that I can make no estimate of that, but I can advise the House that that was one of the main issues raised at the volunteer conference and workshop held in September/October 1999. There was clearly a strong view from the volunteer community that they thought there was an understanding in the community that some people would not undertake, or left, certain roles because of the fear of being sued. This legislation is a result of that. We have visited America both with staff and via the internet to look at their model. We have adopted a slightly different model, but I cannot put my finger on whether 10 000 or 100 000 are not volunteering. I can, however, say that 350 volunteers attended the conference, and, from the letters and submissions that we have received as a result of the legislation, there is very strong support for the legislation. There is a concern that volunteers may be sued for their activity.

The leader touched on the consultation process. We distributed 6 000 consultation discussion papers and met with various groups, and every organisation had a chance to put in a submission. Although we could not pick up all the ideas from these organisations, some were adopted. One relates to the issue of personal accident insurance. The leader raised the issue of personal accident insurance which is, of course, related, but is a slightly different issue. I am aware of this issue through my involvement as national president of Apex. In my day, the insurance cost of personal accident and other insurance was around $30 to $35 per head just for the person belonging to an organisation. However, I suggest that it would be more than that now. We are looking at that issue, but as of today we do not have an immediate solution. However, as with the ALP and other members of the House, we realise that personal accident insurance for volunteers will be an issue that parliament may have to address further at another time, but today there is no magic answer. I think it is important that all sides of politics have recognised that it is an issue and are putting their minds to how best we can address the personal accident issue for volunteers.

In relation to the issue of public liability, I gave an answer to the House in the last fortnight about the setting up of a volunteer risk management working group. It has been set up particularly to look at the public liability issue, even though, hopefully, this legislation will be passed. Organisations wrote to us saying that their insurance costs have gone from $50 000 to $350 000 over a 12 to 24 month period. From memory, one organisation's costs increased from $12 000 to $36 000 over a 12-month period. That is an issue that will bite and affect particularly small organisations that may not have the capacity to carry that increase, and that is why we have looked at the risk management side of the agenda. We may be able to reduce the increase in their costs through better risk management and better understanding of what they are and are not exposed to as volunteer groups and volunteer managers.

There is a very successful scheme in America where the government has set up a risk management training organisation, in effect, and, as I recall, it is now private sector funded. That organisation has the role of visiting community volunteer organisations to train them in risk management, giving them advice on what insurance they do and do not need, and advising them on training programs and procedures to reduce their risk and, ultimately, reduce injury to their volunteers and their costs. So, I recognise the issues of personal accident insurance and public liability. As I have said, we have put in place a working party in relation to those issues.

The other question is how many organisations have been sued. We have not gone through the court system to try to make a judgment of that. We have relied on the advice of the volunteer organisations that they are concerned. I am aware of some cases in New South Wales where basketball umpires who, whilst running backwards whilst umpiring, have fallen and broken both their wrists and have sued the association, but we have not gone through the court system. We have introduced this legislation because of the lobbying and, I guess, the presentations to government in relation to the volunteer workshop and summit.

I sincerely thank the leader for his comments. The opposition and the government have a slightly different view on a compact. We are saying that we are not ruling out a compact or an alliance, but we want first to set up a volunteer state council, which can consider the concept of a compact and an alliance and what they want included or excluded and, indeed, what they want to achieve through it. They can then come to government and talk to us, and we will be happy to work through that issue. I know the opposition has a policy

of an alliance or a compact. I think it is good that both parties are looking at trying to establish a better relationship with the volunteer sector as a whole. I do not have any other comments, and I thank the opposition for its support.

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

VICTIMS OF CRIME BILL

Consideration in committee of the Legislative Council's message.

(Continued from page 2663.)

The Hon. M.K. BRINDAL: I move:

That the Legislative Council's alternate amendment be agreed to and that this House no longer insist on its amendment No. 1.

Mr ATKINSON: The opposition opposes the alternate amendment. As I foreshadowed in the earlier debate on this bill, the opposition takes the view that it does not want to raise the threshold from one point until such time as the government has given examples of the kind of payouts that occur between one and two points. After I raised that matter in the debate, the government did not get back to me with examples of payouts in the range one point to two points that are unmeritorious or should not be made in those circumstances. The opposition intends to stand by the one point threshold.

Mr HANNA: As I said on the second reading of this bill, it is a mean-spirited move to raise the bar to three points. I can see that two points is a compromise position, and I am grateful if that is the best we can achieve. It is probably not worth discarding the whole bill for the sake of the move from a minimum of one point to two points, because there is a lot of good in the bill—some of it is window dressing and some of it is more substantial. Nonetheless, the opposition should refuse this amendment because the current position is the preferred one.

Mr CLARKE: I said most of what I wanted to say on this matter when this bill was before us the other night. Like the member for Mitchell and the member for Spence, I am disappointed that the other place relented on its previous position of refusing to increase the threshold for non-economic loss. As the member for Mitchell points out, two points on the scale is better than three as a threshold. It is a pity that the two members of the Legislative Council changed their minds last night because the Attorney-General had got to them.

But I am also disappointed with the Independents in this House, namely, the members for Chaffey and Gordon, who I thought were a bit cavalier the other night when they were quite happy to pass the bill with a threshold of three, which was even tougher. As I tried to point out in my second reading speech, that is dissuading people who might have achieved four points on the scale because they might not have thought they could reach three from incurring the necessary medical expenses in terms of medical reports and the like to show that they would have reached a threshold of three or more. I know it is two, but you will still end up dissuading people who might have even achieved three on the scale from applying because they think it is too much of a risk to invest $300 or $400 to get certain specialist medical reports. It will dissuade certain legal practitioners in this field who currently assist applicants to get those reports. The people we are talking about are those on low incomes—pensioners, the unemployed and the like—in particular who will be dissuaded by increasing the threshold. It is unnecessarily mean.

If the savings were going to help those who were permanently damaged or more affected by being a victim of crime, that is one argument, but we will now have the Attorney-General reduced to working out how many locks certain applicants for compensation should have applied to their house. If they make an application for locks to make themselves feel more secure, will the state pay for locks for every window, or only half of them? Will we have a monitored alarm system, or not? Will we have sensor lights, and how many sensor lights? This is all at the absolute discretion of the Attorney-General. And it is a position which, quite rightly, on the advice of the Law Society, is solely the discretion of the Attorney-General and cannot be delegated. I think that is a tremendous waste of resources in terms of the Attorney-General of the day having to worry about such matters, as against administering justice in this state.

The other point I will finish on is in reference, in particular, to the members for Chaffey and Gordon. Most members in the Legislative Council do not come into contact with constituents, unless by sheer accident they stumble into this place, get lost and are found hanging around the place. People will go to their House of Assembly members of parliament. In one sense it sounds a bit vindictive but, when a constituent of the member for Gordon or the member for Chaffey suffers a broken nose with no permanent damage or when an elderly pensioner has been knocked over in a bag snatching incident and has been caused severe grazing and bruising which is not of a permanent nature, and they make application for compensation to the victims of crime fund for pain and suffering and are told, 'No, you don't reach the threshold of two for pain and suffering'; when they are rejected and they feel upset and devalued as a human being, that, having been the victim of an assault they are not valued by our society and by this parliament in passing this bill—I hope the members for Chaffey and Gordon will say to themselves, 'Hang on, I actually voted for that. I actually voted to take somebody's rights away in that area. I am personally responsible for taking away those rights.' I hope that they also tell those constituents,'Yes, I voted to do you in on that.' I hope they will have the courage to confront that.

I will finish on this point—and I have probably said it two or three times. The minister has interjected on a few occasions with respect to the threshold of two for non-economic loss. I accept that. I accept there is no threshold for economic loss, whereas before they had to reach a threshold of one, but, realistically, for a person who has been pushed to the ground, or something of this nature, who is a pensioner or who is unemployed, there is not a big economic loss unless, for example, they are required to go to hospital and they are not in an ambulance fund and they have to meet the full cost of the ambulance—in which case, of course, that will be met, even under this bill, as far as economic loss is concerned. But, in any event, under the existing legislation that would have been met as a combination of economic and non-economic loss, which had to amount to only one point. So, I do not believe we have liberalised it in so far as those people are concerned and I urge the House to maintain its resistance with respect to increasing the threshold for pain and suffering.

The Hon. M.K. BRINDAL: I thank honourable members for their contribution. I understand that they are standing on a point of principle which, quite frankly, the government does not understand. Members will recall that the major point of

contention—and the member for Ross Smith might actually listen to this, because I think he has got it wrong, and I will try to explain why, one last time—in this bill is the fixing of the three point threshold for economic loss, something which members opposite obviously feel strongly about. That was the government's original intention. But, at present—and I think this is the point the member for Ross Smith is missing—there is a composite threshold of $1 000. So, for non-economic loss and for pain and suffering, unless you get $1 000 worth, you get nothing.

At present, because economic loss has been removed from the threshold, if you spend $1 on a grazed knee, $500 on calling the ambulance and $30 on something else, all of that is now compensable: it was not, previously, unless you got to the $1 000 threshold. So I do not know why the member for Ross Smith is saying that this is a measure against battlers, when the battlers will get every single cent of economic loss that they suffer. Previously, it all had to come to over $1 000 before they got anything. Now, they will get every single cent. Before, they were deprived: the poor, the people who could not afford it, the battlers whom the member for Ross Smith ably represents, got nothing. Now they get something, and he complains. I think he has made a mistake. I admire the man and his intelligence and his perspicacity when it comes to sticking up for his electors. However, I think in this case he misreads the bill. I point out that the Victims of Crime Review proposed the introduction of a five point threshold for non-economic loss. It was not the government.

Mr Atkinson: The review?

The Hon. M.K. BRINDAL: The review—a five point threshold. The government, in line with the opposition's thinking, said, 'No, we think that's too far. We think that is too much pain and suffering before you are taken into consideration.' So we reduced it to three, and we debated that in here the other evening. I have previously explained to the committee what the government seeks to achieve by restricting non-economic loss cases to the most serious. This is a point of contention between us but, while this measure is accompanied by the abolition of a composite threshold so that any economic loss becomes compensatable, I have also referred—

Mr Atkinson: I think the word is 'compensable'.

The Hon. M.K. BRINDAL: And 'pedant' is the word that applies to the member for Spence. I also refer to the proposed new power to make ex gratia payments to assist victims with practical measures to help them overcome the effects of criminal offending against them. I know the member for Ross Smith is sceptical on this measure because he doubts the Attorney's power to determine whether it should be one or two.

Mr Clarke: Some people won't live long enough to get his decision; he is so slow.

The Hon. M.K. BRINDAL: That remains to be seen. This Attorney has announced his intention to retire at the next election. Whoever is in charge of this bill, whether it is the member for Spence, if those opposite gain the government benches—and I do not include the member for Ross Smith in that group—or whether it is someone new on this side of the chamber, it will not be this Attorney, so I do not know how the honourable member can make outrageous claims about an Attorney, he knows not whom.

The three point threshold that we debated vigorously in here did not meet with approval in another place and the message proposes that, instead, a two point threshold be adopted. While this result is not ideal from the government point of view, it does represent a compromise, and I acknowledge that the member for Mitchell, the member for Spence and the member for Ross Smith have all said in their contribution that, while their principle is simply zero and no compromise, at least they recognise that two is a compromise. I reassure members of the opposition that reducing it to two even further enshrines the fact that those who are below the threshold of two, that is, at one or two, are the most minor of injuries when it comes to pain and suffering.

Mr Atkinson interjecting:

The Hon. M.K. BRINDAL: I gave examples last week. The government proposes to accept the amendment proposed by the Legislative Council. I commend the measure to the committee and I would say that this is the art of compromise between houses. If the member for Spence was to carry this measure and to insist on a conference—

Mr Atkinson: 'Were'; it is the subjunctive.

The Hon. M.K. BRINDAL: If he wants to be in the subjunctive and insist on this amendment and it goes to a deadlock conference, that will be his wish and it will be the will of the committee, but I suggest that, in the art of compromise, we accept this small amendment and avoid such horrendous consequences.

Motion carried.

Ms HURLEY: Mr Deputy Speaker, I draw your attention to the state of the House.

A quorum having been formed:

CORRECTIONAL SERVICES (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 October. Page 2461.)

Mr CONLON (Elder): The opposition supports this bill with some reservations and qualifications. Unfortunately for those who were hoping to go home early, it will be necessary for some questions to be asked during committee. As we understand the bill, it sets out to do a number of things. I am a bit puzzled, I will say at the outset, by the timing of the bill. It seems that the government, after meandering along for a few years, has decided that close to election time it better get hairy chested on some things and try at least to offer a presentable face to the electorate. I think it is going to struggle with that, but it is part of a fairly cynical platform that the Minister for Police and Correctional Services has been putting forward lately.

Mr Koutsantonis interjecting:

Mr CONLON: He is out there getting tough on anything he can get tough on as long as he can do something about winning that seat again. It has been said this week that we have a new Premier 'who is a nice guy but'. All I can say about the minister is that he is just the 'but'. If the new Premier is a 'nice guy but', the minister is just the 'but'.

The DEPUTY SPEAKER: Order! The honourable member will come back to the bill.

Mr CONLON: Although the bill contains some provisions that seem to be unremarkable, it appears to be an overdue attempt to bring the legislative framework into line with what happens in our prisons in regard to the treatment of prisoners who are on absence, and I do not have much to say about that. However, in regard to the treatment of prisoners on absence, I have some questions that I will ask

about the drafting, because I found it quite puzzling when I read it, and we can do that in the committee stages. Because I will do that in committee, I will not make a long second reading speech.

I signal that we have some reservations about the wording of the sections concerning the control of prisoners' work. I have some questions about the framework for home detention. I also have some questions about the exclusion of persons from a correctional institution, the breadth of the provision and the description given to exclude people. Whilst we have some concerns about those matters, our overall approach is that, if this government were honest, it would be in a caretaker mode and not putting forward any legislation. It has had its four years, it should have gone to an election—

Mr Koutsantonis interjecting:

Mr CONLON: Yes. I read John Trainer's letter.

Mr Koutsantonis interjecting:

Mr CONLON: No, it was a week or so ago. The government has a Premier that was not elected. We hope soon to provide this state with a better and more honest administration—one which has some regard for standards. We will have our own corrections policy, so we will not seek to move amendments to the government's bill. We are therefore content to allow the bill to pass with some questions, and we quietly await our turn. I will leave the remainder of my comments to some questions of the minister in committee.

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): Given the hour of the day and the fact that my colleague on the other side has indicated some cooperation, I am keen to get on with the questions. This measure is fundamentally important at the moment. If we are in a position after the next election to be able to continue to rebuild South Australia following the debacle of the previous government, I will let the honourable member on the other side know that it is my intention to go much further into the Correctional Services Act, but because of my other workload I have not had time to do that yet. I see this as important for the next while.

Bill read a second time.

In committee.

Clauses 1 to 3 passed.

Clause 4.

Mr CONLON: The bill seeks to insert the words 'officers or' before the word 'employees', but I cannot see any definition of 'officers'. What is the purpose of inserting those words? What is the difference between an officer and employee, and is that defined somewhere?

The Hon. R.L. BROKENSHIRE: That is a good question. As my colleague knows, one of our prisons is privately managed. The amendment is to take in that prison as well as employees under the Public Sector Management Act.

Mr CONLON: I guessed that that might be the position. I seek an assurance that this is not an attempt to broaden the current situation to use people in correctional institutions who are not employees. We understand that there is a private prison, and we have commented on that. We seek an assurance that there is no intention to use these definitions to provide for a greater use of non-government employees in the other correctional institutions.

The Hon. R.L. BROKENSHIRE: We also have a private contract for prisoner movement, as the honourable member would be aware. That is all that this is about. When I opened the Australian Prison Officers Union annual general meeting recently, I was asked where I sit when it comes to structures (both private and public) from the point of view of management, and I said that I sit comfortably with what we have now. So, I have no intention of utilising this for anything other than what I have already explained to the honourable member.

Clause passed.

Clause 5.

Mr CONLON: I am principally concerned about some of the drafting. Proposed new section 27A(1)(a) provides:

> The leave cannot be granted in circumstances prescribed by the regulations.

I can understand that leave cannot be granted in circumstances proscribed by the regulations. It seems to me that if the regulations prescribe the circumstances, those are the ones that you should follow. I am puzzled by the wording.

The Hon. R.L. BROKENSHIRE: The honourable member has studied more law than I. My advice is that what this is about specifically is that regulations can be used to prescribe circumstances in which leave cannot be granted. That is the whole purpose of this paragraph. The regulations can certainly prescribe those circumstances.

Mr CONLON: I still don't understand, but it's your bill. You reckon it works, so it's your problem. I am also concerned about the definition of 'corresponding law', which is:

> A corresponding law means a law of a state declared by the Governor under subsection (4) to be a corresponding law.

I take it that there has not been some attempt with the other states to come up with a legislative scheme. If it looks close enough, that is good enough. Is that the intent?

The Hon. R.L. BROKENSHIRE: Because I have been looking at the whole of this act—and, as I have flagged, if I am successful, we will do more—I have to admit that the other states are ahead of us with mirror legislation when it comes to this particular issue. So, this fits in with my understanding of what the other states already have.

Clause passed.

Clause 6.

Mr CONLON: I have some serious reservations about the wording of proposed new subsection (5) which provides:

> A prisoner in a correctional institution is not entitled to perform any other remunerated or unremunerated work of any kind, whether for the benefit of the prisoner or any other person, unless the prisoner has the permission of the manager to do so.

Given that this amendment refers to workers remunerated or unremunerated for the benefit of yourself or anyone else, it seems to capture almost any type of physical exertion that you could think of. Most people do not bend down to scratch their bottom unless they have an itch which it would be of benefit to them to scratch, but under this subsection that might well be work. I wonder whether this will make it far too difficult for people to go about their business. We are not here to extend to prisoners civil liberties which other people do not have. We must recognise that prisoners have surrendered some of the liberties that other members of society have by dint of their criminal activity, but it seems to be extraordinarily restrictive.

The Hon. R.L. BROKENSHIRE: I understand to an extent what the honourable member is saying. I am strongly supportive and very keen on Prime and very keen on general work and encourage that. It disappoints me that a small group within the prison system do not work, and do not get their little bit of pay as a result. The fact is that most want to work and I have encouraged that. Both the members for Peake and

Elder have had approval to go through some of the prisons and have seen the work in progress and I encourage that.

This new legislation will not prevent prisoners carrying out hobbies or interests or even providing individual assistance for friends in the community. It is there to stop what we describe as flagrant abuses of the system. Without naming the individual, I have seen a few, although not many. However, I want to get this tidied up as I have had a couple of interesting circumstances since I have had the portfolio. One involved a local businessman-cum-accountant who owned his own large accounting firm. He wanted to undertake accounting work for this firm while he still had a three year sentence for fraud.

Mr Conlon interjecting:

The Hon. R.L. BROKENSHIRE: Yes, hopefully he was not your accountant. That situation concerns us. It will tighten up not all circumstances, but we would like to have this strong enough to prevent that.

Mr CONLON: I appreciate at what it was aimed, but it is a very broad definition. It seems, with the example you give of a person having a hobby, that they would not be able to undertake that hobby unless he first sought the permission of the manager of the institution. There is no definition of 'work' that I can find anywhere and it makes plain that we are not talking of work for payment and that it is unremunerated work. It would seem to cover every form of physical exertion that was for the benefit of the prisoner or someone else. I accept your assurances that we are not creating a rod for our own backs or for the prison administrator. It seems that you could not tidy up your room without asking the permission of the manager of the institution without technically breaching this provision. If this is the best way to do it, I will accept the minister's assurances, but I have reservations about the breadth of it and it will be technically breached on a daily basis in every institution in the state.

The Hon. R.L. BROKENSHIRE: I have told my colleague why I want this in here. It is an important part of the amendment. I have faith in the managers who, on a day-to-day basis with everything, have to show discretion. The general manager is a person who has to consider lots of issues on a daily basis. I have seen very few examples of where that consideration is not carefully thought through and takes into account not the least of which the interests of the prisoner. I do not see a problem with this.

Mr KOUTSANTONIS: I agree with the minister, but I wanted to clarify a point. I have had a few constituents come to me whose partners or spouses are in prison and that person in prison was the primary earner for the family unit beforehand. There are often cases where the books, taxes or personal income were done by the person who is in prison and continue to be done by that person. I am encouraged by what the minister said earlier about a reasonable request. Is it a reasonable request for a spouse to go and have her husband or whoever in prison do the tax return for the family because they cannot afford an accountant and maybe balance the books for a family business which they used to run and which is still being run by the spouse outside? I do not like the example the minister gave before.

The Hon. R.L. BROKENSHIRE: I repeat what I said before: the proposal in this new legislation will not prevent prisoners carrying out hobbies, interests or providing individual assistance for friends, family and the community. Often people are in a financially devastating situation when a husband or wife goes into prison. That is not the intent but rather to try to stop some other work going on, and bear in mind that when we have prerelease we have people going back into the workplace in any case. It is more to fix the issue I raised before.

Clause passed.

Clause 7 passed.

Clause 8.

Mr CONLON: I repeat the concerns I have about the lack of a definition of 'work' and the very breadth of the coverage of new section 29(5) as it would stand. I flag that I do have concerns, and while I have to accept the minister's assurance that it is not too broad a definition, on some technical reading it might exclude almost all mail in and out of the institution, because I would have thought it takes a little work to scratch a letter and, what happens if that work has not been approved by the institution? I make that point. I will not pursue it, but I have to seek the minister's assurance that this will not make an unworkable regime.

The Hon. R.L. BROKENSHIRE: I see where the member is coming from in the broadest possible sense, but again I am happy to say in this House that I sit comfortably with this for the right reasons, and I do have confidence in the general managers and certainly in my executive and chief executive officer. I can assure the honourable member that, if he or I were to see whether someone was going to extreme circumstances, I would be happy to have a chat with the CEO. However, it is aimed at people who are bringing in large amounts of business, such as the person I highlighted, and we do not think that is appropriate.

Mr KOUTSANTONIS: Does this mean that every time a prisoner wishes to correspond with someone outside prison that, first, they would have to ask permission and give the detail of the letters that they are writing to people, for example, whether they are lobbying their member of parliament, writing to their lawyer, writing to family and friends, or whether they are lobbying other people?

The Hon. R.L. BROKENSHIRE: Certainly not, that is not what is intended. All prisoners should have the right to write to solicitors, MPs and vice versa. There should never be any issues in that regard, and that is not what is stated in this legislation. Again it is just to manage a situation where, from time to time—and I will keep using that one example because I do not want to go into too much personal detail on prisoner cases—they are having massive amounts of correspondence brought in and out on a regular basis. As the honourable member can imagine, some dangers are involved in that because you do not know what may be going in and out.

The honourable member may have seen some media in which I was involved a while ago which showed weapons being hidden inside a book and so on. It is for that reason that we are inserting this paragraph. However, I certainly reassure the honourable member that when it comes to MPs, solicitors and so on, obviously they are private matters between the prisoner and the MP, or the prisoner and the lawyer.

Mr CONLON: That is the point—and it will be the last point I make on this. It seems to me that, on reading this, a prisoner working on his or her own appeal and corresponding with people about it would need the permission of the manager to do that work under the rigour of these provisions. It is plainly work, it is plainly for the benefit of the prisoner and, plainly, it is something that is banned by these provisions unless they have the permission of the manager. I would assume that a prison manager will always give permission for that sort of thing to occur, but, on the reading of it at present,

the minister would concede that that is a matter that would be banned unless it had the permission of the prison manager.

The Hon. R.L. BROKENSHIRE: What the honourable member has said is exactly right. It is work that I am talking about, not about people presenting cases. I think—

Mr Conlon interjecting:

The Hon. R.L. BROKENSHIRE: Yes, but it says:

> material relating to, or that constitutes, work by the prisoner that the prisoner is not authorised to perform.

My colleague the member for Peake knows about a certain prisoner who keeps in touch with a lot of people, and I receive some of his material, as no doubt does the member for Peake. The honourable member can see that that is not stopped and that is not the intention: it is work related.

Mr KOUTSANTONIS: Is there a safeguard in this? I am not saying that this is the case now or has been the case, but if a certain prison manager has a personal disagreement with a prisoner, is there a check or balance? Is the minister informed if work is not to be undertaken by a prisoner? Can a prisoner appeal this? Is there any way they can let anyone know that they are not being allowed to work on their appeal? They cannot inform anyone about not being able to work on their appeal because they cannot write a letter, because they cannot get permission from the manager. If you have a manager who says, 'You can't write letters: you can't work on your appeal', how do you let anyone know about that? Is there a commission or board that this goes to, or is it just at the discretion of the manager?

The Hon. R.L. BROKENSHIRE: There is existing legislation that we are not amending, section 37, which goes into specific detail as to what the prison manager or any of the staff have to do. I can read it out to you, but it is two pages.

Mr Conlon: I've read it and I think he's got a point.

The Hon. R.L. BROKENSHIRE: We feel comfortable with this. Section 33(6) of the Correctional Services Act provides:

> An authorised officer may for the purpose of perusing a letter opened by the authorised officer that is in a language other than English, cause the letter to be translated.

I do not see it as an issue. That actually gives clear, express legal requirement as to what the prison officers and manager have to do in respect of mail.

Clause passed.

Clause 9 passed.

Clause 10.

Mr CONLON: I understand the intention set out in what would be the new section 37A. The shadow Attorney-General Michael Atkinson has spoken on our attitude to home detention. It was our view that the discretion was a little too absolute as it stood in the chief executive officer of the institution. I see what is being done here, but will the minister explain what mischief this amendment is aimed at? What has been going wrong with the exercise of the discretion in terms of home detention? What have been the instances the minister has not been happy about that have caused him to introduce this amendment?

The Hon. R.L. BROKENSHIRE: Actually, I am a supporter of home detention and I have had that on the public record before, but this was one clause that I was particularly keen to see approved. At the moment, you can have a situation where someone who has been in prison for murder, with a sentence of, say, eight years, can actually get out to home detention with four years to go. All prisoners can apply for home detention from the moment they have completed half their non-parole period. Also, prisoners who receive a sentence of less than 12 months can be released to home detention immediately they enter prison, without serving a day of their sentence, under the current legislation.

That concerns me, because I believe that if you have actually lost your liberty because you have been sentenced to prison, if you are sentenced to serve six months you ought to be serving three months of that in the prison system before you get home detention. The policy up until about 18 months ago was that home detention would be restricted to the last 12 months of the prisoner's sentence, and I supported that policy. Longer periods were considered not only to be contrary to the intention of the court but also impossible for most offenders to carry out without breaching.

That is the other thing that concerns me. In letters, as well, I have explained to prisoners that home detention is a particular privilege. I think it has benefits for the family, the prisoner and the community, but it is a privilege. Every time someone breaks that privilege, then we suffer through a lot of cross-examination, particularly in the media, about the merits of home detention. I agree that this is a strong clause, that it is clear and there will be no ambiguity once we get it in.

Mr Conlon interjecting:

The Hon. R.L. BROKENSHIRE: That's what I thought you were asking.

Mr CONLON: Please do me the credit of recognising that I understand what the past provision allowed and what the new provisions will allow. Our shadow attorney-general has expressed concern at what is allowed under the current provision the minister seeks to amend. I am not making that criticism. The question I asked was: in your view as minister, what examples of home detention are not right at present? I assume that the minister has seen some cases of home detention in operation and said, 'I don't like what's happening there; that's why we need a new provision.' Have people been released when they still have four or five years of their sentence left and without serving enough of their sentence? Does that not mean that we have been right all along?

The Hon. R.L. BROKENSHIRE: I do not have that detail here, but I am happy to provide the honourable member with some examples of where people with periods of longer home detention have breached. A high percentage of people do not breach home detention. However, from my understanding, the evidence is that, the longer the period of home detention, the more the chance of breach. It is tougher for many people to honour the conditions of home detention than it is to be in the mainstream prison system. That is my concern. I hope that I have answered the honourable member's question. That is the intent of this clause.

Mr CONLON: I just wanted the admission that we were right and that there have been problems with the current system.

The Hon. R.L. BROKENSHIRE: We in DCS have home detention right pretty well all the time. However, there are risks with home detention. We do not have it right 100 per cent of the time, and I will acknowledge that if it makes the honourable member happy.

Clause passed.

Remaining clauses (11 to 13) and title passed.

Bill read a third time and passed.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ON-LINE SERVICES) AMENDMENT BILL

Received from the Legislative Council and read a first time.

WATERWORKS (COMMERCIAL LAND RATING) AMENDMENT BILL

The Legislative Council agreed to the bill without any amendment.

ADJOURNMENT DEBATE

The Hon. R.L. BROKENSHIRE (Minister for Police, Correctional Services and Emergency Services): I move:

That the House do now adjourn.

Ms STEVENS (Elizabeth): I want to spend a few minutes talking about a range of health issues. I want to start by talking about dental health, particularly in the light of the federal election campaign and the comments made in this House yesterday by the Minister for Human Services. I will come to that shortly. I would like to start by quoting what the Minister for Human Services said during the estimates committee on 26 June 2001. In reply to a question from the member for Hartley in relation to dental health, the minister said (page 158 of *Hansard*):

. . . if I take the waiting list for public patients for standard dental treatment, it has dropped from just under 100 000, about 99 000, down to 81 000 in the first 10 months, and I understand that, because of additional money, by the time we get to the end of the financial year there will be a further significant reduction, quite a significant reduction, because a lot of that is that those extra people have been treated in May and June. So my guess is that we will be below, and I hope significantly below, 80 000 on the waiting list, by the end of June, and I see that waiting list continuing to decrease.

He went on to say:

It is very encouraging.

Well, members it would be somewhat encouraging if that, in fact, happened. If one turns to the annual report for the Department of Human Services for 2000-2001, one sees it says that at June 2001, one month later than reports of the minister in the press and only a few days after these comments that he made in estimates committee, there were in fact 88 000 people on the waiting list for dental treatment—an increase of 8 000 over the figure that the minister had given to this House just a few days earlier. So, the minister's figures, as they quite often are, were also a little untidy on that occasion. Therefore, as at the end of June this year, 88 000 people still wait for dental treatment.

As we all know, the major cause of this blow-out in dental treatment was the cancellation, without notice, in 1996 of the commonwealth dental health program by the Howard government. So what a colossal nerve of the Minister for Human Services yesterday to stand up in this House and criticise the federal Labor Party's election commitment of $7.2 million over four years to help with dental treatment in this state. Members might recall that the Minister for Human Services stood up in this House in his arrogant fashion and, having blamed Michael Wooldridge and John Howard year after year, had the nerve to criticise the federal Labor Party for its promise of $7.2 million over four years to help cope with a dental health service problem caused by John Howard.

I wonder if the Minister for Human Services saw the *7.30 Report* last night, when his federal counterpart, Michael Wooldridge, flatly refused to give any money for dental health programs. In fact, he said that dental health was the province of the states. That was the argument that he and John Howard used in 1996 when they cut $100 million from dental health—from a program that was enabling people on pensions and low incomes to receive much needed dental health treatment. That is what they said. They said it was not their responsibility in 1996 when they cut $100 million.

Yesterday, this minister, who has not been able to fix the problem, whose figures remain at 88 000 people on the waiting list as at the end of June, according to his own department's annual report, criticised the opposition for providing money to support the program when his own mates flatly refuse to do so. The minister tries to interject and argue about levels of funding, but the fact is that Labor cares about it and Labor puts money into it. John Howard's Liberals cut the program in the first place and still steadfastly refuse to do anything about it.

The minister went on about other programs and wanted to criticise Labor's Medicare alliance. When in the history of health funding in this country has there been such an undertaking—that there will be 10 years' real growth and real increase in health funding across the country, and federal and state governments locked together? This minister again is trying to interject and have his say. This is the minister who for four years as Minister for Human Services, and before that as Premier, has presided over the most significant period of unrelenting cuts to health services that we have seen in this state. As well as that, he, throughout this time, has constantly blamed his federal counterpart Michael Wooldridge and through him the Prime Minister, John Howard.

Again, we see the nerve of the minister today in question time when he actually had a go at the federal opposition for promising a commitment to increase funds, arguing that it was not enough. Perhaps we might ask why it is not enough, where the money went and where the priorities of John Howard and his mates have been? They have not been in health, just as they have not been in health in South Australia. What a cynical exercise this has been from the Minister for Human Services. He thinks it is smart, he thinks it is a joke, but what a cynical exercise it is.

We can see this man has no real care or concern for improvements in health services for all people in Australia. He is just concerned to play the political game in whichever way he wants to play it as it suits him. For four or five years he has blamed his mates in Canberra but now, during a federal election campaign, he wants to blame and criticise the federal opposition for doing the very things he has complained that his own mates have failed to do year after year since they have been in power. I think it is quite clear, and it should be clear to all people in this country, both at a national and state level, that the only party that puts public health as a major priority is the Labor Party. The Labor Party's priorities will always be in those areas and it is quite clear that the minister himself knows that. The minister himself has failed to make this area of government spending a priority. He has failed in his duty to the people of South Australia and now he clearly wants to cover it up.

Mrs PENFOLD (Flinders): The Pollution of Waters by Oil and Noxious Substances Act 1987, now known as the Protection of Marine Waters (Prevention of Pollution from Ships) Act 1997, seeks to minimise the likelihood of

accidental or deliberate pollution by oil or noxious liquid substances. It also addresses the issue of appropriate disposal of rubbish from shipping vessels. The act implements the annexes I, II, III and V of MARPOL, which is the International Convention for the Prevention of Pollution from Ships to which Australia is a signatory. However, there are further annexes of MARPOL dealing with sewage and management of ballast water which I understand are not covered by state acts and about which I still have some concern. Dr Francis Michaelis, the program manager of the Invasive Marine Species Program, advises that 'Australia has around 60 000 kilometres of coastline including offshore islands' and that Australia is among the world's 12 most biologically diverse countries, with up to 80 per cent of our southern and 10 per cent of our northern marine species found only in Australia. We have a lot at risk.

When a ship takes on ballast, normally in coastal waters outside port, to make up for weight loss after unloading cargo, it also takes on thousands of microscopic organisms including plankton species, the planktonic life stages of other marine species and pathogens. These organisms are then transported in the ship's ballast tanks and released as the ballast is discharged when the ship arrives at another port of call, unless a changeover of the ballast water has been made mid-ocean. While I am aware that overseas ships are supposed to dispose of water ballast outside the Continental Shelf, I am also aware that this is not always strictly adhered to, as exchanging ballast while under way may threaten the vessel's safety. Around 150 million tonnes of ballast water is released in Australian coastal waters each year from international shipping and a further 34 million tonnes from coastal vessels.

A range of molluscs, crustaceans, worms and seaweed that threaten indigenous marine environments have been translocated internationally in this way. Worldwide, examples include the donoflagellate, introduced from Japan to Australia, the comb jelly from North America to the Black and Azov seas, and the Indo-Pacific swimming crab from the Mediterranean to Colombia, Venezuela, Cuba and the United States. It has been estimated that ballast water may transport over 3 000 species of animals at any one time and that one introduced species is becoming established every day.

It has been a source of concern to me for a number of years that ballast water and hull fouling from overseas ships introduces dangerous marine pests and unwanted and toxic microorganisms into our marine environment. The fan worm has wreaked havoc in Port Phillip Bay in Victoria. It was apparently introduced into the bay through disposal of water ballast from an overseas ship, as was the sea star, which is well established in the Derwent in Tasmania. Sampling has revealed sea star larvae in record numbers around port facilities in Hobart which is where researchers believe the pest was introduced, also presumably by an overseas vessel. I am extremely concerned about the potential environmental impact, particularly on the Eyre Peninsula region which is heavily reliant on its fishing industry and aquaculture farming enterprises, should an environmental disaster occur in this region.

Port Lincoln and Ceduna are important destinations for overseas grain ships. Thevenard, at Ceduna, has gypsum and salt ships as well. Each overseas vessel poses a threat to the future of our multi-million dollar aquaculture industry. In addition, there is an increasing incidence of coastal shipping visiting our harbors that could inadvertently bring these organisms with them from other Australian ports. Should a situation similar to the devastation of sea beds in Port Phillip Bay by the fan worm occur in this region, it could mean environmental and economic disaster. The success of the aquaculture industry depends on a guarantee of clear, pure water.

There is a wider implication to Australian communities regarding hull fouling and ballast water disposal. Toxic organisms harmful to human health can also be translocated in ships' ballast water. Cholera has become a high-profile ballast water threat ever since North American researchers reported to the World Health Organisation the detection of the potent toxic strains in ballast water samples from ships originating from Columbia and Brazil during the 1991 outbreak. This event also triggered AQUIS in 1996-97 to instigate a targeted cholera testing regime for ships arriving in Australia from India and South America, the results of which so far have been negative.

Given that indigenous cases of cholera are known in Queensland, AQUIS has considered it necessary to address the question of the likelihood of new virulent toxic strains being introduced, or domestically translocated by ships' ballast water. AQUIS endeavours to implement strategies to effectively monitor the impact on public health and aquaculture should an exotic introduction occur, and to have in place the available ballast water treatment options and public health emergency procedures if a contaminated ship actually discharges foreign organisms in Australian coastal waters.

There are a number of national committees that have input into the problems relating to introduced organisms. Three of these are the Australian Introduced Marine Pests Advisory Council, the Consultative Committee on Introduced Marine Pest Emergencies, and the National Introduced Marine Pest Coordination Group. Funding the work being undertaken by these organisations to reduce Australia's risks must be a priority for all governments.

Last year, I organised what was a very informative briefing on 'Introduced marine pests in South Australian waters—risks and prevention', which was held here in Parliament House. One of the papers stated:

> What is needed is for the ballast system of commercial cargo vessels to be re-designed so that organisms are not translocated or discharged into foreign ports. However, the industry is in a catch 22 situation. Regulators can't insist on vessels having a special ballast water system as one hasn't been invented yet. The reason that a special system hasn't been invented is that it requires a lot of time and money to do so. Potential investors are not interested in investing money into developing a system for which there is no market. And there is not a market because the authorities have not made it mandatory. The only way ships will fit a special system is for it to be made mandatory. After all, why spend $1 mil [per year]. . . that your competitors don't have to. The international shipping community is just that—international. Profit rates are extremely marginal and freight rates (price paid per tonne of commodity ship carried) can fluctuate wildly. International shipping is an extremely competitive and cut throat business.

This illustrates that pressure needs to be brought to bear internationally if adequate protection is to be put in place. It is my view that it is in the best interests of the people of the world that this is done whenever possible. Foreign organisms of all kinds tend to thrive when introduced into places where they do not have natural predators, and they can be devastating to local species and to our industries.

In the meantime, we have to support AQIS and the relevant committees and be vigilant ourselves in ensuring that shipping is carefully monitored for best practice. As a government and individuals we can inform others of the risks and watch carefully for any signs of foreign exotic organisms or potential risks that can be controlled. Pamphlets that are

available to all those who come into contact with oceans and public boards illustrating those marine organisms that are known to be a risk and likely to be transported to our regions from elsewhere should be readily available to all.

Motion carried.

At 5.18 p.m. the House adjourned until Tuesday 13 November at 2 p.m.