HOUSE OF ASSEMBLY

Tuesday 20 August 2002

The SPEAKER (Hon. I.P. Lewis) took the chair at 2 p.m. and read prayers.

PAPERS TABLED

The following papers were laid on the table:

By the Treasurer (Hon. K.O. Foley)—

Southern State Superannuation Scheme (Triple S)—Cost of Basic and Supplementary Insurance

Regulations under the following Acts—

Stamp Duties—Remake

By the Attorney-General (Hon M.J. Atkinson)—

Legal Practitioners Education and Admission Council, Report for the year ended 30 June 2002

By the Minister for Health (Hon. L. Stevens)—

Abortions Notified in South Australia, Committee appointed to examine and report on—32nd Annual Report for 2001.

WHALE AND DOLPHIN PROTECTION

The Hon. J.D. HILL (Minister for Environment and Conservation): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.D. HILL: I would like to inform the house of developments surrounding yesterday's whale entanglement in the northern Spencer Gulf. Yesterday the Premier reported to the house that a young southern right whale was freed north of Whyalla by three divers. The divers were Damian Grimm, Richard Worthington and Tony Bramley. Damian Grimm was injured in the rescue through a cut to tendons in his hand and I am informed has undergone surgery to repair the wound.

The whale was entangled in crab pot lines, with up to eight pots attached. Reports indicate that all rope has now been removed. National Parks and Wildlife will be flying over the area throughout today to check on the health of the animal. The removal of entanglements from large whales is particularly dangerous. NPWSA officers have undertaken training over recent years in the removal of entanglements from whales. The risk comes from potential entanglements of rescuers, physical injury from whales (particularly the tail), and the presence of sharks around an injured whale. The risk also is that all the material may not be removed. In 1984 a diver from the United States nearly lost his life after being entangled in netting attached to a humpback whale.

Officers from Conservation and Land Management Western Australia have provided training and assistance to officers of the national parks in South Australia. They have expertise due to the high numbers of entanglements of humpback whales in rock lobster lines and other debris. There have been increasing numbers of entanglements of whales in Western Australia. Amendments to the National Parks and Wildlife Act in 2000 have provided for increased penalties for approaching whales in boats and aircraft or by swimming. Swimmers must not approach closer than 30 metres to a whale or closer than 100 metres to a whale calf. Swimmers using scuba equipment must not approach closer than 100 metres. The maximum penalty for offences in the case of marine mammals is $30 000 or imprisonment for two years. Under the current law, the three divers who freed the distressed whale yesterday could technically have been in breach of that law, although it may have been a defence to a charge of an offence that they acted in the best interests of the animal concerned. The government does not support prosecutions in this instance.

Clearly, the legislation as it stands is not workable in some circumstances, and I inform the house that I will re-examine the law as it relates to marine mammals. I am also informed that, somewhat surprisingly, there is no offence committed under fisheries or national parks and wildlife legislation relating to the cause of the entanglement. Further consultation on the causes of entanglements will be addressed through the marine mammal interaction working group. In the case of the three divers involved in yesterday's rescue, the government regards their actions as heroic, albeit somewhat dangerous. Incidents involving southern right whales have increased over recent years due to increasing populations and greater human use of the marine environment. One died in Backstairs Passage, possibly due to a boat strike, and one was entangled and died as a result of fishing gear entanglement at the Head of the Bight. However, the government and indeed most South Australians regard whales as animals that need special protection to ensure their long term survival for future generations to enjoy.

TAFE

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): I seek leave to make a ministerial statement about the reform of TAFE governance.

Leave granted.

The Hon. J.D. LOMAX-SMITH: This morning I announced that Mr Peter Kirby, who is a distinguished leader in the higher education sector, would carry out an examination of the South Australian TAFE system to address concerns that privatisation moves by the previous government have led to increased competition at the expense of sound educational and financial governance. Since the establishment of a national system of vocational training (VET) under the ANTA agreement of 1992, the role previously undertaken almost solely by TAFE institutes has been shared with an increasing range of private VET providers, including for profit, community and industry training enterprises. While in many ways this has strengthened the state's training capacity, an overemphasis on competition as the driver of development within the sector has threatened to distort the pattern of training provision and has prevented coherent planning of a sector crucial to state development, as well as diminishing the value of a major state asset in the public VET sector—the eight TAFE institutes. Governance arrangements for TAFE are no longer adequate for the situation in which TAFE institutes are bound by competition criteria within the national VET system—

Mr Brindal interjecting:

The SPEAKER: Order! The member for Unley needs to recognise that his standards for others ought to be observed by himself, at least more particularly than I have noticed for a while.

The Hon. J.D. LOMAX-SMITH: Governance arrangements for the TAFE network are no longer adequate for a situation in which TAFE institutes are bound by competition criteria within the national VET system while also being tasked to meet the state's industry training needs and fulfil community services obligations. A project initiated by the previous government developed proposals to change TAFE

governance arrangements that would have placed significant emphasis on autonomy of, and competition amongst, the institutes. These were reflected in a draft bill presented to parliament. The Rann Labor government does not support governance pathways that will lead to whole or partial privatisation of this valuable state resource. The government, while accepting that the institutes need sufficient self-governing capacity through their industry-led councils to deal with pressures entailed in the ANTA policy framework, will also ensure that the TAFE network is able to respond as a system to the needs of the state, its citizens and its businesses.

The government has taken a major step in this direction by establishing the Department of Employment, Further Education, Science and Small Business. It is now necessary to develop a governance structure for institutes that will encourage innovation, flexibility and responsiveness to industry within an overall state policy environment, while facilitating and supporting sound management of the TAFE system. The government has determined that TAFE governance arrangements require change if the institutes are to succeed in the challenging environment in which they find themselves.

The examination of the issues will be led by Peter Kirby, the current head of the National Centre for Vocational Education Research (NCVER) and a major national figure experienced in the VET sector, supported by financial and policy expertise. Mr Kirby will examine how the TAFE system, which covers eight institutes and 92 000 students and apprentices, might best be able to meet industry and community demand for education and training in a competitive environment, and how it might work collaboratively as a statewide education and training system within an appropriate financial and policy framework.

Whilst our vocational training needs are integral to community, social and economic development, the previous government's management of this sector was substandard. This government has now received advice of preliminary findings of a financial review of the department conducted by Treasury. It has pointed to poor financial and budgetary management practices. It appears from departmental figures available to me that, in the TAFE system as a whole, there has been a move in one year from an operating deficit of $580 000 in 2000 to an operating deficit of $3.7 million in 2001. These changes are also reflected in a worsening in the cash position of the institutes.

This result is attributable to weaknesses in the previous government's approach to TAFE governance and it is an issue that must be addressed with some urgency. Naturally, in the course of the work, there will be consultation with all the key stakeholders in the TAFE system. The work is to be completed by the end of November, with recommendations to be brought to me shortly thereafter.

LOCAL GOVERNMENT LEGISLATION

The Hon. J.W. WEATHERILL (Minister for Local Government): I seek leave to make a ministerial statement.

Leave granted.

The Hon. J.W. WEATHERILL: Today I have great pleasure in releasing for public consultation the draft Local Government (Access to Meetings and Documents) Amendment Bill 2002. The purpose of the draft reforms contained in the bill is to reinforce the well established principle of public access to local council and council committee meetings and associated documents. It is this government's view that the provisions for closing local council meetings are too broad. Furthermore, there is some evidence that such provisions are used too often without due consideration given to each case. Consequently, I have instructed that a review be undertaken of sections 90 and 91 of the Local Government Act 1999, which set out the circumstances in which local government councils may exclude the public from a meeting in order that the associated documents not be publicly available for a period of time.

To reflect the government's commitment to honesty and accountability in government at all levels, it is proposed in this draft bill to rationalise and reduce the number of exemptions from the requirement to conduct council business openly. This review has taken place alongside the Freedom of Information Act 1991, which also applies to local government and has complementary objectives. I hope to make an announcement on that matter in the near future.

A draft bill has been prepared for consultation purposes and is being made available with accompanying explanatory material to all councils, local government unions and peak bodies, the media, and to the public on request. I am very interested in any ideas, whether canvassed in the draft bill or not, that members of the public, elected members and council officers may have about legislative or non-legislative means to encourage and reinforce openness. Specific proposals contained in the draft bill include:

- Removing the consideration of advice from a person employed or engaged by the council to provide specialist professional advice as a ground of exclusion;
- Making a number of grounds for exclusion subject to a public interest test;
- New provisions designed to make it easier for the public to find out the dates, times and places set for meetings of council and council committees;
- Restricting the financial charges for providing copies of documents to which the public is entitled under the act; and
- Requiring councils to report annually on cases where it has closed a meeting.

Comments and further ideas are also being sought from the public on:

- Current practices in relation to meetings and documents that councils and the community may consider useful; and
- Any proposals for non-legislative measures which can encourage principles of open government.

The draft bill also proposes a number of technical amendments to the Local Government Act 1999 to correct some oversights and unintended consequences in the legislation and to clarify various administrative matters for councils. I look forward to working with the community and with colleagues in progressing this government's commitment to openness and accountability.

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

Ms BREUER (Giles): I bring up the 47th report of the committee entitled 'Annual Report for 2001-02'.

Report received and ordered to be published.

QUESTION TIME

ROAD RAGE

The Hon. R.G. KERIN (Leader of the Opposition): My question is directed to the Attorney-General. What action is the government taking to impose tougher penalties to curb the worrying increase in road rage incidents in South Australia?

The Hon. M.J. ATKINSON (Attorney-General): Some weeks ago the government announced changes to the law regarding assault. That is, we will recast the law of assault into new categories: intentionally causing serious harm; recklessly causing serious harm; negligently causing serious harm; intentionally causing harm; and recklessly causing harm. The maximum penalties are to be much heavier than they are now. As the Leader of the Opposition would know, there is a range of assault offences, some of which are clearly outdated and referable to incidents which occurred in the distant past—offences such as assaulting a seaman or hindering a magistrate preserving a wreck. So, we are putting the law of assault on a more consistent and rational basis.

We are also introducing the concept of aggravated assault in accordance with our election policy, much criticised by the Liberal Party at the time—that is, to have extra penalties for assaulting someone who is aged 60 or over, or is disabled or otherwise vulnerable; for assaulting someone under the age of 12; and also for assaulting people in the course of their public duty, such as police officers, firemen, and school-teachers.

We will also be making it an aggravated assault to assault a worker who is in a specifically vulnerable vocation—for example, a cab driver working alone late at night. All this is on the public record, and was on the public record before the question of road rage arose. All the incidents listed in the *Advertiser* this morning are already offences under South Australian law. There is nothing there that is not covered by the general law.

Mr Brindal: You're sounding like the previous attorney.

The Hon. M.J. ATKINSON: I would not want to sound like Trevor Griffin, but it may come with the territory! It seems to me that the difficulty is that South Australians are not reporting incidents of road rage for one reason or another. This morning, I know the member for Fisher gave an example on radio of a businessman driving a van who cut off another motorist I think on Greenhill Road. The other motorist caught up to him and threatened him with a gun. He felt that he did not want to report that to the police because the person who had the gun knew his name and address from the writing on the side of his van.

I am not sure what the government can do to encourage people to report road rage offences, but I have asked my officers to look at a couple of things, for example, whether there is a point in publishing the names of people whose licences are suspended in order that their relatives and friends would have notice of that fact and, therefore, not lend their motor vehicles to them. Secondly, I am examining whether a judge, when sentencing an offender for an assault arising out of a road rage incident, has the sentencing option of suspending the offender's licence. Those are two matters that I think are well worth my consideration.

CRIME PREVENTION

The Hon. R.G. KERIN (Leader of the Opposition): Given the government's constant claims in relation to openness and accountability, will the Attorney advise the house exactly what community consultation took place before the government slashed crime prevention programs throughout the state? Particularly as many of the cuts affect regional areas, will you advise the house if and where regional impact statements were undertaken?

The SPEAKER: Before the Attorney answers, I ask the leader to have a yarn to his minders and tell them that questions are addressed to the chair—and I cannot answer that. However, by use of the second person pronoun, you direct the question to the Attorney—can I say to the leader and the people who wrote the question for him—and that is the very basis upon which antagonisms begin to grow. The reason why parliaments have members address their remarks to the chair—not me personally but the chair—is to avoid that. The Attorney.

The Hon. M.J. ATKINSON (Attorney-General): Mr Speaker, I do have a copy with me of Sir Ernest Gowers' classic work, *The Complete Plain Words*, which I am happy to share with the Leader of the Opposition's staff!

The decision to cut crime prevention grants from $1.4 million to $600 000 a year was a budget decision. I would like the Leader of the Opposition to tell me how many budget decisions were foreshadowed under his government with those who were to suffer the funding cut. But I can answer that: provisionally, the answer is none. The answer is none whatsoever, because that is the nature of budget decisions. As I have said before, on the question of crime prevention—

Members interjecting:

The SPEAKER: Order! The member for Bright knows what the standing orders say.

The Hon. M.J. ATKINSON: —ministers had to cut between 2.5 per cent and 3.5 per cent from their portfolios, and the justice portfolio was no exception. We inherited a budget—

Members interjecting:

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

The Hon. M.J. ATKINSON: That has been established and verified many times. I had to cut my budget as every other minister did—I was not exempt from it—so I had to find savings in my portfolio. In my portfolio, like every other portfolio, the biggest item of expenditure is wages and salaries, and in the justice portfolio are the wages and salaries of police officers. Are members opposite saying that in cutting the budget of the justice portfolio by between 2.5 and 3.5 per cent we as a government should have cut police numbers instead of cutting local government crime prevention? I think not. Moreover, I had to find several hundred thousand dollars to increase funding to the Director of Public Prosecutions—

Members interjecting:

The Hon. M.J. ATKINSON: You can interject but budgets are about making choices, hard choices; and you have only been six months in opposition and already you have settled into that fantasy world whereby no cuts are necessary. You are back on the plane of reasoning which is easy and most comfortable for you—

The SPEAKER: I warn the member for Unley.

The Hon. M.J. ATKINSON: —whereby you propose increases in expenditure but you never propose spending cuts. I do not know how you will balance your budget—with mirrors perhaps. So, in my—

The Hon. DEAN BROWN: I rise on a point of order. Mr Speaker, you made a point during the leader's question when he referred to 'you'. I have heard, I think on eight

occasions, the Attorney-General use the world 'you', and you have not yet picked him up, sir.

The SPEAKER: I uphold the point of order.

The Hon. M.J. ATKINSON: I think the point of order is correct: in fact, the term should be 'ye': it should be the second person plural. It is true, we did cut the local government crime prevention budget and we directed some of that money to the Office of the Director of Public Prosecutions. The reason we did that, as members opposite will recall, is that a dedicated offence of home invasion was introduced in 1999. The then Liberal government did not want to do it, but it was forced into it by one Salisbury pensioner, Ivy Skowronski, and her petition bearing 100 000 signatures. In making some forms of break and enter, namely, break and entering where the offender knew that the occupants were at home, or was recklessly indifferent to whether they were at home, it made the offence more serious. It took it from being a summary offence, which is capable of being tried in the Magistrates Court, to an indictable offence that had to be tried at a higher level, so more money had to be spent by the Director of Public Prosecutions' office in prosecuting these offences—

The Hon. D.C. Kotz interjecting:

The Hon. M.J. ATKINSON: I haven't been snowed at all; it is a fact of life. The last Liberal government introduced an offence of home invasion—

The Hon. D.C. Kotz interjecting:

The SPEAKER: The member for Newland will come to order!

The Hon. M.J. ATKINSON: —but then failed to give the DPP the necessary funding to prosecute those offences. If there is a choice on the one hand between clearing the backlog of home invasion offences—and many of these offenders will re-offend while on bail—and, on the other hand, funding the local government crime prevention program, I know what my priority is and I know what the priorities of the public of South Australia are. As it happens, there is still $600 000 left for local government crime prevention and we will be consulting local government about how that is spent.

The Hon. R.G. KERIN: I was going to make it a supplementary question, but if they are not asking questions it probably will not matter. Was a regional impact statement prepared, and did the Attorney-General have any idea what the flow-down effects in communities would be as a result of this decision?

The Hon. M.J. ATKINSON: There were 18 local government bodies or groups of local government bodies that were receiving crime prevention money. Most of those, of course, were in the metropolitan area; some were outside Adelaide. I considered long and hard what the government's priorities were and we made a budget decision in the normal way.

The Hon. R.G. KERIN: I have a supplementary question, Mr Speaker. Did the Attorney understand the impact that the decision was going to have in local communities?

The Hon. M.J. ATKINSON: Yes, and I was in Mount Gambier, Port Lincoln and Port Augusta in the weeks immediately before the decision was announced.

HOSPITALS, QUEEN ELIZABETH

Mr CAICA (Colton): Following the government's decision earlier this month that the QEH will keep the MRI purchased without approval, can the Minister for Health tell the house when the machine will be commissioned?

The Hon. L. STEVENS (Minister for Health): I am pleased to inform the honourable member that my department has advised me that the commissioning of the machine will take about four weeks and that that is now proceeding. At the same time, my department is working on financial details for the funding of the purchase and operation of the MRI and the necessary government approvals.

CRIME PREVENTION

Ms CHAPMAN (Bragg): My question is directed to the Attorney-General. During the process of slashing the crime prevention funding that the minister has confirmed today, I ask the Attorney-General whether the government actually considered the crime levels in any of the areas that are identified as being slashed. With your leave, sir, and that of the house I indicate that the Attorney had persons confirm today that $600 000 is left and I would like to know about the crime levels, and how that is going to be used, given that Port Augusta—

Members interjecting:

The SPEAKER: Well, notwithstanding the member's likes or dislikes, I do not think anything the member has said to date further explains and enables me to understand the question any more clearly—which was very clear at the outset. Unless the member has a legitimate explanation to make, the member should leave it to the minister to answer.

Ms CHAPMAN: Very well then, I will indicate that the Port Augusta council, in particular, has a very high crime rate, and I ask whether that was taken into account, or will be, in the $600 000 you have left.

The Hon. M.J. ATKINSON (Attorney-General): Yes, I did consider the crime rates in the respective local government areas. I considered that for some time, and it is my hope that Port Augusta will be given priority in the allocation of the remaining $600 000.

Mr BROKENSHIRE (Mawson): My question is also to the Attorney-General, and it is: what input, Attorney, did you have—

The SPEAKER: Order! The honourable member knows that questions are directed through the chair.

Mr BROKENSHIRE: Sorry, Mr Speaker. The question is: what input did the Attorney-General request from South Australia Police, and particularly the Community Programs Unit, within his considerations and deliberations for the decision to drastically cut the Crime Prevention Program by $600 000?

The Hon. M.J. ATKINSON (Attorney-General): This matter was considered during the budget bilateral process. Police have an increasing role in crime prevention. Police have their own crime prevention programs, and I imagine that they will be enhanced in what we do in the future.

DROUGHT RELIEF

Ms BREUER (Giles): Can the Deputy Premier outline the effects of possible drought conditions on the state's economy as well as relief measures that might be implemented?

The Hon. K.O. FOLEY (Deputy Premier): I thank the member for Giles for her question as I think this is a very important question for all members of the house, but particularly so for rural members. It is with some concern that

the government is monitoring events as they relate to the seasonal conditions which we are currently experiencing here in South Australia and, of course, nationally. Many parts of New South Wales and Queensland are in very serious difficulties because of the lack of rain and the impact that that is having not just on rural and regional areas but on the economic performance of the states involved.

The government is monitoring the situation in South Australia very closely. As has been said, the budget has forecast a growth of 2.75 per cent in the current financial year. The reduction from the previous year's projected economic growth is, in part, because of our view that the former government used too high numbers in some of its forecasts, and it also takes into account an expected lower farm yield as a result of not just seasonal conditions but the fact that we have been and still are experiencing a period of both high value and large volumes of the crops that we are harvesting.

Agricultural output contributes nearly 5 per cent of state growth product in 2000-01; wheat exports have grown by 51 per cent in the last financial year and account for about 13 per cent of the total of goods exported from South Australia; wine accounts for approximately 15 per cent of the total of goods exported; and meat preparation is nearly 4 per cent. This clearly indicates the significant role that our rural and regional economies play in our economic output and the large contribution to exports made by our farming sector.

Rainfall during the past six months has been about 60 to 80 per cent below the 30 year average in most of South Australia. Clearly, this is a very worrying sign. The National Climate Centre believes—and this is an important statistic—that there is a 70 per cent chance of drier than normal conditions in South Australia over the next three months. As members would know (indeed, the Leader of the Opposition as a former primary industries minister would know this), drought relief is primarily a federal responsibility. The state government adheres to the National Drought Policy which contains provisions that come into effect when exceptional circumstances are declared. Under this policy, farmers should expect some periods of drought and must manage their risks to prepare for such times.

As many members would know (I know the member for Schubert would recall this, as would the member for Giles and many others), there was great debate in the late eighties and early nineties about the whole issue of whether drought should be considered a natural disaster or one of the variables and risks associated with farming. However, when a drought of particular duration and intensity occurs and results in two years of crop failure, the commonwealth will provide assistance.

I am advised that assistance comes in two forms: first, income assistance equivalent to the job search allowance; and, secondly, an interest rate subsidy of up to 50 per cent of business related interest expenses. The interest rate subsidy is 90 per cent funded by the commonwealth and 10 per cent by the state. The Adverse Seasonal Conditions Committee will meet on this Wednesday 21 August to discuss conditions and consider an appropriate response. The Minister for Agriculture (Hon. Paul Holloway) has said that, with average rainfall from now on, farmers in many areas could still grow reasonable crops.

The point of this is that the situation is being closely monitored by the state government. Although we do not have drought conditions at this point, it is clear that, if we do not have seasonal rains soon, conditions will deteriorate to the extent where we will be in some trouble. It is important not to be alarmist in this situation but to be mindful of the fact that this is something on which governments must keep a close watch.

On regional radio today, Mr John Lush, the President of the Farmers Federation in South Australia, said that grain farmers in the Riverland and the Mallee have decided to wait a few more weeks before seeking drought assistance from either the state or the federal government. The South Australian Farmers Federation says that the situation is desperate, but many farmers are still hopeful that the rain will come. Mr Lush says that, if there is no relief in the next couple of weeks, he will ask the Minister for Agriculture to have certain areas to be declared officially in drought. We will have to wait to see whether we respond to those calls, but John Lush's concerns are shared by the government and we will endeavour to do what we can and keep the house informed accordingly.

CRIME PREVENTION

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General give the latest advice in respect of what legal action councils can take, given that written agreements were in place, over the crime prevention programs? The opposition has been informed that several local councils have received legal advice that the crime prevention funding contracts are legally binding.

The Hon. M.J. ATKINSON (Attorney-General): Normally government to government agreements are not legally binding, but I imagine my department will work constructively with the Local Government Association—and we have already had one meeting with them—to see that $600 000 is spent wisely on continuing on a smaller scale local government crime prevention.

Mr BRINDAL (Unley): My question is directed to the Minister for Youth, who is also Minister for Social Justice. What input or advice was sought from the minister from officials in the youth or social justice portfolio, or from any of her advisory committees such as Youth Plus, prior to the government making the decision to drastically cut crime prevention programs throughout the state? If the minister did not seek the advice of her officials or her advisory bodies, why did she not do that?

The Hon. S.W. KEY (Minister for Social Justice): I would like to thank the member for Unley for his question. I was not involved in negotiations in the Attorney's area for the budget items and priorities and therefore I was not involved in the discussions that led to those decisions. Basically I stuck to the portfolios for which I have responsibility.

BUSHFIRES

Mr KOUTSANTONIS (West Torrens): Will the Minister for Emergency Services provide any information to the house on our readiness for this year's fire season?

The Hon. P.F. CONLON (Minister for Emergency Services): I thank the honourable member for what is a very serious question. One of the first things we did in order to be more prepared for this year's fire season was increase emergency services funding from $141 million a year to $156 million. We did that without increasing the emergency services levy and did it with a significant $12.5 million a year

contribution from consolidated revenue in order to better prepare ourselves for this bushfire season. I ask the house to compare that with the line of questioning we have just had about $600 000 in terms of crime prevention. They might want to concentrate on the fact that we fixed up their mess in emergency services funding and put an extra $12.5 million a year into emergency services because, if we had not, $1 million would have been available for capital programs next year and none whatever after that and we would not have been paying wages.

Let them understand that you have to take hard decisions when in government, that you have to set your priorities and address your needs. We addressed a very important need by finding that $12.5 million out of consolidated revenue for emergency services. I hope it helps to put in context the sort of carping and whining we have heard today. One of the reasons why we need to make sure that our emergency services are able to do the job is that, as the Treasurer indicated a short time ago, we face particularly dangerous, dry current and forecast conditions in South Australia. The Bureau of Meteorology has advised the Country Fire Service that parts of South Australia can expect drier and warmer conditions than usual over the next three months, on top of the growing rainfall deficit. These conditions are conducive to an early start to the bushfire danger season, particularly in forested areas. Heavy forest and plantation fuels will dry earlier, will be easier to ignite, will burn more readily and will be harder to extinguish.

We are doing all we can to be ready for these dangers. The CFS currently has about 10 500 members who are ready and trained for deployment in general bushfire operations, and about 5 000 of these are trained to a level of deployment on strike teams and to go interstate. All firefighters available for general and bushfire operations have protective clothing that conforms to national standards, and vehicle maintenance is occurring as scheduled.

A new contract identical to last year's contract will provide three fixed wing aircraft firebombers. South Australia is active in the development of a national aerial firefighting strategy. If the federal government agrees to fund this strategy, it is possible that additional firefighting aircraft may be positioned within the states. With significantly higher fuel loads in the Mount Lofty Ranges, I would tell the public that we are facing up to our responsibilities and funding them.

We need everyone to contribute and play their part. Residents should start reducing the fuel loads around the perimeter of their own properties, for example, cleaning gutters and reducing surrounding growth. Residents should also start thinking about developing a bushfire action plan so that each family member is aware of their responsibilities and they are fully prepared in the event of a bushfire. Plans for the safe evacuation of family members and pets ensure that sprinkler systems are operational and that vehicles are maintained with adequate petrol supplies to ensure safe evacuation.

I take this opportunity to thank all our volunteer firefighters, who give up enormous amounts of their time over the winter months to train and plan for the coming fire season, and I assure the house that we will take every step that is necessary to protect the South Australian community.

CRIME PREVENTION

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General clarify to the house that the $600 000 left in the crime prevention program funding line will be used to continue some of the current programs? On several occasions the Attorney-General has referred to ongoing programs for the $600 000 that is left in the funding line. It has, however, been said to me several times that the $600 000 that is there will be needed to wind up the current programs to the date when they will finish.

The Hon. M.J. ATKINSON (Attorney-General): It is our intention that there be constructive negotiations between the Local Government Association and the Department of Justice about ongoing funding for local government crime prevention. We hope that in years to come there will a local government crime prevention program. It may be that negotiations between those two are not successful, but it is my hope that these programs will exist in years to come.

STATE'S HERITAGE

Ms CICCARELLO (Norwood): I direct my question to the Minister for Environment and Conservation. Will the minister advise the house of new initiatives to improve the management of the state's heritage? The government took to the last election—

Members interjecting:

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

Ms CICCARELLO: The government took to the last election a range of commitments related to promotion and protection of South Australia's heritage. One of those commitments was to establish a heritage advisory committee.

The Hon. J.D. HILL (Minister for Environment and Conservation): I am pleased by the question from the member for Norwood. I know that as a representative of an area with many heritage buildings she has a great interest in this matter, as I can tell do other members of the house. I am delighted to be able to give information to the house about this great Labor initiative. The Heritage Advisory Committee will convene its first meeting tomorrow in the former cabinet room of the old Treasury Building, now the Medina Grand Adelaide Treasury—an excellent example of renovation. It is appropriate that the committee—

Mr Venning: You opposed it!

The Hon. J.D. HILL: No; never me. It is appropriate that the committee will meet in a room steeped in South Australian history.

Mr Venning interjecting:

The SPEAKER: Order! I want to know how soon the member for Schubert wants to go home. The minister has the call.

The Hon. J.D. HILL: Thank you; it would be terrible to see the member for Schubert, as an important bit of heritage himself, leaving the chamber. I was about to inform the house of the important heritage of the old Treasury building. It was built in 1836 and designed by George Strickland Kingston, the first Speaker of this place. In 1839 Governor Gawler laid its foundation stone, proclaiming that Adelaide would be the site of the capital city, finally laying to rest all the controversy about where the capital should be sited.

During the 1850s gold rush, Australia's first gold coin, the Adelaide pound, was minted there. From 1876 to 1968 members of the premier's cabinet met in the cabinet room, and Sir Thomas Playford was premier for 26 years of that time. The 1930s depression saw the Treasury Building centre stage for the beef riots; the Beatles dashed through the courtyard to elude fans in 1964; and in 1969 Steele Hall's cabinet decided that no alterations be made to the cabinet

room, preserving it for future generations. I congratulate the Medina group on its sensitive restoration of the building and the promotion of its heritage. I think it looks absolutely splendid.

The Heritage Advisory Committee brings together the state's heritage stakeholders to provide strategic advice on built heritage and to develop a whole of government approach to South Australia's heritage maintenance. It is chaired by the Hon. Rod Matheson, AM QC, Presiding Member of the State Heritage Authority. I will not name all the committee members, but I have asked the committee to do a number of things:

1. To strengthen and simplify heritage protection.

2. To implement annual Celebrating our Heritage Awards to recognise examples of interpreting, promoting and reusing heritage places.

3. To encourage local government to protect local heritage places.

The government is firmly of the view that South Australia's built heritage is part of what makes our state a unique and desirable place to live, so we want to get the appropriate framework in place to protect it into the future. I commend this committee and its work to the house.

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is directed to the Minister for Health and it is about the MRI machine at the Queen Elizabeth Hospital. Why is the switching on and use of the MRI machine to treat patients at the Queen Elizabeth Hospital taking 12 weeks compared to a much shorter period at the Lyell McEwin hospital? Will the minister give the house an absolute assurance that the installation and operation of the machine will not be further delayed by the government's bungling on this issue?

The Hon. L. STEVENS (Minister for Health): This is getting a little tiresome and the deputy leader seems to be quite obsessed in his questioning. Just three or four questions ago I answered a question from my colleague the member for Colton in relation to the installation of the machine at the Queen Elizabeth Hospital, and I think it is about time that the member for Finniss came clean on all these issues. Before he asks any more questions, perhaps he could tell the house whether he would have condoned the unapproved expenditure of $2.4 million. I would be interested to hear what he has to say.

GAMBLING

Ms BEDFORD (Florey): Will the Minister for Social Justice advise the house what steps are being taken to assist general practitioners to help problem gamblers?

The Hon. S.W. KEY (Minister for Social Justice): I had the great pleasure recently to launch an information pack for general practitioners to assist their patients and clients with problem gambling. The interesting point that was made at the launch, reflecting what is contained in the pack, is that quite often people present to their GP and talk to them about a whole range of issues and problems they have, and a lot of work has been done identifying a connection between people who have this addiction, just like other addictions, and other problems such as depression, anxiety, sleeplessness and probably other addictions as well. As a first point of call, making sure that general practitioners are up to date with some of the information and help that is available for the addiction of gambling is a very wise move. I would commend the AMA on this initiative and, as I did at the launch, recognise it as the strongest trade union in Australia. As with other unions, it is good to see that the AMA has actually made the connection between the work and advocacy it does and making sure that the information gets out to its members.

I was also very pleased to meet a number of researchers from Flinders who have done considerable research on the association between a number of disorders. I have already mentioned depression and anxiety, and I include alcohol and other heavy drug use, headaches, sleep difficulties, indigestion and gambling. It was very pleasing to be able to launch the information kit. The gambling resource pack has been produced by the AMA, South Australia, with help from the Flinders Centre for Anxiety and Related Disorders and the Southern Division of General Practice. It has been funded through the Gamblers Rehabilitation Fund as part of a $30 000 grant.

Today I had the pleasure of hosting a lunch for the new committee of the Gamblers Rehabilitation Fund which is to be chaired by Don Hopgood, who would be well known to people in this place. I am very sure, having met the new members of the Gamblers Rehabilitation Fund, that this will be a very successful fund and will make sure that not only will the issue of addiction and gambling be looked at but also that preventive measures be put in place.

HOSPITALS, QUEEN ELIZABETH

The Hon. DEAN BROWN (Deputy Leader of the Opposition): My question is again to the Minister for Health, again about the MRI at the Queen Elizabeth Hospital. Did the minister tell the Department of Human Services to instruct the Queen Elizabeth Hospital to send the larger MRI machine at the hospital back to Philips, the supplier, and if it was not the minister, who did issue such an instruction?

The Hon. L. STEVENS (Minister for Health): The answer is no.

FOOD STANDARDS

Ms RANKINE (Wright): My question is directed to the Minister for Health. Given that since 1996 comprehensive reviews of food legislation in Australia have been undertaken by Food Standards Australia and New Zealand to bring about national uniformity in food standards and legislation, can the minister advise the house of the current position on food safety reforms within South Australia?

The Hon. L. STEVENS (Minister for Health): The public consultation process for the Food Regulations 2002 closed on 31 July this year. The regulations, together with the South Australian Food Act 2001, assented to in August 2001, and the Food Standards Code adopted in 2001, will finalise the legislative process in relation to food safety reform. The anticipated operational dates for the act, standards and regulations is 1 December this year. The government has committed to a $1.8 million program to ensure the successful implementation and take-up of the new food safety legislation, with the aims of:

- improving community health by lowering the incidence of food-borne disease;
- increasing community confidence in and awareness of food safety; and

- ensuring South Australian food safety requirements meet national standards based on internationally recognised standards, thus supporting local, interstate and export trade and associated employment within South Australia.

A food reform support section has been established within the Environmental Health Branch of my department to drive the reform and coordinate input across government portfolios and industry. All food businesses in South Australia have been provided with an update on the food safety reform program via the July *Food Safety Bulletin*, and information kits containing more detailed information will be distributed in October this year.

A web-based technology system is being developed so that food businesses will be able to provide their notification details, as required by the standards, via an online system. A consultative approach is being taken on this important reform with all stakeholders—that is, food businesses, industry groups, local government, government departments and the community—to optimise the outcomes from the reform program.

DIVER'S COMPENSATION

The Hon. R.G. KERIN (Leader of the Opposition): Given the fulsome praise by the Minister for Environment and Conservation for the heroic deeds of the divers in Upper Spencer Gulf, will the government look at the circumstances of the case and consider the appropriateness of an ex gratia payment for medical and loss of income costs to the diver who was injured whilst assisting the whale yesterday?

The Hon. J.D. HILL (Minister for Environment and Conservation): I thank the leader for the question. The simple answer is: yes, the government will certainly look at those conditions and it will make an evaluation.

WINE TOURISM

Mr O'BRIEN (Napier): Can the Minister for Tourism explain what government initiatives are planned to maintain and enhance South Australia's position as Australia's premier wine and food destination?

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): Through you, Mr Speaker, I thank the member for Napier for his question. It is interesting to understand that whilst most of us recognise that the wine industry is significant to our economy in that we produce more than half the wines and exports from this state, the idea that tourism is integrally linked to that industry has not always jelled easily.

Certainly, in surveys, 70 per cent of vineyard owners have suggested that there is a future in wine tourism. It is worth noting that in our state we have 17 wine regions and 220 cellar door outlets. Interestingly, more than 800 000 visitors attend wineries during their stay in our state, and that amounts to one in three international travellers—and that is up from about 11 per cent of international travellers visiting other states. These visitors contribute $342 million a year to the state. In fact, this industry is important in securing employment—not only employment in the wine industry but also employment at the cellar doors, where over 500 people are employed at those outlets. In recognition of these opportunities, the South Australian Tourism Commission has worked to produce routes, maps and a glove box guide to touring around South Australia's wine areas.

The commission also had a very strong presence at this year's Wine Australia 2002 event in Sydney. Each of the wine regions was represented, and over 40 000 visitors, as well as trade and business inquirers, visited the event over three days. This joint function involved Wine Australia and the Tourism Commission, and we released a media kit on that day which explained to the journalists and members of the media involved the opportunities for tourism in our state. We have now decided that each year, in the alternate years from Tasting Australia, we will hold major wine media familiarisation visits that will market to journalists the food and lifestyle opportunities in our state.

We also need to make sure that our products fit the needs and requirements of travellers. So, this year, another research project will be undertaken to look at the needs of travellers. For example, it is sometimes said that our wine destinations lack appeal to people with children, and anyone who has visited a vineyard with small children will understand those issues. Certainly, in producing products at the vineyard that are beyond just selling bottles of wine, it may be possible to enhance the experience with food and coffee, as well as entertainment for children, that will encourage visits by a broader category of tourist.

The South Australian Tourism Commission is committed to and understands the significance of wine tourism and will work with Food SA and the wine industry to enhance opportunities for the industry and employment generally throughout South Australia.

CONSTITUTIONAL CONVENTION

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General advise the house why, despite his offer of availability, the President of the upper house has been denied involvement in the constitutional reform process, while the Speaker of the lower house has been fully consulted and has played a lead role? Consideration of the role and functions of the lower house and the upper house have been included on the constitutional reform agenda and, in an amazing show of bipartisanship, several members of the upper house have approached me expressing the view that, while the lower house is represented by its elected Speaker, the upper house should also be represented by its elected President.

The Hon. M.J. ATKINSON (Attorney-General): I do not recall the President of the Legislative Council approaching me about the Constitutional Convention or expressing a desire to be on the steering committee. My recollection of the last state election campaign was that only one member of this house was talking about constitutional change, and that was the Speaker. And so, it is quite natural that, in the aftermath of the election when the member for Hammond, who became the Speaker, made constitutional issues the most important part of his compact for good government (which both sides agreed to) he would be—

Mr Williams interjecting:

The SPEAKER: Order, the member for MacKillop!

The Hon. M.J. ATKINSON: —the chairman of any steering committee whose job it was to organise the Constitutional Convention.

VICTIM SUPPORT SERVICES

Ms BREUER (Giles): My question is directed to the Minister for Justice. Have there been any initiatives to assist victims of crime who live outside the metropolitan region?

The Hon. M.J. ATKINSON (Attorney-General): In a previous sitting week during question time, I advised the house that the last of the outposted victim support services offices had been opened in Port Lincoln. I flew to Port Lincoln to open that office, and while I was in Port Lincoln I saw the local member, who raised with me a case of inadequate sentencing, which I am still looking at and on which I hope to correspond with her soon. Apart from those offices which now operate in five regional centres, the Director of Public Prosecutions has started a witness assistant toll free number service, which has been established to increase accessibility to witness assistance officers for rural witnesses and victims. For those unfamiliar with the operations of the witness assistance service, it provides information and support services, as well as making victims and their immediate family aware of their rights and responsibilities when dealing with the criminal justice system.

It also provides assistance and information on the preparation of victim impact statements and assesses victims' needs in dealing with prosecution processes and referring them, where appropriate, to organisations for counselling. In its first year, in the 1998-99 financial year, a total of 334 clients were seen by the service. That number has risen to just under 500 in the last financial year. The service continues to attend country areas to assist victims of crime and their families, including Mount Gambier, Port Augusta, Port Pirie, Murray Bridge, Whyalla and Ceduna. The new toll free number ensures that victims, witnesses and their family are able to telephone a witness assistance officer directly and seek clarification or information about a prosecution without incurring a fee.

In conclusion, I would like to commend the previous government for its initiative in outposting the victim support services to five regional cities. Although it was my pleasure to open the Port Lincoln office, it is important to record that this was an initiative of the Liberal government.

PORT STANVAC

The Hon. W.A. MATTHEW (Bright): In his role as Minister for the Southern Suburbs, does the minister support the proposal that would see a major grain export facility built at Port Stanvac?

The Hon. J.D. HILL (Minister for the Southern Suburbs): Mr Speaker, I think the member, or one of his colleagues, asked a similar question during the estimates process, and I gave an answer then to which I refer him. But I would say that I do not have direct responsibility for that matter, although I have met with proponents of this exercise. I understand that it might have some impact on the member for Bright's electorate if it were to go ahead, and I am sure that he has a great deal of interest in it. But, I do not have a ministerial role in relation to this. However, I am sure that my colleague the Minister for Government Enterprises will have something to say in the near future on the issue.

RESOURCECO

Mr HANNA (Mitchell): Can the Minister for Environment and Conservation inform the house about the success of a South Australian waste recycling company in the recent Telstra Business Awards?

The Hon. J.D. HILL (Minister for Environment and Conservation): As members would probably know from reading Saturday's *Advertiser*, a South Australian resource company has been named Australian Small Business of the Year. I would like to extend my congratulations to this—

The Hon. I.F. Evans interjecting:

The Hon. J.D. HILL: What is your problem, Iain? What are you going on about? I would like to extend my congratulations to this very successful South Australian company, which was established some 10 years ago and is led by 31 year old Simon Brown. ResourceCo is only the second South Australian company to receive this much coveted award. The 1998 Australian Small Business of the Year Award went to Adelaide-based landmine and metal detector company, Minelab.

ResourceCo processes more than 600 000 tonnes of building and demolition waste annually, representing some 80 per cent of the Adelaide market that otherwise would go to landfill. The company sells the recycled product for use as road base. ResourceCo—

An honourable member interjecting:

The DEPUTY SPEAKER: Order! The member for Unley is getting into bad habits.

The Hon. J.D. HILL: The trouble is, Mr Deputy Speaker, that the member keeps interjecting and I cannot understand a word he is saying. I just hear this drone in the background. ResourceCo also receives green waste and foundry sands for processing, and recovers in excess of 20 000 tonnes of scrap metal annually. ResourceCo and the EPA are working together to develop long-term strategies and direction for the company. This is the kind of development we need in terms of environmental protection and waste management, and I would like to congratulate ResourceCo for developing recycling practices that help address South Australia's waste management.

ELECTORAL REDISTRIBUTION

The Hon. R.G. KERIN (Leader of the Opposition): Will the Attorney-General inform the house why the government has not proceeded with its motion to suspend the current electoral redistribution process, as announced? I know that the Speaker will be very interested in the answer as well. Earlier in the term of this parliament, the government flagged its intention to introduce a motion calling on the Electoral Commissioner to delay the electoral redistribution process pending the outcome of the Constitutional Convention and a decision being made on the number of electorates. As we now approach the end of this parliamentary session, there is still no sign of that motion.

The Hon. M.J. ATKINSON (Attorney-General): It is my considered view that the motion would not be effectual, that is, the passage of it would not achieve its aim. But at the time that it was placed on the *Notice Paper* its purpose was the entirely meritorious one of seeking to avoid a second redistribution.

Let me slowly explain it to members opposite. The Electoral Districts Boundaries Commission is required under state law to convene swiftly after a general election and to take evidence regarding a redistribution of electorates in accordance with well-known criteria. I know this because I was the Australian Labor Party's advocate before the last Electoral Districts Boundaries Commission—and I think the fruits of my labour are now to be seen in the chamber.

The commission will proceed to do a redistribution, but it may be that, after it hands down a redistribution based on 47 seats, the Constitutional Convention will recommend a change in the number of members of the House of Assembly.

After that change is brought into effect by legislation (the legislation does not require a referendum of the people of South Australia), the Electoral Districts Boundaries Commission will have to go back to do another redistribution based on the number of seats which the parliament has chosen. That seems to me to be a waste of time of the members of the commission: the Senior Puisne Judge of the Supreme Court, Justice Prior; the Surveyor General, Peter Kentish; and the Electoral Commissioner, Mr Steve Tully.

It seems to me that the due diligence requirement in law might have required the Electoral Districts Boundaries Commission to suspend its deliberations until parliament had finally decided how many members of the House of Assembly there were to be, but I have since taken advice on the matter and it seems that the Electoral Districts Boundaries Commission would not be diverted by a resolution of one house of parliament. Hence, the government has not sought debate on the resolution—well intentioned though it is.

SCHOOLS, EMPLOYEES

Ms THOMPSON (Reynell): My question is directed to the Minister for Education and Children's Services. Will the minister explain screening procedures for people who work and volunteer in our government schools? The emerging events in the small English town of Soham where two school workers are being questioned over the murder of two schoolgirls has alarmed many parents and carers in our community.

The Hon. P.L. WHITE (Minister for Education and Children's Services): I appreciate the member's interest in asking this question because it is a particularly serious and important matter to which we must pay some attention. The protection of children in our care is and should be one of the highest priorities of the education department and the Minister for Education. Several processes are currently being undertaken to look at the practices and protocols within the education sphere in South Australia to ensure that they are adequate and reflect the important and serious nature of this matter. Members would be aware of the Robyn Layton inquiry currently being conducted. There is also a national strategy to prevent paedophilia and other forms of child abuse, and my department is currently implementing recommendations from that strategy. A working group within my department is looking at current practices within the department and across government that impact on us and screening processes in areas that need to be looked at for improvement, and we are also looking at what exists in terms of mandatory notification procedures and training within the department.

New teachers who register in South Australia to teach or teachers whose registration has expired undergo national police checks. However, only registered teachers currently employed in schools undergo such checks. Members are probably aware that a number of teachers are registered in South Australia who do not actually teach in our schools. I add that police checks only highlight convictions for such crimes; they do not report allegations or instances of troubling behaviour.

Applicants for teaching and school support staff positions are required to declare previous convictions. There are screening strategies that school and preschool managers can use for volunteers, which can include personal knowledge, use of references, referees, interviews, completing confidential declaration forms and police checks. The Commissioner of Police informs my department if a departmental employee is reported for or charged with an offence that is relevant to their ongoing employment. Staff have received training in mandatory reporting, notification of suspected child abuse, since 1989, and all new teachers are required to complete this training before they take up their appointment.

The legal obligations of mandated notifiers in my department and procedures to follow are reinforced with staff by their educational managers annually. Our protective behaviours programs and others have been taught in schools since 1985. Those programs teach children to keep themselves safe from physical violence, sexual abuse and other threatening or troubling situations. The child protection policy outlines the roles and responsibilities of senior officers, principals and school staff in ensuring the ongoing safety and protection of children. My department also works very closely with Family and Youth Services and the police at a number of levels and participates in interagency working parties to develop agreed guidelines across the agencies for tackling child abuse and fostering child protection.

There is a special investigations unit within DECS, my department, which manages serious complaints against employees, including complaints of child sexual abuse. My department has also agreed to exchange information with interstate education authorities on teachers who are convicted or found guilty of conduct of a sexual nature involving children. My department is currently involved in negotiations and discussions with the non-government sectors, the Catholic Education Office and the independent schools sector on child protection matters and we will be making some further public announcement about those in due course.

Also the three sectors are interacting together to develop curriculum around student preventative behaviours. There is quite a lot of activity around this very important topic at the moment and it is all being done in the interests of making sure the practices that exist not only in the public sector but right across the school sectors within South Australia are adequate to ensure our prime role of protecting children in our care.

GRIEVANCE DEBATE

MUNDULLA YELLOWS

Mr WILLIAMS (MacKillop): Today I will take the opportunity to talk about Mundulla Yellows. During estimates and in the house I have asked the minister a series of questions about this, and I am disappointed to see that he is leaving the house. The minister has failed to answer the questions, failed to give an understanding to the house of what he is doing and failed to support the fantastic research work that has been done at the Waite Institute looking into the cause and epidemiology of Mundulla Yellows. I am pleased that the member for Norwood is here. I know she would be interested as I understand that Mundulla Yellows is not just a disease widespread across the South-East of the state but right across South Australia, right across Australia and is widespread in the gum trees in the middle of the Norwood Parade, as it is in a number of other areas around Adelaide. I am surprised that more city members are not taking a keener interest in this very serious disease of our

native trees and heritage. The disease is now so widespread that it has been discovered in places as far away as Tennant Creek, right across New South Wales, Victoria and Western Australia.

Back in August 1999 the then minister signed off on some research funding. I understand it was to be a two year research project. A contract was signed by the University of Adelaide that year and the research started shortly thereafter. That was to discover the cause and epidemiology of Mundulla Yellows and initial field survey work showed that the Mundulla Yellows problem did not fit into environmental causes, that is, that the trees adjacent to each other of the same age did not show the same clinical signs, which therefore pointed to its not being caused by sprays or some nutrient deficiency. Initial research showed that by bark patch grafting, that is, taking a patch of bark from an infected tree and putting it onto a healthy tree, the disease certainly transferred to the healthy tree, indicating an infective agent.

The research team then looked at fungi and viruses. Frank Podger, who discovered the Jarrah dieback in Western Australia in the 1970s, looked into phytophora. All the fungi and yeasts found in gum trees were discounted at that early stage as being the cause and at this stage have still been discounted. In looking for pathogens in the trees the research team came to the belief that it was probably being caused by a virus or viroid and then developed a method of identifying nucleic acids in the cells of infected trees and have been developing methods to purify the nucleic acids and developing a diagnostic marker test so they can come up with a diagnostic tool to determine which trees are infected with the disease and which are not.

The work they have done has been fantastic and it is my understanding that nobody from the department, least of all the minister, has been down to the Waite Institute to inspect the work or talk to the scientists involved in this work, yet the minister, Environment Australia and the department here in South Australia seem hellbent on stopping the research at the Waite Institute and have been courting a research organisation in Victoria to take over the very poor amount of funding that has been made available and have it go to a funding institute in Victoria.

I have been contacted by many forest pathologists from across the nation who have all backed the research going on at the Waite Institute. In fact, the minister has talked about a workshop held here in Adelaide on 9 and 10 April to look into that research, and that workshop endorsed the work being done at the Waite Institute and the only criticism it had related to the lack of funding and the interference in the research by the bureaucracy. My question to the minister remains: why isn't the minister backing the research work being done at the Waite Institute, the research work that is showing very good results, and why is he advertising for a new research team to carry out the work that has already been done, another research team which, if appointed, will start at least two years behind the research which has already been done or which is well on the way down at the Waite Institute? I implore the minister and other members to go down to the Waite Institute, talk to the scientists and see the work that has been and is being done down there.

Time expired.

TAFE

Ms THOMPSON (Reynell): I am pleased today to talk about issues relating to TAFE on the day the minister made a very important statement about a review of some of the governance arrangements in TAFE. My community is desperately wanting some rationalisation of TAFE. It sees that what has happened to TAFE over the past eight years has been a travesty, but particularly I focus on the last four years, when TAFE has really been destroyed. Members of my community see TAFE as an important opportunity for them to get skills that they can use in the work force and in life. Yet today we see the following in the various press that is available in this state: the *Advertiser*, 'New fees to close TAFE back door to university'; The *Australian* says, 'TAFE students face fee reforms'; the *Financial Review* says, 'Students using TAFE for cheap university degrees'; and the Melbourne *Age* says, 'Students find cheap degree loophole'.

The Melbourne *Age* headline is the one that captures best the essence of what the federal Minister for Education, Dr Brendan Nelson, was saying in his media conference yesterday. As somebody who has a community that relies strongly on TAFE, I was absolutely appalled by the types of statements that Dr Nelson was making and the lack of information and understanding the federal government seems to demonstrate about what happens in TAFE and communities that rely on TAFE for education. He seemed to be suggesting that a few wily students—about 5 000 of them—have worked out that if they go to TAFE for a year of their university degree they will have to pay less in HECS fees.

In everything I have been able to read of Dr Nelson's statements—and I have read quite extensively this morning—he seemed to have no concept whatsoever of the efforts that are being made in many communities, by many unions and by many industries to encourage people who would not normally go to university to go to TAFE first and see how they get on there and then see if they might be able to go to university. In my community I encourage adults and young people who have the potential to go to university to go directly there. I am pleased by the way the Flinders foundation course has supported many members of my community to have a second chance of education. I am particularly pleased by the way the Hackham West Community Centre is working with Flinders University to develop some support for local students to go to university.

They also know they need to develop support for students who go to TAFE, but many young people and mature aged people in my community see TAFE as somewhere that is accessible, where they feel confident that they can meet their neighbours and where they will not feel out of place and overwhelmed by people from the leafy greens. They get their confidence in their ability to study and choose their direction in life by first going to TAFE. When they succeed there, many wonderful lecturers in TAFE and community supporters encourage them to develop their skills and go to university. They tell them that university is a place for them and that they will be able to succeed much more easily in life if they are able to make the most of their skills and talents by going to university.

In the discussions I have had with many people who go to TAFE and who go from TAFE to university, I have not heard one person say they are going to TAFE first because it is cheaper. They are going to TAFE first to find out what they can do, in the hope that they might get a job, and are then often flabbergasted by how well they do and the encouragement they get to go to university. I beg Dr Brendan Nelson to get out there and find out about who is going to TAFE and who is going to university. The one useful thing I found in his statement was an acknowledgment that very few people from

lower socioeconomic status suburbs go to university and that not enough of them go to TAFE. In fact, about 15 per cent of university students come from the lower socioeconomic status groups, compared with 19 per cent from rural and remote areas; and for TAFE it is 26 from the lower socioeconomic status suburbs, compared to one-third from rural and remote areas.

GOLDEN GROVE LAND

The Hon. D.C. KOTZ (Newland): Yesterday in this house, in answer to a question from the member for Wright, the Minister for Government Enterprises suggested that my interests in assisting the Golden Grove residents' fight to protect a small parcel of land from development was a little obscure. The land in question is the remaining vestiges of a natural native wildlife and vegetation corridor and habitat for more than 23 species of native birds. This is fairly significant, and certainly not obscure. Is it also obscure to note that almost 1 000 Golden Grove residents signed a petition favouring protection? I might add that I presented the petition to parliament on their behalf, as their local member showed no interest in protecting this site. The member, who was once a rampant environmentalist, appears to have become a born-again pro-developer.

The member for Wright also asked a question of the minister for environment in May of this year and asked him to report on a biodiversity assessment that had been undertaken by the minister's department on this parcel of land. Although the minister reported to the house, he selectively quoted from his report. I would now also like to selectively quote and fill in the pieces that the environment minister left out. Under 'Vegetation types', the report states:

> Two vegetation types were recorded during the inspection.
> 1. Red gum. . . woodland along Cobbler Creek.
> 2. River red gum and South Australian blue gum. . . open woodland on hill slopes. A small area of drooping sheoak. . . low woodland was also present in the north of the area.

Under 'Plant species', the report states:

> Twenty-seven native and 37 introduced plant species were recorded during the inspection. . . The greatest diversity and cover of native species occurred on the hill slopes, particularly in the more rocky areas. It is anticipated that a spring survey would reveal more native species, because annuals and spring flowering forbs and bulbs. . . were not evident at the time of the survey. In addition, the recent mowing made identifying grasses more difficult.

This was undertaken to reduce the risk of fire. The report goes on to state:

> However, an assessment in spring has some potential to reveal threatened grass species. Three species recorded during the survey have conservation significance in the Southern Lofty botanical region. . .

Three grasses were identified: two were uncommon and the other was rare. The report continues:

> These species are associated with native grasslands and grassy woodlands.

Under 'Wildlife habitat', the report states:

> An assessment was made of the bird species during the field inspection. Thirteen native and two introduced species were recorded. . . Of these, the peregrine falcon is considered rare in South Australia. A pair was observed in the large river red gums along the creek.
>
> Several large eucalypts occur on the subject land (up to 20 metres high and 2 metres trunk diameter at 1.5 metres above ground level). . . Unless specifically protected. . . clearance of most of these trees would probably be exempt under the regulations of the Native Vegetation Act. . . once the land is subdivided. . . The subject land is strategically located between Cobbler Creek Recreation Park and the naturally vegetated hills to the east. As such it potentially provides a valuable corridor for the movement of wildlife. Included in these are several bird species of conservation significance at the regional level.

The conclusion of the report stated:

> The subject land at Spring Hill, Golden Grove, is not considered to have high environmental value. . .

If I stop at that point, as the minister did, it certainly creates a perception of non-environmental value. However, that is not the end of the sentence. Let me read it again and add the part that the minister left out:

> . . . is not considered to have high environmental value, on the basis of the assessment taken on 1 May 2002. However, the assessment was unable to detect plant species that are evident only during spring.

This means that there is indeed environmental value there, as the minister's departmental officers obviously found, but they would obviously need to do a second follow-up on this to get the true story and picture of the area.

The Messenger Press has reported on this issue several times. However, in an unrelated article the environment minister stated that he was considering extending the Native Vegetation Act on the premise that it was 'too easy to clear an urban block of native trees for housing'. All the residents at Golden Grove, including the Tea Tree Gully City Council, who are working exceptionally hard to find options for protecting this, would like to invite the minister to practise what he is preaching on this specific urban block of native trees, which we all believe should not be cleared.

WHALE AND DOLPHIN PROTECTION

Ms BREUER (Giles): I support the Minister for Environment and Conservation in his congratulations today of the three professional divers who saved the drowning whale off the Whyalla coast yesterday. Mr Tony Bramley, Mr Damian Grimm and Mr Richard Worthington were working on a fish farm yesterday when they heard about the situation. When the divers found the 8 metre whale, it was quite distressed and actually dying. In an incredibly brave effort, the three men moved in and found that it was badly tangled in crab pots and ropes. It was towing the pots and floats and was completely encircled in rope. Mr Bramley said that they did not go in there blindly and, despite the safety risks, they saved the whale. During the rescue operation the three divers alternated, with one of them steering the boat, another on stand-by in the water while the third cut through the ropes around the giant creature's underbelly. One diver, Mr Grimm, was still in hospital last night, doctors believing that he had cut a tendon in his hand. I certainly hope he is all right and wish him a speedy recovery. It was an incredible effort and I believe it is quite deserving of our congratulations in this parliament. Incidentally, my son happened to be there at the time, and he said it was one of the most awesome and spectacular sights he had ever seen. I believe there is some concern about the whale because it was quite badly injured. I hope it is okay and I hope the whale has a speedy recovery also.

Tony Bramley is well known for first bringing to our attention in Whyalla the incredible asset we have in the cuttlefish breeding grounds. He has brought to the state's and the world's attention what a unique site it is, and it is now attracting film crews and divers from all over the world. I extend my congratulations to all three men, and I hope it all turns out well for Damian.

Last Thursday I spoke on the reports about escaped kingfish in Spencer Gulf and my concern that the reports were blown up. I stand by those comments and I believe that there must be some political motivation behind this, as I can see no other reason for the outlandish claims that are being made. One report likened them to a huge vacuum cleaner which sucked every other species out of the gulf. Others said that kingfish are voracious feeders and, if unchecked, the increase in free kingfish numbers could seriously affect future stocks of the traditionally popular species. Comments have been made that there are deformities in the fish, and that if they bred into live stock there would be major problems in the native population. I question one comment made to me by Mr Alex Glinski from Whyalla, who said in an email:

> Was out there this afternoon and saw one huge bugger that must have escaped. What they say about some of the fish being deformed because of poor dietary balance must be true. I reckon this one was about 15 metres long and had water spurting out of his head.

I will be checking with Tony Bramley that it was a whale, not a kingfish, that he rescued yesterday!

I speak again about the stories of escaped kingfish because I do not believe that the media reports have been balanced and I feel that the negative criticisms may be harming an emerging aquaculture industry. I have spoken to the minister and his staff, and to Mr Will Zacharin, Fisheries Director, about the situation at some length. Yes, there have been some escapes, but not at the levels that have been reported. Most of the fish are not able to survive, having been raised in hatcheries and fed on hand pellets for their lifespan, so they die fairly quickly if freed. They pose no threat to native kingfish because any deformities are caused by nutrition, not genetic, problems.

I will continue to follow the story with interest, but I assure the community that it is not an environmental disaster, as has been suggested. I cannot understand the attitude or the reasons behind this campaign, and I have major concerns about the fear it is causing, particularly among many environmentalists in our community, who are getting the wrong end of the story and are quite upset about the whole situation. If the numbers that have been mentioned of escaped fish in the gulf are accurate, some of the fish farm operators would be going bankrupt, because they could not afford to lose that many fish.

I cannot understand the concerns of recreational fishermen, because, if I had the choice between catching a kingfish and a garfish, I would rather catch a nice big kingfish than a couple of garfish. It seems to be only negativity that is getting through on this campaign. There are many reasons why there may be shortages of fish. It is certainly not because of the kingfish at this stage. We have to question the role played by some recreational fishers who use nets in these areas in the gulf. The areas are only small and I know that a lot of the breeding grounds have been netted to a significant extent in the past, and I particularly blame some recreational fishers for that, because most commercial fishers are very environmentally conscious of the damage they can do.

SCHOOLS, FUNDING

The Hon. G.M. GUNN (Stuart): I wish to raise the matter of education in my electorate because it is important to the future welfare of not only my constituents but also the citizens of this state. I decided to look at the comments that were made during the last state election campaign, and it has been most illuminating to find that the Labor candidate had this to say:

> I have decided to run as a candidate for the Labor Party because Labor will give our children a better education with 200 more teachers for the state. . . The Liberal government has got the wrong priorities. They promised better schools. . . yet our schools have suffered cuts and closures and our high school drop-out rate has skyrocketed.

This is the best bit:

> Mike knows that we have to invest in things that matter to most South Australians. . . our hospitals and schools.

They are quotes from the Labor Party candidate for the seat of Stuart at the last state election. I received a copy of a letter, dated 8 August, addressed to the Premier, which states:

> Dear Premier, Peterborough Primary School Governing Council is deeply disappointed that the relocation of the Peterborough kindergarten onto the Peterborough Primary School site has been deferred. . . Our school is committed to providing excellent facilities for families in Peterborough. The new commonwealth funded program 'Strengthening Families and Communities' that has been recently approved is intended to be located on our Peterborough Primary School site. This was with the knowledge that the kindergarten would be on the same site. The concept of providing a single excellent facility for families in Peterborough has now been significantly disadvantaged and its effectiveness reduced by the deferment of the kindergarten relocation.
>
> As a matter of government protocol, we are also concerned that our school governing council has still not been officially advised of the deferment in writing. The letter to the kindergarten has been passed on to us and of course there was the announcement in the media. The letter to the kindergarten advised that there is a need for 'additional planning being required'. How can this be possible when the architect's plans were completed and the tendering stage for the project has been reached?
>
> It seems to be just an excuse. We assume that the content is intentionally misleading. Would you also please explain the intention of the timeline of 'deferment'? We expect further honest clarification of the situation and the government's intention of providing a kindergarten facility in Peterborough.
>
> We had expected governments to honour projects of such significant community need, particularly in disadvantaged rural communities. Rejection of this project at this stage makes a mockery of community trust in the conscience of governments to serve the people.
>
> Yours faithfully, Gavin Goudie, on behalf of the Peterborough Primary School Governing Council and community.

The letter was sent to a number of people—

The Hon. M.J. Atkinson: Peterborough went for Labor rather than you.

The Hon. G.M. GUNN: And they are getting punished for voting for the Labor Party.

The Hon. M.J. Atkinson: They went for Labor rather than you.

The Hon. G.M. GUNN: It has never been noted as a Liberal district. It is important that the community understands that not only Peterborough has lost funding but also the Booleroo Centre school, which has lost $500 000, and Orroroo, which has lost $750 000. Of that $750 000 for Orroroo, $300 000 came from the commonwealth. What has happened to the $300 000? I understand that the federal minister wants to know what has happened to that money, too. If the state government cannot find the $450 000, let us have the $300 000 that was allocated.

The people in Orroroo have no alternative but to send their students to that excellent school. It is supported by the community, by the school staff and by the school community. There is an urgent need for this upgrading, and it is unfortunate that these people have been let down by this government. It promised so much at the last state election; it has now delivered so little. They are saying in rural South Australia

that it has gone from the Year of the Outback to the Year of the Cutback. That has also happened to road funding. The only thing they have got around Orroroo is an excess of emus, which they do not want. The government can have the emus; the people want money for the schools. A culling program needs to be introduced quickly, and I suggest to the environment minister that he should let people destroy these emus, which are in plague proportions and doing great damage to that hardworking community.

DEAF BLIND PEOPLE

Mrs GERAGHTY (Torrens): Recently, while attending Helen Keller Day at Strathmont Centre for the Intellectually Disabled, I had the opportunity to look at some of the equipment used to help stimulate our deaf blind people. Being deaf or being blind is a challenge in itself, but to be deaf blind is something that most of us could never comprehend, nor the world in which these folk live.

Just try to imagine not being able to see simple things like colours, sunsets or the smiles on the faces of people whom we love. If we imagine being deaf, we know that we would not hear the sounds of those who speak to us or who laugh, and we would not hear the sound of music or running water—we would hear nothing. While the loss of one of these senses is difficult to contemplate, most folk manage a happy and productive life, albeit at times with many difficulties—and I can say that, having a brother-in-law who was deaf from birth. Not to have both senses of sight and hearing is a tragedy, and the world in which these people live, while being silent and dark, can still be meaningful and enjoyable if we create opportunities for these folk that will give them stimulation and enjoyment.

Helen Keller is just one person, a very inspirational person, who lived her life to the full because she was given the support, love and encouragement to achieve her full potential, and that she did well. She could face the challenges of being deaf blind because she had the support of people who cared and who understood that to be deaf blind means not that there is no real life but simply a different way of life.

At Strathmont, opportunities are being provided by way of simple but interesting equipment to stimulate and create interests for the deaf blind residents. A simple hollow cane, filled with beads, when moved, creates a vibration that can be felt with the hand when it is held. Story books are made and they are, for want of a better term, 'read' by feeling the story. As each page is turned, the story unfolds. I refer, for example, to a bar of soap on one page, a flannel or a toothbrush on another, and perhaps a hair brush on yet another. One can feel the story, and it is an interesting experience to shut one's eyes and feel the story that makes sense.

We get up in the morning and bathe, clean our teeth and brush our hair. It is probably not so exciting for those of us who suffer no sensory loss, but to the deaf blind it is familiar, comforting and stimulating. Many people dedicate their time to create new and interesting ways to make a better and more rewarding life for deaf blind people, as well as those with other disabilities.

SAIL, a specialist program for people with sensory losses, provides activities aimed at developing social networks and self-esteem for the participants. They arrange outings, such as going to the bowls for those who can manage it, and the activities that they arrange stimulate both the mind and the body. All these services and equipment cost money, and the supporters of Strathmont fundraise to make sure that they can make available as much interesting educational and fun equipment as possible.

Currently they are funding story book cushions. Because deaf blindness is such an isolating condition, where without sight and sound it is a dark and lonely world, the sense of touch becomes a lifeline. The cushions, made by volunteers, have buttons or perhaps rope sewn on them, or little pockets are made in them so they are read with one's fingers. They give our deaf blind people hours of pleasure as they explore the activities on the cushions.

Because deaf blind people cannot see or hear what is happening around them, they sometimes find that other residents who are much more able-bodied come and take away some of the equipment they possess, whereas the cushions can be held close to the body and the deaf blind people are able to hang onto them while still exploring them. So, I can say that, even just holding the cushions, having held them myself, will certainly give our deaf blind people a sense of comfort while still providing the mental stimulation that they need.

As I said, these cushions do cost money to make, even though much in the way of materials is donated. Currently they are encouraging people to sponsor a cushion, so a variety of cushions can be made that create an interest for our deaf blind people. I have a sponsor form here, if anybody is interested. It is only $5 for a small cushion, $6 for a large one and $7 for a double-sided cushion, and it is well worth spending just those few dollars.

STATUTES AMENDMENT (CORPORATIONS—FINANCIAL SERVICES REFORM) BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Authorised Betting Operations Act 2000, the Broken Hill Proprietary Company's Indenture Act 1937, the Broken Hill Proprietary Company's Steel Works Indenture Act 1958, the Casino Act 1997, the Cooperatives Act 1997, the Corporations (Ancillary Provisions) Act 2001, the Liquor Licensing Act 1997, the Motor Vehicles Act 1959, the Racing (Proprietary Business Licensing) Act 2000 and the Stamp Duties Act 1923. Read a first time.

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

That this bill be now read a second time.

On 21 June 2001 the South Australian parliament effected a limited reference of corporations power to the commonwealth parliament. The principal legislation effecting the reference was the Corporations (Commonwealth Powers) Act 2001. This legislation was complemented by three other acts, including the Corporations (Ancillary Provisions) Act 2001. Based on this reference and similar references from all other states, the commonwealth parliament enacted the Corporations Act 2001 and the ASIC Act 2001.

This legislation forms the basis of the corporations scheme under which Australian companies and securities are regulated. The corporations scheme commenced on 15 July last year. Since the commencement of the corporations scheme, a number of important amendments have been made to the Corporations Act and the ASIC Act. The most significant of these were contained in the FSR (Financial Services Reform) Act 2001.

The FSR Act repealed chapters 7 and 8 of the Corporations Act. Chapter 7 regulated the acquisition of securities and the operation of the securities industry in Australia. Chapter 8 regulated the futures market in Australia, including the approval and regulation of futures exchanges. Participants in the securities and futures industries were licensed and their conduct regulated under these provisions.

The FSR Act has replaced the former chapters 7 and 8 of the Corporations Act with a new chapter 7 that provides for a single harmonised licensing disclosure and conduct framework for all financial service providers and establishes a consistent and comparable financial product disclosure regime applying to financial investment, financial risk and non-cash payment products. These amendments form part of the commonwealth's corporate law economic reform program and constitute the third tranche of the commonwealth government's legislative response to the financial system inquiry.

The FSR Act amendments have necessitated a number of consequential amendments to the provisions of state legislation which refer to or operate by reference to the repeal provisions of the old chapters 7 and 8 of the Corporations Act or to concepts or terminology relevant to the repeal provisions. In particular, the FSR Act has introduced the concepts of financial products, financial markets and clearing and settlement facilities.

Specific references in South Australian acts, in particular the Stamp Duties Act 1923, to marketable securities, stock exchanges and securities clearing houses, tied to the former corporations act regulatory regime, must be replaced with the equivalent terminology of the new FSR provisions. Mr Deputy Speaker, I seek leave to insert the remainder of the second reading explanation and the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation

These amendments are contained in the *Statutes Amendments (Corporations—Financial Services Reform) Bill 2002*.

Corporate law reform in Australia is an ongoing process. As a consequence, the commonwealth parliament regularly amends the Corporations and ASIC Acts.

As with the FSR Act, these amendments often necessitate consequential amendments to state legislation. Owing to state parliamentary constraints, it is not always possible to enact the necessary consequential amendments before commencement of the relevant commonwealth amendments. This can result in inconsistencies between related state and commonwealth provisions, and may even render inoperative state provisions, that refer to or rely upon concepts or terminology made redundant by the commonwealth amendments.

To address this problem, the Statutes Amendment (Corporations—Financial Services Reform) Bill amends the *Corporations (Ancillary Provisions) Act 2001* to empower the Governor to make regulations to amend provisions in state legislation that refer to or rely upon provisions of the Corporations or ASIC Acts, or terms, expressions or concepts defined in those Acts, which are amended by commonwealth legislation.

To ensure this regulation making power is not used to circumvent the proper Parliamentary processes for amending legislation, it is subject to the following limitations:

- an amendment to state legislation to be effected by a regulation must be necessary as a consequence of amendments to the Corporations or ASIC Acts;
- an amending regulation may not deal with any other matter (except matters of a transitional nature consequent upon the amendment to the Corporations or ASIC Acts); and
- an amending regulation will automatically expire after 12 months (unless revoked or specified to expire at an earlier time).

These limitations will ensure that necessary amendments to state legislation can be made, on an interim basis, without the need for Parliament to enact amending legislation, provided the required amendment to state legislation is consequential in nature, for example, a change in cross-referencing or a change in terminology. A Bill will still be necessary in due course to ensure consequential amendments are given permanent effect. Regulations made under the propose provision will be subject to section 10 of the *Subordinate Legislation Act 1978*. Similar amendments are being made in other jurisdictions.

Finally, this Bill makes a number of minor amendments to State Acts, consequential upon the reference of power, which, owing to parliamentary constraints, could not be made at the time reference legislation was enacted.

I commend this bill to the house.

Explanation of Clauses

PART 1

PRELIMINARY

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the commencement of the measure.

Clause 3: Interpretation

A reference in a provision to the principal Act is to be taken to be a reference to the Act referred to in the heading of the Part in which the reference occurs.

PART 2

AMENDMENT OF AUTHORISED BETTING OPERATIONS ACT 2000

Clause 4: Amendment of s. 3—Interpretation

These amendments up-date provisions so that they refer to the *Corporations Act 2001* of the commonwealth.

Clause 5: Amendment of s. 5—Close associates

These amendments ensure that concepts under section 5 of the principal Act are consistent with the terminology and concepts under the new commonwealth provisions.

Clause 6: Amendment of s. 29—Duty of auditor

Clause 7: Amendment of s. 74—Power to appoint manager

These amendments up-date provisions so that they refer to the *Corporations Act 2001* of the commonwealth.

PART 3

AMENDMENT OF BROKEN HILL PROPRIETARY COMPANY'S INDENTURE ACT 1937

Clause 8: Insertion of s. 11

This amendment ensures that concepts under the Principal Act are consistent with the terminology and concepts under the new commonwealth provisions.

PART 4

AMENDMENT OF BROKEN HILL PROPRIETARY COMPANY'S STEEL WORKS INDENTURE ACT 1958

Clause 9: Insertion of s. 13

This amendment ensures that concepts under the principal Act are consistent with the terminology and concepts under the new commonwealth provisions.

PART 5

AMENDMENT OF CASINO ACT 1997

Clause 10: Amendment of s. 3—Interpretation

Clause 11: Amendment of s. 4—Close associates

These amendments ensure that concepts under the principal Act are consistent with the terminology and concepts under the new commonwealth provisions.

Clause 12: Amendment of s. 49—Licensee to supply authority with copy of audited accounts

Clause 13: Amendment of s. 50—Duty of auditor

Clause 14: Amendment of s. 50—Duty of auditor

These amendments up-date provisions so that they refer to the *Corporations Act 2001* of the commonwealth.

PART 6

AMENDMENT OF CO-OPERATIVES ACT 1997

Clause 15: Amendment of s. 9—Exclusion of operation of Corporations Act

These amendments ensure consistency with the terminology and concepts under the new commonwealth provisions, and up-date a cross-reference.

Clause 16: Amendment of s. 258—Application of Corporations Act to issues of debentures

This amendment up-date a cross-reference.

PART 7

AMENDMENT OF CORPORATIONS (ANCILLARY PROVISIONS) ACT 2001

Clause 17: Amendment of s. 22—Power to amend certain statutory instruments

This amendment extends section 22 of the principal Act so that regulations can be made under that section where the Corporations Act or the ASIC Act is being amended.

Clause 18: Insertion of s. 22A

This clause inserts a new section 22A into the principal Act which provides a power to make interim regulations construing references in Acts consistently with the provisions of a Commonwealth Act, or a Bill for a Commonwealth Act, that affects those references. The purpose of the new section is to enable affected references to be adjusted in circumstances where it has not been possible to amend the references by Act in the time available. Any regulations made under the new section will expire after 12 months (unless sooner revoked).

Clause 19: Insertion of s. 25A

This clause inserts new section 25A into the principal Act. The new section validates things done on or after the commencement of the *Financial Services Reform Act 2001* of the Commonwealth and before the commencement of the proposed Act. The validation extends only to things that would have been valid and lawful if this Bill had been in operation at the relevant time.

Clause 20: Amendment of s. 26—Regulations

This is a consequential amendment.

PART 8

AMENDMENT OF LIQUOR LICENSING ACT 1997

Clause 21: Amendment of s. 7—Close associates

These amendments ensure consistency with the terminology and concepts under the new commonwealth provisions.

PART 9

AMENDMENT OF MOTOR VEHICLES ACT 1959

Clause 22: Amendment of s. 71C—Interpretation

Clause 23: Amendment of s. 99—Interpretation

These amendments ensure consistency with the terminology and concepts under the new commonwealth provisions, and up-date some cross-references.

PART 10

AMENDMENT OF RACING (PROPRIETARY BUSINESS LICENSING) ACT 2000

Clause 24: Amendment of s. 3—Interpretation

Clause 25: Amendment of s. 5—Close associates

These amendments ensure consistency with the terminology and concepts under the new commonwealth provisions, and up-date some cross-references.

PART 11

AMENDMENT OF STAMP DUTIES ACT 1923

Clause 26: Amendment of s. 2—Interpretation

It is necessary to amend various definitions used in the principal Act to provide greater consistency with the terminology and concepts under the new commonwealth provisions. In particular, the new legislation refers to "financial products", and so it is appropriate to now refer to "financial products" rather than "marketable securities" under the principal Act. In view of the potential ambit of the concept of "financial product", the definition in the principal Act will be able to be adjusted by regulation to exclude any stock, security or interest that should not be subject to the operation of the Act. In addition, the concept of a "stock market" is to be replaced with the concept of a "financial market" (being the terminology now used under the commonwealth provisions).

Clause 27: Amendment of s. 31—Certain contracts to be chargeable as conveyance on sale

Clause 28: Amendment of s. 67—Computation of duty where instruments are interrelated

Clause 29: Amendment of s. 71—Instruments chargeable as conveyances operating as voluntary dispositions inter vivos

Clause 30: Amendment of heading

These are consequential amendments.

Clause 31: Amendment of s. 90A—Interpretation

These amendments relate to the definitions that are required for the purposes of Part 3A of the principal Act. The changes are consequential on changes to the concepts, terminology and provisions that relate to financial markets and clearing and settlement facilities.

Clause 32: Amendment of s. 90B—Application of Division

Clause 33: Amendment of s. 90C—Records of sales and purchases of financial products

Clause 34: Amendment of s. 90E—Endorsement of instrument of transfer as to payment of duty

Clause 35: Amendment of s. 90F—Power of dealer to recover paid duty

Clause 36: Amendment of s. 90G—Transactions in S.A. financial products on U.K. stock exchange

These are consequential amendments.

Clause 37: Substitution of Divisions 3 and 4 of Part 3A

Division 3 of Part 3A of the principal Act relates to transfers of marketable securities conducted through clearing house facilities. The Division currently applies to any "SCH-regulated transfer", which has been any transfer conducted through a particular clearing house recognised under the old *Corporations Law*. The new legislation recognises the fact that other clearing and settlement facilities may be established (and no longer specifically refers to "SCH"). It is therefore appropriate to amend the *Stamp Duties Act 1923* to provide greater consistency with arrangements that may now be established under the new commonwealth provisions. Given the extent of changes required to be effected because of changes in terminology, it has been decided to replace the Division with a new set of provisions. The new provisions will have a similar effect to the existing provisions, but will now better reflect modern practices with respect to potential business licensees practices (especially in connection with electronic clearing and settlement facilities), and with respect to the potential operators of these facilities. Division 4 is also to be replaced, consistent with the fact that it may be appropriate in the future to extend the scheme that has applied to SCH to other CS facility licensees (on application by the licensee). In undertaking these amendments, it is also appropriate to extend the registration scheme to encompass new market licensees (in addition to the ASX) under the commonwealth provisions.

Clause 38: Amendment of s. 90T—Application of Division

Clause 39: Amendment of s. 90U—Financial products liable to duty

Clause 40: Amendment of s. 90V—Proclaimed countries

Clause 41: Amendment of s. 91—Interpretation

Clause 42: Amendment of s. 97—Calculation of duty

Clause 43: Amendment of s. 101—Exempt transactions

Clause 44: Amendment of s. 106A—Transfer of financial products not to be registered unless duly stamped

Clause 45: Amendment of Sched. 2

These clauses all make consequential, or related, amendments.

Clause 46: Transitional provisions

This clause will ensure the on-going recognition of ASX and SCH under the scheme that applies under Part 3A of the principal Act.

The Hon. I.F. EVANS secured the adjournment of the debate.

CRIMINAL LAW (FORENSIC PROCEDURES) (MISCELLANEOUS) AMENDMENT BILL

The Hon. M.J. ATKINSON (Attorney-General) obtained leave and introduced a bill for an act to amend the Criminal Law (Forensic Procedures) Act 1988. Read a first time.

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

That this bill be now read a second time.

I want to outline the history of this proposal. In 1992, the Standing Committee of Attorneys-General referred the question of the law dealing with the power of the state to demand forensic samples from those accused or suspected of crime—most notably those samples that would yield DNA evidence—to the Model Criminal Code Officers Committee. The committee is made up of the nominees of Attorneys-General from each Australian jurisdiction.

In 1993, the Australian Police Ministers Council considered a report by the National Institute of Forensic Science into the use of DNA technology (the Esteal Report) and resolved to set up a committee, chaired by the Chief Justice of Victoria, to make recommendations to the Police Ministers Council. The reference included the adequacy of existing legislation. The Model Criminal Code Officers Committee and the Esteal committee worked together on the common issues. Both committees concluded that new legislation was required and that it should be consistent across Australia.

The Model Code Committee prepared a set of model provisions in the form of a bill. The model provisions were submitted to the Standing Committee of Attorneys-General (SCAG), which approved them in principle, as did the Esteal committee. As a result, legislation was passed starting from the 1995 model in Victoria, the Northern Territory and the commonwealth. South Australia implemented the 1995 recommendations by enacting the Criminal Law (Forensic Procedures) Act 1998.

The legislation was, predictably, not consistent. In particular, the Northern Territory gave police far wider powers than the model suggested. However, as is common in this field of criminal investigation and accompanying law, events unfolded faster than anyone thought possible. The key event was that at the 1998 commonwealth election the coalition promised the creation of a commonwealth entity (CrimTrac) which would, amongst other things, create and maintain a national DNA database or, more accurately, a series of DNA indices. The database provisions contained in the 1995 model provisions and, therefore, in the South Australian act did not anticipate this event and were, therefore, rudimentary and inadequate to deal with this development.

In October 1998, the SCAG meeting decided that the Model Criminal Code Officers Committee should prepare a discussion paper, because the Australian Police Ministers Council proposals addressed a number of controversial matters that were not well supported in consultation on the 1995 bill. After consultation with the Police Commissioners Working Party on the DNA database and the Office of the Commonwealth Privacy Commissioner, the Model Criminal Code Officers Committee prepared a discussion paper, which was approved for release by SCAG in May 1999.

After the receipt of written submissions, SCAG made decisions about key issues addressed by the model bill at its July and November 1999 meetings. The model bill was redrafted to reflect those decisions. It was finalised and released in February 2000. During the preparation of the bill, the Model Criminal Code Officers Committee had detailed discussions with officers from the CrimTrac project team, law enforcement agencies and the federal and New South Wales Privacy Commissioner's officers to simplify and improve the data matching rules that are contained in the model bill.

In that regard, it may be noted that since the 2000 model provisions have been made available Victoria has amended its legislation; New South Wales has passed the Crimes (Forensic Procedures) Act 2000; the ACT has passed the Crimes (Forensic Procedures) Act 2001; Queensland has enacted the Police Powers and Responsibilities and Other Acts Amendment Act 2000; and the commonwealth has passed the Crimes Amendment (Forensic Procedures) Act 2001.

The commonwealth act is of very particular significance, because CrimTrac is a commonwealth body governed in its operations by commonwealth legislation and practice. It may be noted that the legislation in Australia has very substantially followed the model provisions, except for amendments made to the Queensland legislation. Queensland has given the police far more power than the model provisions suggest, despite the contrary recommendations of a Queensland parliamentary committee advocating the enactment of model provisions.

I turn now to the proposals. The development of CrimTrac and the legislative requirements associated with it has made it a necessity for South Australia to pass amendments to the Criminal Law (Forensic Procedures) Act 1998 so as to implement detailed proposals that enable the South Australian legislative scheme to complement that which governs the CrimTrac DNA database at the commonwealth level. If this is not done, criminal investigation in South Australia will suffer from a lack of a modern and important investigatory tool.

The bill also makes certain amendments to the South Australian legislation proposed by South Australia Police and the Director of Public Prosecutions after the enactment of the 1998 legislation. The proposed amendments in the bill are detailed and complex. The bill is a very substantial revision of the original act. Substantial work has been done within government to obtain the best outcome for criminal investigation and civil rights within the state and within the framework required by the commonwealth for participation in its CrimTrac initiative. The latter point is vitally important.

If the South Australian database provisions and cross-matching rules do not complement those in place in CrimTrac and contained in the commonwealth legislation, there is a clear possibility that South Australia will not be declared a corresponding jurisdiction for the purpose of accessing the national database.

I turn now to the substance of the bill and, in particular, its treatment of offenders. The current South Australian legislation, in accordance with the 1995 model provisions, provides for the taking of forensic samples (particularly DNA samples, but also other samples, for example, fingerprints) from persons convicted of serious offences. This is done via sections 29 and 30 of the act which, in relation to DNA, refer to the need for the court to take into account such factors as the seriousness of the charge and propensity of the person to engage in serious criminal conduct.

For DNA purposes, a serious criminal offence is an indictable offence, punishable by imprisonment for five years or more; that is, generally speaking, an indictable offence. A key to the operation of the current provisions is that it is prospective from the date of commencement, not retrospective. These powers are retained and, together with new powers, become category 4 (serious offenders) procedures.

The 2000 model provisions proposed that these powers be amplified and extended. The bill provides that the existing DNA powers can be exercised on an offender, whether that person was convicted of the offence, before or after the commencement of the amendments proposed, provided that the offender is still in detention. In addition, the bill will, if enacted, significantly widen the liability of prisoners to compelled DNA testing. The effect of the bill will be that any prisoner who has been convicted of an offence, no matter how minor, will be liable to compelled DNA sampling if he or she is sentenced to effective imprisonment. This change fulfils a Labor election policy.

The bill contains provisions about informed consent and a form approved by the Attorney-General, which mirror those provisions contained in other parts of the bill dealing with other categories of procedure. If the person concerned does not consent or is a protected person, procedures are proposed dealing with authorisation of the procedure either by a senior police officer or a court, depending, in essence, on whether the procedure is intrusive or not. I seek leave to insert those parts of the second reading explanation that I have not read and the explanation of clauses in *Hansard* without my reading it.

Leave granted.

Remainder of Explanation

Retention and Assimilation Orders

The bill proposes two major improvements to the 2000 Model Provisions—retention orders and assimilation orders.

Retention Orders

Retention orders are a trifle recondite. They deal with the situation in which a person is a protected person, consent has been given by the parent or guardian, the forensic sample has been taken and the parent or guardian then requires the sample to be destroyed. Police may have a reasonable suspicion that the request for the sample to be destroyed is a case in which that the parent or guardian is reasonably suspected of having been involved in the suspected crime or there is a reasonable suspicion that they may be shielding someone else. In such cases, a magistrate is authorised to authorise the retention of the sample and its results despite the destruction request by the parent or guardian. The usual procedural safeguards are proposed.

Assimilation Orders

It is possible for a volunteer to become a suspect and it would not be sensible to require police to make another application to obtain the same forensic data. It is therefore sensible to have a provision that allows the straightforward conversion of material obtained on volunteer status to be converted into material obtained on suspect status. The bill therefore provides that, where a magistrate is satisfied that there are reasonable grounds for suspecting that the volunteer has committed a criminal offence and there are reasonable grounds for suspecting that the forensic material obtained from the volunteer as a volunteer will be of value to the investigation of that suspected offence, the magistrate may make an order allowing the conversion and use of the sample on a suspect basis. There are the usual procedural provisions dealing with the right to be heard and represented on the application and the ability of police to make the application by fax or telephone.

Destruction

The Model Provisions and the South Australian Act contain a number of important provisions which require the destruction of forensic material if, in general terms, the legal authorisation for retention expires or concludes. This is an important protection for the innocent and for the public. It has not been and is not the intention of the legislation to build a database of identifiable DNA profiles of all or randomly selected members of the public. After the first legislation was passed, however, MCCOC was advised that the destruction requirement posed extreme difficulties from a scientific point of view because they referred to destruction of the sample taken. The problem is that, once the sample has been taken, stored and subjected to the various processes of analysis in a laboratory, it is very difficult indeed to track down all traces of the sample and destroy them all.

The key to destruction from a protection of rights point of view is the identifiability of the sample and the resulting analysis. The bill therefore provides that destruction of the sample requirement is satisfied if all means of identifying the forensic sample with the person from whom it is taken or to whom it relates are destroyed.

The Databases and Permissible Matching

It is important that the legislation accurately describes and defines the DNA databases and the ways in which that information may be used. The various categories of information that may be held in DNA databases—that is, the definition of the DNA database system—are as follows:

a crime scene index;
a missing persons index;
an unknown deceased persons index;
a serious offenders index;
a volunteers (unlimited purposes) index;
a volunteers (limited purposes) index;
a suspects index; and
a statistical index.

In addition, there is provision for the creation of another index or other indices by regulation. Each of these categories requires appropriate definition. For example, the volunteers indices is defined by reference back to the statutory provisions regulating the taking of samples from the volunteers described above.

It is necessary to provide for the uses to which the indices may be put. This is not a simple thing to do. Both the Model Provisions and the Commonwealth and NSW legislation have chosen to do it by a table. That table is to be found in the bill. It conforms, with one very minor exception, exactly to the same table in the Commonwealth legislation. That exception is as follows. The bill provides that DNA from unknown deceased persons may be matched against DNA from unknown deceased persons. This seeming oddity is designed to cater for the situation in which investigating authorities want to match DNA from incomplete body parts to see whether or not they are from the same deceased person.

It is also necessary to make comprehensive provision for the protection of the integrity of the databases. To this end, it is necessary to enact a series of criminal offences, punishable by a maximum of $10 000 or two years imprisonment for (shortly described):

- storing identifying DNA information obtained under the Act on a database other than the database set up by the Act or a corresponding law or doing so temporarily for the purpose of administering the database;
- supplying a forensic sample for the purpose of storing a DNA profile on the database or storing a DNA profile on the database where those actions are not authorised by the Act;
- not ensuring the destruction of identifying information in the DNA database system where the Act requires it to be destroyed;
- accessing information stored on the DNA database otherwise than in accordance with rules authorising access;
- matching information stored in the various indices within the DNA database or accessing that information otherwise than in accordance with the matching rules or access rules; and
- disclosing information stored on the DNA database otherwise than in accordance with authorised disclosure.

Hair Samples

Section 13 of the Act prevents a person taking a hair sample from removing the root of the hair without the consent of the subject. This provision was in accordance with the 1995 MCCOC Model Provisions. Despite the fact that the Model Provisions and the South Australian legislation were the subject of widespread consultation, including with forensic laboratories, such as the National Institute of Forensic Science, it was only after the South Australian Act was passed in 1998 that strong submissions were received to the effect that the taking and examination of hair roots were essential for hair comparison purposes.

Accordingly, the 2000 Model Provisions permit the taking of hair roots. However, it is submitted that they go too far. DNA samples can be taken from hair roots, which are a non-intrusive procedure. However, taking DNA from hair roots is an undignified and painful way of gaining the sample, and, moreover, it does not yield the same quality of sample that is taken by mouth swab. Therefore, the bill provides that hair roots can be taken without the consent of the suspect or offender, but only for the purposes of hair comparison tests. Of course, if the person consents to the DNA sample being taken in that way, the hair root sample can be taken.

Amendments Arising From The Operation of the Act

Police and the DPP made submissions for detailed changes of the legislation after some experience in the operation of the Act. Some of these suggestions are proposed to be enacted in the bill:

- Where an interim order is made by telephone, the Act requires that a copy of the record of the order must be given to the respondent. The Act does not say when. It has been suggested that it could be taken to mean that the copy of the order must be given before the test is carried out. That would be very inconvenient and is not what was intended. It was intended that the respondent get a copy of the order so that he or she will have notice of what was done for the purpose of challenge later in the court if he or she so desires. The bill proposes to make that clear.
- It was noted that the Youth Court is not authorised under the Act to make final orders. There is no reason why that should not be so, if the authority of the Court is restricted to the making of final orders where the suspect is a child.
- The police have noted that an application for a final order can be made only by (a) a police officer in charge of a police station; (b) the investigating police officer or (c) the DPP. The police want police prosecutors to be able to do it 'for reasons of expediency and efficient work practice'. The list was originally constructed in that way because it was thought that these would be the people who would be likely to be able to depose and give evidence, if necessary, as to the states of belief that are required to be shown in order for orders to be made. This is, therefore, an operational matter. If experience has shown that police prosecutors can do the job, there is no reason why the appropriate amendment should not be made.
- It was also noted that the database provisions in s 49 of the current South Australian legislation refer only to the offence in relation to which the forensic procedure was carried out and therefore leave open the interpretation that lesser included

offences or lesser offences to which the offender later pleads or is found guilty would not be included. The matter is arguable, but it should not be left doubtful and so the amendments to the database provisions of the Act make it clear beyond argument that such offences are included.

Conclusion

This bill represents a major step forward in the legislative structure dealing with the ability of police to use forensic procedures and, in particular, DNA evidence, as a tool in criminal investigation. The ability to link up with the Commonwealth initiative, CrimTrac, is essential. The development of national databases, especially DNA databases, represents major progress in the fight against crime, particularly transborder crime. The bill is not simple—but it is submitted that the issues are complex. Any legislation that attempts properly to balance the needs and requirements of efficient criminal investigation with the rights and liberties of the subject will not and should not be simple. A great deal of work has gone into these proposals, both in this state and on the national scene. In addition, the bill proposes to fulfil election promises made by the government.

I commend the bill to the house.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

This clause amends the definition of 'intrusive forensic procedure' so that buccal swabs will no longer fall within that definition. In addition, the clause makes various consequential amendments to other definitions set out in section 3 of the principal Act and provides that, for the purposes of the Act, forensic material is to be taken to have been destroyed if it is no longer possible to identify the person from whom the material was taken or to whom it relates.

Clause 4: Amendment of s. 5—Non-application of Act to certain procedures

This clause amends section 5 to clarify the exemption relating to blood and breath tests performed under other laws for the purpose of determining the concentration of alcohol in a person's blood.

Clause 5: Amendment of s. 6—Application of this Act

This clause is consequential to new Parts 2A and 2B.

Clause 6: Repeal of s. 7

This clause repeals section 7 consequentially to other changes in the measure.

Clause 7: Repeal of ss. 8 and 9

This clause repeals sections 8 and 9 (which are general provisions on the manner of consenting to a forensic procedure and the ability to withdraw consent) because—

- the manner of giving consent is now to be specified separately for each category of forensic procedure;
- the issue of withdrawal of consent is now proposed to be dealt with in Part 6.

Clause 8: Substitution of s. 13

This clause substitutes a new section 13 in the principal Act requiring specific consent if hair is to be used for obtaining a DNA profile of a person the subject of a forensic procedure.

Clause 9: Insertion of Parts 2A and 2B

This clause inserts new Parts 2A and 2B in the principal Act dealing with category 1 (consent) procedures and category 2 (volunteers) procedures.

The Parts identify preconditions for treating a forensic procedure as category 1 or 2 (clauses 13A(2) and 13E(2), respectively). In both cases, the person who is to be the subject of the procedure must not be under suspicion (the only way in which a forensic procedure may be authorised on a person under suspicion is under Part 3 of the measure). If no DNA profile of that person is to be placed on the DNA database system, then the procedure may be authorised as a category 1 procedure. If, however, a DNA profile of the person is to be stored on the DNA database system, then it must be authorised as a category 2 procedure.

Each Part then sets out the requirements for authorising the relevant procedure. Because the carrying out of a category 2 (volunteers) procedure on a person will result in the person's DNA profile being stored on the DNA database system, Part 2B requires what is referred to in the measure as an 'informed consent'.

In addition, both Parts provide that where the procedure involves (in the case of a category 1 procedure) a person who is not competent to consent to the procedure, or (in the case of a category 2 procedure) a protected person, the procedure must not be commenced and, if commenced, must not be continued if the person objects to or resists the procedure.

Generally these Parts require consent for a forensic procedure to be carried out. The only exception to this is where—

- the procedure is to be carried out on a person who is under 16 years of age or is otherwise incapable of giving consent to the procedure; and
- it is impracticable or inappropriate to obtain consent to the procedure from a person who might consent on the person's behalf because of the difficulty of locating or contacting that person or because that person (or a person related to or associated with him or her) is under suspicion in relation to a criminal offence; and
- the carrying out of the procedure is justified in the circumstances of the case.

In this circumstance the procedure can be authorised by order of a magistrate (although it may be noted that, being an authorisation under Part 1, no DNA profile may be stored on the database in this case).

Clause 10: Substitution of heading

This clause is consequential to the introduction of different classifications for forensic procedures under the principal Act.

Clause 11: Substitution of Divisions 1 and 2

This clause substitutes new Divisions 1 and 2 in Part 3 to ensure that the Part is worded consistently with new Parts 2A and 2B.

Clause 12: Amendment of heading

This clause is consequential to the introduction of different classifications for forensic procedures under the principal Act.

Clause 13: Amendment of s. 17—Classes of orders

This clause is consequential to the introduction of different classifications for forensic procedures under the principal Act.

Clause 14: Amendment of s. 18—Order may be made by appropriate authority

Paragraphs *(a)* and *(c)* of this clause are consequential to the introduction of different classifications for forensic procedures under the principal Act. Paragraph *(b)* gives the Youth Court power to make a final order where the respondent is a child.

Clause 15: Amendment of s. 19—Application for order authorising forensic procedure under this Part

Paragraph *(a)* of this clause is consequential to the introduction of different classifications for forensic procedures under the principal Act. Paragraph *(b)* gives a police prosecutor power to apply for an order under the Part.

Clause 16: Amendment of s. 21—Representation

This clause amends the requirements relating to who may act as an appropriate representative for a protected person in proceedings for an order under the Part. The amendment would mean that a person described in paragraph *(b)* could only act as an appropriate representative if there were no available person of a type described in paragraph *(a)*.

Clause 17: Amendment of s. 23—Making of interim order

Paragraph *(a)* of this clause is consequential to the introduction of different classifications for forensic procedures under the principal Act.

Paragraph *(b)* is consequential to the substitution of section 13 (which allows a DNA profile to be obtained from a hair sample if specifically requested by the person) and to the amendment to the definition of 'intrusive forensic procedure' that will result in buccal swabs being categorised as non-intrusive procedures. These two changes mean that DNA profiles will be able to be obtained from non-intrusive procedures, and paragraph *(b)* ensures that the current situation (whereby a procedure resulting in a DNA profile being obtained may only be ordered if the suspected offence is an indictable offence) will continue.

Paragraph *(c)* is consequential to proposed new Division 8 (see clause 21).

Clause 18: Amendment of s. 24—Respondent to be present at hearing of application

This clause is consequential to the inclusion of the Youth Court under clause 14.

Clause 19: Amendment of s. 26—Making of final order for carrying out forensic procedure

Paragraphs *(a)* and *(b)* of this clause are consequential to the introduction of different classifications for forensic procedures under the principal Act.

Paragraph *(c)* is consequential to the substitution of section 13 (which allows a DNA profile to be obtained from a hair sample if specifically requested by the person) and to the amendment to the definition of 'intrusive forensic procedure' that will result in buccal swabs being categorised as non-intrusive procedures. This is discussed above in relation to clause 17 of the measure.

Clause 20: Amendment of s. 28—Action to be taken on making order

This clause proposes minor amendments to ensure the wording of section 28 of the principal Act is consistent with that used throughout Part 3 and to clarify when a copy of the record of an order needs to be given to the respondent.

Clause 21: Substitution of Divisions 8 and 9

This clause substitutes a new Division 8 in Part 3 of the principal Act (providing for interim orders to automatically become final orders where a person has become a person to whom Part 3A applies) and inserts new Part 3A dealing with category 4 (offenders) procedures.

New Part 3A, like the Parts dealing with other categories of procedures, identifies preconditions for treating a forensic procedure as a category 4 (offenders) procedure. The specified preconditions are as follows:

- That the person who is to be the subject of the procedure is not under suspicion;
- That the person is a 'person to whom the Part applies'. This is defined in proposed section 30(3) as being a person who is, after the commencement of the provision—
  - serving a term of imprisonment or detention in relation to an offence (whether the offence occurred before or after the commencement of the provision); or
  - detained as a result of being declared liable to supervision by a court dealing with a charge of an offence (whether the offence occurred before or after the commencement of the provision); or
  - convicted of an indictable offence or declared liable to supervision by a court dealing with a charge of an indictable offence;
- That any DNA profile of the person derived from forensic material obtained by carrying out the procedure is to be stored on the offenders index of the DNA database system. This requirement means that, if the intention was to store a DNA profile of the person on one of the volunteers indexes of the database, the procedure could not be authorised under this Part but would have to be authorised under proposed Part 2B.

The Part then sets out the requirements for authorising category 4 (offenders) procedures. In general, such procedures may be authorised by informed consent or may be authorised by order of an appropriate authority. In addition, the Part provides that, if the person in question is serving a term of imprisonment or detention or has been declared liable to supervision and is being detained, then the person may be fingerprinted or a DNA sample obtained without obtaining the person's consent or an order.

Clause 22: Repeal of s. 32

This clause proposes the repeal of section 32 of the principal Act which limits the application of Part 4. Part 4 is now to apply to category 2, 3 and 4 procedures except where otherwise specifically provided.

Clause 23: Insertion of Division

This clause inserts a new Division in Part 4 dealing with obstruction of a category 3 or 4 procedure that has been authorised otherwise than by consent under the Act. This issue is currently dealt with in Part 3 of the principal Act but structural changes to the Act resulting from the measure mean the issue is now more appropriately dealt with in Part 4.

Clause 24: Substitution of ss. 35 and 36

This clause repeals sections 35 and 36 and proposes to replace them with a new section 35. The proposed new section covers the matters currently dealt with by sections 35 and 36 but makes consequential changes to the wording of the provisions.

Clause 25: Amendment of s. 37—Right to have witness present

This clause clarifies who may be an appropriate representative for the purposes of section 37(2).

Clause 26: Amendment of s. 38—Audiovisual record to be made

This clause—

- changes references to 'video' records to 'audiovisual' records (to allow for digital recording methods); and
- changes the reference to 'the investigating police officer' to the 'Commissioner of Police' (because this provision will now apply to persons who are not 'suspects' and, in such a case, there will not be an investigating police officer).

Clause 27: Insertion of Division

This clause moves the exemption of liability provision (currently section 44 of the Act) consequentially to the introduction of Part 4A.

Clause 28: Substitution of heading

This clause inserts a new Part heading into the principal Act. Part 4 currently deals with the manner in which forensic procedures are to be carried out and the manner in which forensic material obtained as a result of such procedures is to be dealt with. These topics are now proposed to be dealt with in two separate Parts (the latter becoming Part 4A).

Clause 29: Amendment of s. 39—Person to be given sample of material for analysis

This clause—

- removes references to 'the investigating police officer' (because this provision will now apply to persons who are not 'suspects' and, in such a case, there will not be an investigating police officer);
- changes subsection (3) consistently with the new definition of 'forensic procedure'.

Clause 30: Amendment of s. 40—Access to results of analysis

Clause 31: Amendment of s. 41—Access to photographs

These clauses change references to 'the investigating police officer' to the 'Commissioner of Police' (because these provisions will now apply to persons who are not 'suspects' and, in such a case, there will not be an investigating police officer).

Clause 32: Insertion of heading

This clause is consequential to the restructuring of Part 4 into two separate Parts.

Clause 33: Amendment of s. 42—Analysis of certain material

Paragraph *(a)* of this clause is consequential to proposed Division 8 of Part 3 (see clause 21). Paragraph *(b)* deals with analysis of material obtained as a result of category 4 (offenders) procedures. Currently, under section 29(2) of the principal Act, these types of procedures cannot be carried out until the time for appeal has expired. Under the proposed changes, the procedure can be carried out, but the material obtained cannot be analysed until such time has expired.

Clause 34: Substitution of Divisions

This clause repeals the current sections 43 and 44 of the principal Act (the subject matter of which are now covered elsewhere in the measure) and inserts new provisions as follows:

- Division 3
- proposed section 43 deals with 'retention orders', which authorise the retention of material obtained from a category 2 (volunteers) procedures after destruction has been requested in certain circumstances;
  - proposed section 44 deals with 'assimilation orders' which authorise forensic material obtained from a category 2 (volunteers) procedure to be treated as if it were material obtained from a category 3 (suspects) procedure in certain circumstances.
- Division 4
  - This Division specifies the destruction requirements for forensic material obtained as a result of category 2 (volunteers) procedures, category 3 (suspects) procedures and category 4 (offenders) procedures.

Clause 35: Amendment of s. 45—Effect of non-compliance on admissibility of evidence

This clause proposes amendments to clarify the meaning of section 45(1).

Clause 36: Amendment of s. 46—Admissibility of evidence of denial of consent, obstruction, etc.

This clause makes minor amendments to ensure section 46 is worded consistently with other provisions.

Clause 37: Insertion of Part

This clause inserts new Part 5A dealing with the DNA database system. The Part—

- specifies the information that can be stored on each index of the database;
- authorises the exchange of information with other jurisdictions (where there are corresponding laws);
- creates offences relating to the database;
- provides for the removal of information from the database where appropriate; and
- regulates access to and use of the database.

Clause 38: Insertion of s. 46F—Withdrawal of authority to carry out forensic procedure where that authority is based on consent

This clause provides for the withdrawal of consent to a forensic procedure (currently dealt with in section 9 of the principal Act).

Clause 39: Amendment of s. 47—Confidentiality

This clause imposes confidentiality requirements in relation to the DNA database system.

Clause 40: Amendment of s. 48—Restriction on publication

This clause is consequential to other changes to the principal Act.

Clause 41: Substitution of ss. 49 and 50

This clause repeals the current database provisions and substitutes new provisions as follows:

- Proposed new clause 49 provides for forensic material lawfully obtained in other jurisdictions within Australia to be retained and used here even if the material was obtained in circumstances in which this measure would not authorise the material to be obtained, or in accordance with less stringent requirements than are provided for by this measure.
- Proposed new clause 50 ensures that the *State Records Act 1997* does not apply to forensic material or the DNA database system.

Clause 42: Repeal of Schedules 1 and 2

This clause repeals Schedules 1 and 2, which are no longer necessary.

Clause 43: Transitional provision

This clause contains transitional provisions ensuring that—

- the amendments apply to forensic procedures carried out after commencement of the measure; and
- that DNA profiles stored on the current database can be transferred to the DNA database system established under new Part 5A.

The Hon. I.F. EVANS secured the adjournment of the debate.

FISHERIES (CONTRAVENTION OF CORRESPONDING LAWS) BILL

Second reading.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): 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 seeks to make a very simple but important amendment to the *Fisheries Act 1982* in relation to the enforcement of fisheries laws in jurisdictions adjacent to South Australia.

The bill was originally introduced by the previous government in the Spring 2001 session of the 49th Parliament. It lapsed when Parliament was prorogued.

The amendment is now overdue and is being presented again in response to changes to the management of the rock lobster fishery in adjacent western Victorian waters, a stock which is contiguous with the South Australian Southern Zone Rock Lobster Fishery.

The Victorian fishery has been managed as a quota fishery, similar to the Southern Zone Rock Lobster Fishery, since November 2001.

A particular concern is that approximately 19 Victorian licence holders live around and fish out of Port Macdonnell. Of these Victorian licence holders, 12 also have South Australian rock lobster fishery licences.

Under Victorian fisheries legislation it is an offence to possess or sell fish taken in contravention of a corresponding law of another state. This allows Victoria to prosecute a person residing in that state for an offence against South Australian fisheries legislation. This kind of provision is now common in most other Australian jurisdictions.

However, this legal arrangement is currently not reciprocated in South Australia, which means that if a Victorian licence holder living in South Australia contravenes a Victorian fisheries law, Victoria cannot effectively detect and investigate the contravention.

With the introduction of a quota management system in Victoria on 1 November 2001, the need for proper reciprocal enforcement provisions has become a priority for both South Australia and Victoria.

The only alternative to the proposed amendment is for the Victorian government to require all Victorian licence holders to land in a Victorian port, the closest being Portland.

If this were to occur, a majority of Victorian licence holders might have to relocate to Victoria, causing significant economic and social upheaval in Port Macdonnell for a number of families and the local economy, which relies on the fishing industry.

The amendment to the South Australian *Fisheries Act 1982* has the support of the Victorian government and the licence holders in the Southern Zone Rock Lobster Fishery. The amendment will ensure that the rock lobster resources across both states continue to be well managed and that quota limits are not exceeded.

I commend the bill to the house.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

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

Clause 3: Amendment of s. 44—Offences with respect to sale, purchase or possession of fish

This clause amends section 44 of the *Fisheries Act 1982* to make it an offence to sell or purchase, or have possession or control of, fish taken in contravention of a law of the Commonwealth or another state or a territory of the Commonwealth that corresponds to that Act.

The Hon. I.F. EVANS secured the adjournment of the debate.

FISHERIES (VALIDATION OF ADMINISTRATIVE ACTS) BILL

Second reading.

The Hon. J.D. LOMAX-SMITH (Minister for Tourism): 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 seeks to validate certain administrative acts and payments.

It was originally introduced by the previous government in the Spring 2001 session of Parliament but lapsed when Parliament was prorogued.

The bill specifically relates to the administration of the blue crab fishery under two sets of regulations between 11 June 1998 and 16 September 2001, being the *Scheme of Management (Blue Crab Fishery) Regulations 1998* and the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991*.

In early 2001 it became apparent that PIRSA Fisheries had incorrectly interpreted and applied some regulations relating to the allocation and transfer of blue crab quota and related gear entitlements. These errors affected the calculation of licence fees payable.

The Crown Solicitor has recommended that the regulations be amended to provide for correct administration of the fishery prospectively and that a bill be passed to validate the past incorrect acts or omissions to provide legal certainty for the management of the fishery in the future.

The bill will also preserve the validity of negotiated and agreed licence fees paid by commercial fishers under the cost recovery policy during the period 1 July 1998 to 30 June 2001.

The passing of the bill will not have any detrimental effect on any commercial blue crab fisher, as the bill essentially validates the management arrangements for this fishery that were expected and understood by all licence holders for a long period of time before the errors were uncovered.

The Department was acting in good faith and in line with the best interests of the fishery and while Departmental officers thought the regulations provided for the arrangements in line with agreements with operators within the fishery, the regulations did not fully authorise these management arrangements.

I commend the bill to the house.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides for the measure to be taken to have come into operation on the day on which the bill for the measure was first introduced in the Parliament.

Clause 3: Validation of certain administrative acts and payments

This clause validates acts done or omitted to be done prior to 17 September 2001 in or with respect to the variation of conditions of fishery licences relating to matters prescribed by regulations 14 and 15 of the *Scheme of Management (Blue Crab Fishery) Regulations*

1998 (see *Gazette* 11 June 1998 p. 2519), and regulations 14A and 14B of the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991* (see *Gazette* 27 June 1991 p. 2187), as in force from time to time. It also validates the collection of amounts paid prior to 27 June 2001 purportedly as renewal fees or instalments of renewal fees under regulation 8 and Schedule 2 of the *Scheme of Management (Blue Crab Fishery) Regulations 1998*, and regulation 8 and Schedule 2 of the *Scheme of Management (Marine Scalefish Fisheries) Regulations 1991*, as in force from time to time.

The Hon. I.F. EVANS secured the adjournment of the debate.

STAMP DUTIES (RENTAL BUSINESS AND CONVEYANCE RATES) AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 11 July. Page 751.)

The Hon. I.F. EVANS (Davenport): This bill increases stamp duty revenue collections as part of the 2002-03 budget. Stamp duty rates on property conveyances greater than $200 000 are increased, raising some $14 million in a full year. The bill also applies to rental duty to commercial equipment hire using hire-purchase arrangements for the first time. Rental duty already applies to commercial equipment hire using lease finance. The rental duty premiums will raise some $7.5 million in a full year. The full year effect, as I understand it, of this bill is essentially $21.5 million for each and every year, depending on trading conditions.

First, we might deal with the issue of letting the Treasurer know that we are making a significant point that the government went to the election promising no increases in taxes or charges, yet the very bill that we are debating is all about increasing taxes and charges and broadening the tax base. The government, of course, has been marketing its budget, which includes a whole range of new tax measures and increases in tax measures. This is one of a number of measures. It goes to the point that prior to the election the Labor Party promised that all its election policies were fully costed and fully funded and that it did not need to implement any new or extra taxation measures, yet this particular measure on its own is an extra $21.5 million a year.

We have had the debacle in relation to the crown lands issue. That is such a mess that it has been referred to a select committee to sort out. Then we have the disaster in relation to the Hotels Association and the pokies tax, where the Hotels Association negotiated in good faith with the government only to find that not only are they out of pocket to the tune of the taxation measures announced in the budget but they are also an extra $18.5 million out of pocket in relation to the transfer tax. The government certainly has gone to extraordinary lengths to ensure that all South Australians know that it has broken its commitment not to bring in any new taxes or charges or, indeed, not to increase any taxes and charges. This bill is just yet another in a whole range of bills that goes to the lie that the Labor Party put to the electorate at the last election.

The first issue in relation to this particular bill is the commercial equipment hire and the duty on that. South Australia is one of only two jurisdictions not to tax commercial equipment hire using hire-purchase arrangements: only the hire of goods through lease finance is currently subject to tax. The Australian Finance Conference and the Australian Equipment Lessors Association have lobbied for many years for the rental duty base to be broadened to remove stamp duty incentives favouring commercial hire-purchase funding arrangements for equipment hire in preference to lease finance arrangements—

The Hon. K.O. Foley: And I listened to them.

The Hon. I.F. EVANS: The Treasurer said that he listened to them—because he can. Of course, as I understand the bill, this will provide the government more limited tax relief by moving to a GST exclusive tax base for rental duty, an increase in the monthly rental threshold above which stamp duty applies from $2 000 to $6 000. As I understand it, most states and territories, except South Australia and Western Australia, have adopted a GST exclusive rental duty base and, in the interests of uniformity with other states and territories and for administrative simplicity, the government has decided to amend the rental duty base to exclude GST. The proposed changes to the rental duty arrangements will take effect from 1 January 2003. The introductory lead time will give the industry sufficient time to adjust administrative systems to accommodate the new arrangements. So, that is the explanation, as I understand it, for the first measure. It is interesting that the industry itself does have some concerns in relation to the proposed expansion of the tax base with respect to stamp duty on rental incomes. And the principal issue that the businesses are concerned about is the comparative analysis with other jurisdictions.

The industry contends to the opposition that the concept of parity with other states, while laudable, should not be limited to simply broadening the tax base so as to be the same as the other states—there should be other measures that are the same as other states. Indeed, the industry submits that South Australia should also share the key concessions that other states offer, if consistency is the objective that the Treasurer seeks.

They are confident that there are issues that the Treasurer could bring before this place that would meet broad industry acceptance. One of those issues is what they call 'special hiring arrangements'. In New South Wales, Victoria and the ACT, and indeed the Northern Territory, they have legislative provisions which provide a ceiling on the maximum amount—

The Hon. K.O. Foley: On the maximum amount of duty that is payable with respect to individual transactions.

The Hon. I.F. EVANS: That is exactly right. But the Treasurer did not quote it correctly—of duty that is payable with respect to individual transactions that meet specified criteria. It appears that the Treasurer has received the same letter, so I will refer to the material provided to us by the industry. We are told that in New South Wales the capped amount is $10 000; in Victoria it is $10 000; in the ACT it is $10 000 and in the Northern Territory it is $9 000—and they would argue that, if the Treasurer is going to put to the house that there needs to be uniformity of taxation measures on this matter, he should also adopt the capped measure adopted in other states. I can only assume, given that it is not in the bill, that the Treasurer has rejected the industry lobby on that point.

The Hon. K.O. Foley: I didn't get this letter until yesterday.

The Hon. I.F. EVANS: We will pay the Treasurer the courtesy then to respond to the matters in the other place because he may well wish to bring some of these matters to the house for the parliament's consideration. However, given that he received it only yesterday, I am sure that he needs time to consider it; so we are happy to consider it in the other place.

The Hon. K.O. Foley: No, I don't.

The Hon. I.F. EVANS: Well, issue 3, I think, is worth considering, with all due respect, Treasurer.

The Hon. K.O. Foley: Well, why don't you do something here?

The Hon. I.F. EVANS: Well, we might now that you have issued the invitation, if you have indicated that you do not want to do anything as the lead minister on it. But issue 3 is about what this industry calls 'wet hires'. This is a type of hire which involves the hire of goods with an operator. In the industry in which I used to work, that would be a backhoe operator or bobcat operator. Other examples would be a plane with a pilot or a car that is chauffer driven.

The Commissioner in South Australia has stated in an information brochure published with respect to stamp duty on rental business that this type of hire is not dutiable. The industry is saying that, to clarify and give certainty to that matter, it would like an amendment moved to the bill in words to this effect (which is similar to legislation in New South Wales, Victoria and the ACT):

> . . . that an arrangement comprising a 'wet hire' (that is, an arrangement under which an operator is provided by or at the direction of the person hiring out the goods to operate the goods for the hirer). . .

That basically means that the 'wet hire' would not come under the duty provisions which, as they understand it, is what the Commissioner is telling them. So, all they seek in the legislation is an amendment to that effect so that it is crystal clear and they do not have to just rely on the Commissioner's interpretation or, indeed, a published brochure.

So, if it is in an information brochure, and that is the interpretation given by the Commissioner, I do not think that is an unfair ask. The Treasurer says that he does not want to deal with it, but I put to him that he may want to consider doing something about it in another place, given that it is only reflecting the Commissioner's view.

The second issue that the industry put in the same letter to the opposition and, obviously, to the Treasurer, is what they call an amendment to include the words 'incidental' and 'ancillary'; and this is an issue that has been picked up by redrafting in New South Wales, Victoria and the ACT in relation to their stamp duty rewrites. They would seek an amendment that would read something like the following:

> . . . an arrangement for the use of goods the provision of which is incidental and ancillary to the provision of a service, if the provision of the goods is solely to enable the contractual provision of the service.

This issue involves situations where there is a technical hire of goods but it is only incidental to the principal purpose of a contract where the provision of a service is offered. So, those two in particular seem to me to be matters that have been adopted by other states. They do not seem to be unreasonable, and I would ask the Treasurer, as he received the information only yesterday, whether he would consider adopting those between houses.

The other issue that I think is of greater concern is that of stamp duties on properties. I know there are other members in the house who wish to contribute to this matter. It is interesting that the South Australian stamp duty on property transfers is now significantly higher than it was; and this is, of course, a grab by the Treasurer and Treasury for extra dollars so that they can provide the services that they wish to deliver.

It is interesting now, when one looks at the median price of a house in South Australia, which I think is about $158 500, this state is at that point equal to Victoria, but we are greater than every other state on a median level property of that value. We are $51 170. Then there are other values across the other states that are lower, except for the Victorian figure, which is the same. As one steps up the valuation to $200 000, South Australia is the highest; on $300 000, South Australia is second highest; on $500 000, South Australia is second highest; and on $750 000, South Australia is second highest. So, all the way through, South Australia is either highest or second highest in relation to duty payable on property transfers.

As I read this chart provided to me by the industry, we are now at a point where South Australia's stamp duty regime is one of the highest in Australia; and that is a hit not only to the property market, but also to all those home buyers out there, whether they be first home buyers, unit buyers or people simply transferring to a second or third residence; and there should not be any misunderstanding in the house that it is not about hitting people who are wealthy because they can afford to buy a property.

In the publication *The Property Price Guide* we see property values of suburbs that will be hit around the mean value. I refer, for instance, to Croydon, which has a mean value of $237 000 being hit with higher stamp duties; Broadview, with a mean value of $240 000 being hit with higher stamp duties; and there is also Royal Park. There is a range of areas, and I think some members will put to the parliament that this is all about trying to hit the eastern suburbs or Liberal voting areas. I say that there are a whole range of areas in South Australia where these provisions will now hit very hard and will make it harder, of course, for young people to buy their first property; it will make it harder for people to upgrade to different homes, simply because of the cost structure.

So, the Treasurer and the government, before the last election, promised that they would not introduce new taxes or charges but, in fact, they will, and to the tune of about $14 million in a full year in this measure, and in the previous matter of commercial equipment hire, the figure was about $7 500 per year. The Treasurer has tried carefully to word the matter in relation to the stamp duty to give the impression that it was somehow a half reasonable measure but, on any reading of it, one sees that it is one of the highest increases in stamp duties in Australia. We are either the highest or second highest, depending on whom we are compared to.

When one compares Victoria to South Australia, we see that we are higher there: on a $100 00 property, we are $630 higher; on a $150 000 property, we are $170 higher; and then we fall to second highest behind Victoria for values after that. In comparison with New South Wales, South Australia is higher in every category. For $100 000 we are $840 higher; for $150 000, we are $1 090 higher; for $158 500, we are $1 132 higher; for $200 000, we are $1 340 higher; for $300 000, we are $2 340 higher; for $500 000, we are $3 340 higher; for $750 000, we are $5 840 higher—and on it goes. So, South Australia pays much more stamp duty than New South Wales.

The Hon. K.O. Foley: But not Victoria.

The Hon. I.F. EVANS: No, in terms of Victoria you are just second on some.

The Hon. K.O. Foley: Just? Well below!

The Hon. I.F. EVANS: I'll give you time to catch them. Given your track record, that should take only a matter of months. The Treasurer has now placed us in a position where our stamp duty provisions are the second highest generally in Australia. That will have an impact on properties because

of the extra cost involved in moving into those properties. The Real Estate Institute, in particular, is very disappointed with the way in which this matter has been handled and with the impact that it will have on its industry. We are disappointed that before the election the Treasurer said that they would not increase taxes and charges but they now have.

Having said that, the opposition recognises that this is a budget matter so we will not oppose it, but we put on record that we have some major concerns and issues with the bill and the nature of it. When the Treasurer was in opposition at the time of the 1998-99 budget, he said in relation to stamp duty:

> The opposition [the then Labor opposition] supports the bill. That does not necessarily mean that we agree with or like taxation measures.

For someone who does not like taxation measures, he has certainly brought a lot of them in. It is a bit like ordering brussels sprouts for tea when you do not like them. He went on to say:

> They are very painful, very hurtful and most unfortunate but, in the tradition of the Labor Party, we accept the government's right to spend money.

There is no doubt about that if you look at the budget in relation to some issues. So, the Treasurer went on record acknowledging that taxation increases are very painful, hurtful and most unfortunate, and the very people he has kicked in the guts in relation to this are anyone who is involved in property transfers, many of them in his own electorate and those of his colleagues.

So, we place on the record that we are concerned about the proposed level of taxation and what that will do to the property market in South Australia in general, but we will not oppose the bill because of the longstanding convention that this is a budget measure and that therefore it will pass this house. However, we put the Treasurer on notice that that position may or may not apply to the crown lands issue which is yet to be brought into this chamber as a result of the select committee.

Mrs REDMOND (Heysen): Like the member for Davenport, I rise simply to place on record some concerns about this bill.

The Hon. K.O. Foley: Remember, your comments could come back to haunt you in eight years' time—that is just a friendly warning—or four years.

Mrs REDMOND: I am grateful that you assume that I will be here in four years' time and I thank you for that compliment. I do not intend to go over a lot of what the member for Davenport has canvassed, in particular his very good explanation regarding the introduction of duty on hire-purchase agreements, which were, of course, exempt from 1 January 1984 and will stay exempt until 31 December this year, becoming dutiable on 1 January. However, whereas that will occur only from 1 January, the actual matter about which I am concerned is that the rates of stamp duty on conveyances will become applicable from the moment this bill is assented to.

In terms of hire-purchase agreements, I am inclined to think that it is probably reasonable to bring them into line. It was always a bit of a puzzle to me why hire of goods via lease finance was included but hire-purchase was not. I do not have any theoretical problem with the idea of hire-purchase agreements no longer being exempt.

The Hon. K.O. Foley: Good member.

Mrs REDMOND: I am glad to hear that the Treasurer thinks I am a good member, but my comments on the rates for conveyances may not please him. I note that we will get an estimated increase of $14 million in the first year from these increased rates for conveyances. I have been aware for a long time through being a practitioner in the area of conveyancing for 30 years that many people who come here from interstate are absolutely astonished that, whilst housing prices are reasonably low in comparison with particularly the eastern states, the rates of stamp duty are extraordinarily high and now we are to make them higher.

The first point I want to make is that the government has tried to indicate that it is people in the flash, leafy suburbs who will be hurt, not the average punter in this state. However, I refer to the values published in the *Property Price Guide*. I have picked out a few of the suburbs that will be affected by these increases (starting from $200 000). These are some but not all of the suburbs with properties with median values of less than $200 000 12 months ago but which in the last 12 months have jumped to higher than $200 000. They are listed in alphabetical order simply because the list was published in alphabetical order in the *Property Price Guide* a few days ago.

The suburbs include Blackwood, Broadview, Brompton—hardly leafy green suburbs—Camden Park, Clapham, Croydon, Darlington, Daw Park, Glynde, Hahndorf, Hampstead Gardens, Hectorville, Highbury, Hilton, Keswick—this is not all of them—North Plympton, One Tree Hill, Payneham and Payneham South, Plympton, Ridleyton, Rostrevor, Thebarton, Torrensville, Underdale, Upper Sturt, Uraidla, Warradale, West Croydon and Woodville. In each of those suburbs, in the last 12 months the value of properties has jumped into a bracket which will require a significantly higher rate of stamp duty.

Another point that I want to make about this legislation is that it is really a double slug in the sense that there are two components in the way in which the amount of stamp duty is assessed. First, there is a basic rate up to a certain figure and then a rate in the dollar—both the basic rate and the percentage rate will be increased under this proposed legislation—but, in addition, we have the increases in property values which are ongoing and rapidly increasing further throughout Adelaide. So, it will not be very long before nearly all suburbs will come within this $200 000 stamp duty rate.

The next point I want to make is that it needs to be remembered that this will not affect just residential purchases; it applies to not only houses and vacant land but farming properties as well. I note that the exemption applied to farming properties under the act has not been touched. The effect of that is that, traditionally, if you sell a farm on a walk in/walk out basis where you have stock and chattels for running the farm being transferred, the value of the land must be certified by the Commissioner for Stamps. That is what the ad valorem stamp duty is paid on and the actual stock is not subject to stamp duty, but conversely that does not apply to businesses. If you buy or sell a business the walk in/walk out price is based on the purchase price of the business which includes the stock at valuation (SAV), and that has to be assessed and submitted and it forms part of the consideration which is subject to ad valorem stamp duty. So, of course, all the small businesses in Adelaide which sell for anywhere within the $200 000 bracket—a lot of them—will be adversely affected by this proposal.

The last point I wish to make is that although it does not appear in this bill it is inextricably tied to it as part of the

budget measures, and that is the cost of searches, particularly section 7 searches. It was mentioned in the last few days—and I think maybe in question time today—that section 7 searches will go up by more than 30 per cent. For those who are not familiar with a section 7 search, that is a search by which the state government provides information to a vendor or purchaser to enable vendors to give appropriate information regarding the property they are selling and purchasers to obtain information about the property they are purchasing.

The price of that information increasing by 30 per cent is a double whammy because usually both the vendor and the purchaser must get that information independently, and there are good legal reasons for that, although I am aware that some conveyancers share the cost. That information must be obtained by a vendor in placing the property on the market, although I note up around Stirling North and some other places towards Port Augusta that they do not apply for that information until they have sold the property, because the property can take so long to sell. That information is obtained by the vendor when they want to place the property on the market, so the vendor, their agent or a combination of both can supply the necessary form 1 information as required by the Land and Business (Sale and Conveyancing) Act and, when the purchaser comes along and finally enters into a contract to buy, they, too, need to find out everything that the state government can tell them about the property, so they undertake a search as well. The government is therefore getting that 30 per cent increase twice most of the time, rather than just once.

Having said that, like the member for Davenport I note that it is a bill that is part of the budget, a money bill, so it will pass through this parliament. I simply want to place on record my view that it is highly misleading of the government to suggest that this bill will affect only the leafy green eastern suburbs. Rather, it will affect very large numbers of people throughout metropolitan Adelaide, including many of the suburbs in Labor-held seats. It is certainly quite contrary to the promises that the government made prior to the election.

Mr BRINDAL (Unley): I support my colleagues the members for Heysen and Davenport in this matter in that the opposition, as my colleague the member for Davenport said, supports this bill. However, that does not necessarily mean that we agree with or like these taxation measures. We contend, as the member for Heysen just said, that they are very painful, very hurtful and most unfortunate. In the tradition followed by Labor when in opposition, we accept the government's right to spend money and, by agreeing to pass the Appropriation Bill, clearly we must then support the government in the mechanisms it uses to raise the money, unpalatable though they may be.

Members should not by those words believe that we either like or support what the government is doing. We simply acknowledge the right of the government to raise taxes and revenue as it sees fit. The electorate will judge in three and a half years the merits or popularity of the government's decision. We will certainly be explaining at that time and reminding the electorate of the full impact of the severe taxation imposts imposed on it by this government.

As I think the member for Heysen pointed out, this measure does not take from the rich and give to the poor. It is a measure which my colleague the member for Davenport tells me raises $21.5 million in a full year. One is left to ask why, when the Treasurer came in here boasting that this budget delivers a $72 million surplus, it is necessary to impose tax imposts to the tune of $21.5 million or any other amount when, quite clearly, had he forgone this he would have reduced his budget to about $52 million. His budget was $72 million in the black.

The Hon. K.O. Foley: It's $94 million in accrual deficit; you don't understand—

Mr BRINDAL: The Treasurer says that I do not understand accrual deficit—and that may be true. I am coming to terms with his black hole, which I do not understand. I only understand that it did not exist when the Liberal government left office and, three weeks after he waved his magic wand, suddenly it did exist. I know that in financial circles they are calling him Mandrake, the great magician. He waves his wand and a black hole appears out of nowhere. He has done me in the eye: I cannot understand how he did it. But, he did it; I accept that he did it, but I cannot understand how he did it. I do not want to be distracted. Many of us have—

The Hon. K.O. Foley: We want to go home.

Mr BRINDAL: Many of us have pressing duties of high office to attend to—'going home' sounds so crass. You have duties of high office that need attending to, Kevin. I heard the Treasurer saying that this measure is not aimed at the average person or average householder, but, as the members for Heysen and Davenport point out, at the levels at which it is fixed most home owners in metropolitan Adelaide and people owning (and the member for MacKillop can help me with this) the most modest farm would be caught by this. Most homes will be caught by this. This from a Treasurer who purports to support the battlers.

I am quite sure that the residents of Victoria Avenue and Northgate Street, Unley Park, as well as many others in that suburb, can probably afford the additional impost, but I remind the Treasurer that there are many older people living in Unley, Goodwood and Wayville who bought the homes when their husbands worked in places such as Mitsubishi and Holden. They were ordinary people and battlers who raised large families in those homes, and it is now the only asset they have. When they sell these homes, the Treasurer's impost on those people, on traditional Labor voters—and I assure the Treasurer that there were still a few in Unley until he introduced his budget measure, and hopefully there will be many fewer Labor voters—

The Hon. K.O. Foley interjecting:

Mr BRINDAL: The Treasurer says he would not mind an election. He is welcome to have an election in Unley on any day he sees fit. I do notice in some stuff we have just seen that in every part of my electorate that I have held for more than eight years I increased the Liberal vote. I am not afraid to face the Treasurer or any of his colleagues in the electorate of Unley. Unless they shift it down to Port Adelaide, I figure that I am reasonably safe.

Mr Hamilton-Smith interjecting:

Mr BRINDAL: The area I took from you I did not do as well in—I am talking about the area I held before.

The Hon. K.O. Foley interjecting:

Mr BRINDAL: I will not delay the house any longer. I think this measure is doubly objectionable because it comes from a party that purports to help small people—the battlers and people who need help in our society. If this is a measure to take from the rich and give to the poor, it is wrongly targeted and allocated and I suggest that the Treasurer rethink this measure. It is not fair, is not equitable and it is a grab for money. And, while we will support the bill, as the members for Davenport and Heysen have said, the Treasurer will wear the consequences.

Mr WILLIAMS (MacKillop): I will not take up much of the time of the house, but I will take the opportunity to make a few comments and freely admit that most of what I want to say has been said by my colleagues. I agree with their comments, but will speak specifically from the viewpoint of the electors whom I represent. MacKillop is probably one of the most rural seats in the state, a vast number of the electors in which are farmers and/or rural workers. The major portion of the economy in MacKillop is driven by the farming sector, albeit that there is quite a bit of processing of primary product in the electorate as well. It is driven by the primary sector, and this tax is aimed fairly and squarely at the farming sector, and I find it objectionable that that sector has been singled out by this tax.

As the member for Unley said a few moments ago, it would be the most modest farm. In fact, when we talk about farms we speak of a 'living area', and I do not believe you could purchase a living area anywhere in the state for anything near $200 000. Every farm that changes hands in South Australia—and I am talking about a living area, so I mean a full farm—will be hit, and hit very heavily by this measure. A lot of farming land changes hands as portions of a living area, and certainly in MacKillop most portions would also be hit by this measure, because by and large even a portion of a farm would attract a price of more than $200 000. So, very few transactions taking place in the farming sector in future will not attract another whammy—another hit—by this measure. At a time when farming areas right across the state are facing possibly a record drought and record low income year, it is reprehensible of the government to inflict this on that sector. Figures that came out only a fortnight ago showed the importance of the farming sector to the economy of South Australia.

One of the problems that Labor governments always have—and this government is no different—is that they are always high taxing and high spending, and they always hit the productive sector. They come into power and always say, 'Who's out there making a quid; let's squeeze a bit more out of them.' That is exactly what they are doing here. It is disappointing that a Treasurer, Premier and cabinet who promised they would not introduce any new taxes or increase the level of existing taxes because they had costed all their promises and would not be involved in that sort of thing, within a few months in their first budget have raised taxes and introduced new ones right across the board. The property conveyancing sector has provided huge windfalls to the state budget in the past financial year, more than tens of millions of dollars. Off the top of my head I would say that the figure that came out earlier this year was at least $45 million over the previous budget estimate, and now the Treasurer has come in here with this measure designed to raise an extra $14 million on top of that from general conveyancing and another $7.5 million from new hire-purchase arrangements.

Time and again this Treasurer stood up in this house in opposition and talked about high taxing and high spending governments. Treasurer, you are now the highest taxing and the highest spending Treasurer in the state's history. You railed against high taxing and high spending governments all the while you were in opposition, and how quickly you have turned that around. When questioned about your taxing policy during the campaign you also said that your taxing policies would be fair. I contend that these are not fair; they are certainly not fair on the farming sector and I do not think they are fair on anybody, to be quite honest. It will come back to bite the Treasurer and his colleagues on that side of the house because, as my colleagues have already pointed out, this will not do as he would want and hit those in the leafy suburbs any more than it will hit anywhere else.

I will not go through the list of suburbs that the member for Heysen read into *Hansard* a few minutes ago, but they are some of the suburbs where the mean values of housing properties have increased over the $200 000 threshold, and I think you would be hard pressed to say that many of those are leafy suburbs. In fact, I think most of them are in seats held by Labor members. I certainly hope the constituents in those suburbs have reasonable memories and remember who got into their pockets at the first opportunity. We will certainly be reminding them of that. This again is a back-down on a key election promise. It is unfair and it is certainly designed to hit the farming community, and that is reprehensible.

The Hon. K.O. FOLEY (Treasurer): That was a little better effort. It was a little bit spirited; I quite enjoyed that from members opposite.

An honourable member interjecting:

The Hon. K.O. FOLEY: No; it was good. The member for Davenport provided a spirited contribution as the lead speaker, and the member for Heysen is rapidly rising on the scale of people whom we on this side of the house regard as up and comers. The member for Heysen is demonstrating an extremely diligent approach to her work; it probably helps that she has practised in some of these areas and probably knows a bit more about it than a few of us.

Members interjecting:

The Hon. K.O. FOLEY: Did someone praise me over there? No; I am the only one praising. The member for MacKillop made a better contribution than some in the past, because it had some strings of an argument attached to it. I will say from the outset that the new government would not have needed to increase taxes in the last budget if we had not inherited the financial mess that we did. The member for Unley, a senior cabinet minister in the Liberal government, today admitted on the public record that he did not understand accrual accounting.

Mr Brindal: No; I said I didn't understand your accounting.

The Hon. K.O. FOLEY: Oh; he didn't understand my accounting. I was quite sure that was what he said. What he said was: if you have this $90 million cash surplus, why do you need such a large cash surplus? He said that we could have had a $50 million cash surplus—

Members interjecting:

The Hon. K.O. FOLEY: Is there any chance of getting some protection, Mr Acting Speaker? Obviously not. He said that we could have had a $50 million cash surplus and fewer tax increases. The problem is that you never focused on the net borrowing requirement or the accrual bottom line. You played around with phoney, bogus cash surpluses. I have said this publicly before: Stephen Baker did a pretty good job. When I look back now and think about all those terrible things I said about Stephen Baker and all the criticisms I made of him, I really have to apologise. He had a hard job in 1993. He was not the first Treasurer of this state to have to deal with the aftermath of the State Bank—that was Treasurer Blevins—but Stephen Baker had to do a lot of hard work—things that treasurers do not want to do but must do. For some bizarre reason, just when you had your accounts in reasonable order and even after all of that your popularity was still sitting in a reasonable position, you knocked him and the then

Premier off. You said to Stephen Baker, 'Thanks very much, but no thanks; we will humiliate you by putting in Dale Baker as finance minister', and you had Stephen as the junior finance minister.

Members interjecting:

The Hon. K.O. FOLEY: It was true; you had Stephen Baker as Treasurer, and then you brought in Dale as finance minister.

Mr Brindal: So what? You can have both.

The Hon. K.O. FOLEY: You can have both, but one has to be senior to the other, and it was clear that that was Dale Baker, the then member for Victoria. The point I am making is that you then brought in the Hon. Rob Lucas. The problem with the Hon. Rob Lucas's management of the budget was that he was not a good treasurer. He was not someone who could manage the expenditure demands of his cabinet ministers and do the difficult things that treasurers have to do. Rob Lucas could not do what Stephen Baker had to do. You saw an escalation in expenditure and accrual deficits and an attempt to string together these phoney $2 million cash surpluses. The reality was that, when we came into office, within a matter of seven or eight days I released the advice provided to the government from the Under Treasurer. That showed that a whole series of unavoidable cost pressures, which were known to the former government, were simply not included in its mid-year budget review, which showed substantial budget deficits.

When we worked through the bilateral processes, we uncovered a whole series of cost pressures which were unknown at the time but which were there and which should have been known by the former government. Some were, some were not, and in some cases the former treasurer was not aware of them because the former minister for health did not tell him. We found a whole lot of such issues which further deteriorated the budget bottom line. We were left with an enormously difficult task. Over four years, more than $970 million was stripped out of government expenditure, but we still had significant budget deficits. We had no choice but to require revenue measures. The important point is this—

Mr Brindal interjecting:

The Hon. K.O. FOLEY: What I promised during the election campaign was that we did not need to raise taxes to pay for our modest election promises, and we did not. What I did not factor in was that your budget management was so bad that the black hole, the budget deficits, were so large (which you kept hidden), that unfortunately I had to put in place revenue measures. That is the truth, that is what happened, and it has been well debated.

I appreciate the contributions from the lead speaker and members opposite that, given the tradition of the major opposition parties supporting the budget in both houses, they will allow the budget and revenue measures to go through, but I acknowledge that they are not doing so because they want to but because of convention, and I think that is understood from this side of the house. What I will say in respect of the duty on hire purchase and on rental hire is that, given the contribution by the member opposite on rental business, I have a copy of the letter from Geoff Crawford from the Institute of Chartered Accountants. He did not provide it to me for me to take into account; rather, I bumped into him on the weekend and he mentioned that he had written it to Rob Lucas, so my office had to follow him up to see whether he would provide me with a copy, which he did. That is probably a bit unfair to Rob because it has 'Confidential' marked on the top.

The Hon. I.F. Evans: You have now disclosed it in the *Hansard*, but that is all right.

The Hon. K.O. FOLEY: Sorry.

The Hon. I.F. Evans: It doesn't worry me but it might worry him.

The Hon. K.O. FOLEY: It doesn't bother me. I will now address those points as per my briefing advice. I am advised that the New South Wales Stamp Duties Act 1997 rental provisions are substantially different from the measures in the South Australian Stamp Duties Act 1923 rental provisions. The New South Wales provisions are based on the hire of goods whereas the South Australian provisions focus on the conduct of a rental business, and in this sense it is difficult to compare the basis of or transplant exemptions from one concept of the hire of goods to the other concept of the conduct of a rental business.

Issue 1 raised in the correspondence is that the ceilings or caps have been in place in New South Wales and Victoria for a number of years as a matter of policy. South Australia has not chosen to do so. Our advice is that there is no evidence that any systematic loss of business or revenue has occurred. That is because the structure of our legislation differs from that of New South Wales and Victoria.

Issue 2—New South Wales and Victorian legislation is structured to tax each hirer of goods whereas South Australian legislation taxes the conduct of rental business. In South Australia, an incidental use of goods would not constitute the conduct of rental business and therefore the amendment is not considered to be necessary.

Issue 3—As a matter of legislative interpretation, a wet hire does not fall within the contractual bailment, and this has been publicly communicated via a Revenue SA information brochure. It is not considered necessary to amend the legislation to specifically exempt from duty something that is a matter of legislative interpretation falling outside the South Australian legislation.

Although the member did not make mention of the stamp duty on amusement machines, I have some comment to make on that issue. A settlement has been reached with members of the industry group. Amusement machine operators have been relieved from duty in respect of rental receipts received prior to 1 July 2001 and are required, though, to pay on rental receipts subsequent to that date. That is an issue known to the former treasurer because he asked for a number of options, and I dealt with that some time ago.

I acknowledge the comments of the member for Heysen, who pointed out that it is hard to argue against broadening the base, or words to that effect. In respect of stamp duty on housing, I have no argument from this side of the house. It was not an easy decision, it was a difficult decision, and it was one that I wish I did not have to make. However, when it comes to revenue, as members opposite know, there are limited opportunities. We made a conscious decision that the rate of the emergency services levy would not increase, so we looked at other revenue options available to government. As members knows, there are limited options, and stamp duty was one of them.

It is important to put this into context, so when compared with Victoria, our stamp duty is still well below that state. For a $200 000 house, we are roughly $800 below; a $250 000 house, it is probably closer to $1 500 to $1 600 below; a $300 000 house, we are $2 300 lower; and on a $500 000 property, about $4 500 below, or figures around that mark. There are substantial differences between what Victoria charges and what we do, and we are around the mark with a

number of other states such as WA. However, I acknowledge that some states have lesser rates.

It is a bit rich for members opposite to complain because, when they were in government, when former treasurer Rob Lucas put in place the GST, quite against what the industry was arguing, the Liberal government took full advantage of the GST impact on the value of newly constructed homes (the GST did not apply to established homes), and it made no allowance for the windfall the Liberal government and subsequent governments, such as this one, are receiving, and we intend to keep it. I recall the public debate at the time, and I defended the Liberal government, because the GST had unintended consequences, but the property industry was none too pleased when the government took the full value of the GST improved values in new properties.

Mr Goldsworthy: There was a moratorium on it for a while, though.

The Hon. K.O. FOLEY: I don't think so. My point is that, when it comes to stamp duty, governments of both persuasions should tread carefully when making comments about past government activity, because stamp duties on properties have been a major contributor to taxation revenue. As I said, it was not an easy decision and it was not one that we wanted to make but, when faced with such a serious budgetary position, revenue measures such as rental duties, the super tax on pokie profits—

Members interjecting:

The ACTING SPEAKER (Mr Snelling): Order!

The Hon. K.O. FOLEY: I apologise. I am glad that the house supports the bill and I will not push my luck any further.

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

MEMBER'S REMARKS

Mr HAMILTON-SMITH (Waite): I seek leave to make a personal explanation.

Leave granted.

Mr HAMILTON-SMITH: The morning radio of last Wednesday 15 August reported a comment from me regarding the Premier's ministerial code of conduct and the Register of Members' Interests tabled in parliament the day before. My comments made reference to the member for Adelaide, who subsequently raised concerns in the house and provided additional information.

I have checked the transcript of the radio report of 15 August and, on reflection, I believe that the member for Adelaide has a fair point and that my comments went too far in the circumstances. I have indicated that to the member last week privately, and I believe that the right thing to do is to apologise to the member on the record.

STATUTES AMENDMENT (THIRD PARTY BODILY INJURY INSURANCE) BILL

Adjourned debate on second reading.

(Continued from 29 May. Page 361.)

The Hon. I.F. EVANS (Davenport): The opposition supports this bill. I will make not a lengthy contribution but rather a short and succinct contribution in relation to this bill. This bill seeks to introduce a number of amendments—to exempt MAC from the Government Business Enterprises (Competition) Act, to make a number of related changes recognising that MAC will continue to remain the sole provider, to amend the composition of the third party premiums committee, to introduce the concept of sufficient solvency for MAC, to provide for the option of a structured settlement as an alternative to lump sum settlements, and to give MAC greater power to pursue some fraud related offences.

The opposition is supporting the bill because the government would recognise that a lot of work was done by the previous government in relation to it. In fact, there was agreement between the former minister of transport and the then treasurer and their officers in relation to these provisions, although with the election intervening these provisions did not go to cabinet or the then government's party room, so the present government now has the privilege of introducing this bill, even though much of the work was done by the previous administration. That is not a criticism of the government, just an acknowledgment of the way the process works when governments change. The bill has a lot of good points in relation to MAC and its associated activities.

Essentially, this bill dates back to when the previous government did a series of scoping studies in relation to WorkCover and MAC as to whether they should be kept within government. It was all part of the NCP review, from memory. It was decided that MAC and WorkCover would remain in government ownership because it was in the public interest that they do so. I suppose it goes to the issue of the government's trying to make a political point that the Liberal Party sought to privatise every entity. We have always argued (and this is an illustrative point; indeed, the minister's second reading explanation also highlights this) that in essence we have looked at the privatisation argument on a case-by-case basis. In this case and in the case of WorkCover, a decision was made that to have them remain in government ownership as the sole supplier of that service was indeed in the public interest. As I say, it all dates back to the work that was done in relation to the reviews that were undertaken.

For those members who are interested (and I will not go right through the Treasurer's second reading explanation), I think it includes a fair summary of the extensive review process that was used, including names of consultants, etc., in relation to the compulsory third party scheme and MAC. There is a very good explanation in the second reading explanation, and I have no intention of repeating the review process that was undertaken, other than to say it was extensive and that the opposition agrees with the government and reached the same conclusion that it is in the public interest to keep MAC and the CTP as they are in the current arrangement.

The previous treasurer went to parliamentary counsel, if I recall (although that may not be 100 per cent correct), and tried to develop the concept that the CTP fund was in some way what he would term a 'social fund' and for that reason therefore could sit outside the national competition issues and competitive neutrality issues. The current government has reached a similar conclusion, and parliamentary counsel has come up with a different way of expressing what the former treasurer, Rob Lucas, in another place, would describe as a 'social fund'. It has done that by sitting it outside the competitive neutrality issues and exempting it from certain provisions of the Government Business Enterprises (Competition) Act. It has done that, because it realised that it should not be open to competition.

I do recognise the point made in the second reading explanation in relation to some states having had their CTP

scheme open to competition. With respect to one of those, if I read the explanation correctly, the suppliers were affected by HIH, and that has left those governments that had them as a supplier with some significant issues, as one could imagine. That is an illustration why perhaps CTP as it is best remains as proposed under this bill, as supported by the opposition.

Then the bill sets out a concept of what is termed 'sufficient solvency'—

The Hon. K.O. Foley: Do you want me to explain that for you?

The Hon. I.F. EVANS: We will not have a committee debate just so that the Treasurer can explain it. We accept the principle and we see it obviously in the best interests that MAC and the fund have sufficient solvency. It is no doubt the same principle that is applied to the private sector—although the calculation might be significantly different—that the fund is backed by sufficient solvency, and we acknowledge that that is the right principle in relation to this measure. We certainly support that measure.

The third major point in relation to this bill is that it provides a new power for MAC or the fund to offer structured settlements in relation to payouts. As I understand it, it has always had the power to offer structured settlements, but in an abundance of caution the advice is that an explicit power should be included in the bill so that there is absolutely no doubt about it. This provision places in the bill a power that MAC and the fund have always had in relation to offering structured settlements. It is simply a clarification of that power.

The house has had significant debate in the last fortnight in relation to the concept of structured settlements and their benefits. I think it is fair to say that, if any sector will benefit out of structured settlements, it is the government-backed funds such as this, because there is certainty that the fund will survive.

Some concerns were raised by some groups with respect to the previous bills that structured settlements offered by private insurance companies might not be that valuable, because what are we left with if the private company, in offering that structured settlement, falls over? In this situation, however, the government in effect stands behind the offer of the structured settlement, so it is more likely that a structured settlement offered by this organisation is more likely to be accepted.

So, we see the offering of a structured settlement as an appropriate function of MAC. It is a power that already exists and it is simply a clarification of that power. It is put explicitly in the bill so that there is no debate, if there ever were to be any debate, about whether MAC had the power.

Minor changes are also made to the third party premiums committee. As I understand it, because of the way that the previous committee was structured under the act, many of the members would often move off to other appointments and, because of various conflicts of interest, they were required to step aside from this committee. That caused the committee some frustration and some difficulty in operating. It seems to the opposition that the minor changes proposed to the committee are sensible and make it easier to operate. For that reason, those changes are supported.

Our final point involves bringing new powers to MAC in relation to fraud-related offences and the commission's power to lay a charge for or prosecute certain fraud-related offences. The power is intended to be similar to WorkCover's existing power to prosecute certain offences. Again, given the work previously undertaken on this matter, we certainly support that part of the bill.

The opposition supports this bill. We were expecting it to come in at about this time in the parliamentary process, given the amount of work undertaken. It tidies up a number of issues for MAC and the fund, it sets in place an appropriate regime in relation to MAC and the fund and we certainly support the measure.

The Hon. K.O. FOLEY (Treasurer): I thank the member for his contribution. I will not speak for long, as is my normal practice. This bill is important legislation. From my point of view, probably the most important part is that we are inserting into the legislation a requirement for solvency, which governments should be aiming for. If I had time, I would be happy to go into the explanation of the formula for achieving that, but we simply do not have time for me to explain exactly how the appropriate solvency is calculated (suffice to say that it is calculated), and that is partly why, soon into our term in government, we had to bring in the very significant increases in CTP funds, together with the course of reforms to the points scale. We have flagged that further increases will be required next year.

This legislation was a lot of work, a substantial amount of which had been done prior to our coming to office, and the former treasurer should be congratulated on his work in preparing the bill. I also acknowledge the Assistant Under Treasurer, Rob Schwarz, and his team for their work on this bill over many months; and Geoff Vogt, the CEO of the Motor Accident Commission and his staff. Rob Schwarz and his team were patient in walking me through this bill over some months.

This is good legislation that tidies up a number of issues, puts a number of disciplines on governments in the future and, importantly, meets the national competition requirements. It puts the Motor Accident Commission into a position in which it can be an effective government-owned and government-run insurance corporation, and I think that is good public policy. With those few words, I thank the house and the opposition for their cooperation.

Bill read a second time.

In committee.

Clauses 1 to 4 passed.

Clause 5.

The Hon. K.O. FOLEY: I move:

Page 4, line 2—After 'Commission' insert:
(but only in order to wind up that business).

This amendment was one that was brought to our attention by the former treasurer (Hon. Rob Lucas) who, in briefings, was concerned that the Motor Accident Commission bill we are debating winds up the business of the former State Government Insurance Commission. Concerns were expressed by the former treasurer that there might be the capacity for new business to be written. That was not the intention of the bill, nor was it what we believed the bill could or would be used for. However, the former treasurer was keen to make sure that we were absolutely definitive in that regard; hence, this amendment. I understand the amendment was run past the former treasurer and he is quite supportive of it. I am glad that we seem to be at one on this matter, but we did not tell the member for Davenport or, indeed, anyone else on the committee.

The Hon. I.F. EVANS: That seems a fair summary of the brief that I have had. The opposition supports the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (6 to 19) and title passed.

Bill reported with an amendment.

Bill read a third time and passed.

Mrs GERAGHTY: Mr Acting Speaker, I draw your attention to the state of the house.

A quorum having been formed:

GAS PIPELINES ACCESS (SOUTH AUSTRALIA) (REVIEWS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 5 June. Page 525.)

The Hon. W.A. MATTHEW (Bright): As lead speaker for the opposition on this bill, I am pleased to support its transition. This bill is essentially a procedural bill. It was prepared during the last period of Liberal government principally, and therefore, for quite obvious reasons, it is supported by the Liberal Party in opposition. The purpose of the bill is to amend the Gas Pipelines Access (South Australia) Act 1997, to clarify the time at which a right of appeal arises, to expand appeal rights and streamline procedures for the classification of pipelines, and make a range of necessary consequential changes.

This bill has an interesting background—and I know that members of this chamber find the issue of gas pipeline access absolutely gripping, so I am sure they will be interested in what I have to say about its interesting background. Its origins lie initially through the gas reform implementation group, and under the auspices of the Council of Australian Government (COAG) they developed a national regulatory framework and a third party access code for national pipeline systems. That is known within the industry as the 'code', and essentially it regulates third party access to natural gas transmission distribution pipelines throughout Australia. Each Australian jurisdiction signed the COAG natural gas pipelines access agreement on 7 November 1997. That sets out the obligations in relation to giving legislative effect to the code within a specific time frame and other actions that are necessary to implement and maintain the integrity of the code.

This agreement represents a major step forward in competition reform, and essentially it is intended to ensure free and fair trade in the natural gas sector. Together with other jurisdictions, South Australia agreed to apply the uniform provisions of the principal act through schedule 1, the law, and schedule 2, the code, by means of application legislation. Under this agreement, South Australia became the lead legislator and, indeed, that is a feather in the cap of South Australia and the staff who administer the code, their technical knowledge and their ability to prepare legislation and to provide a leading role for all Australia.

I take this opportunity to place on the record my congratulations to the public sector staff who have been involved in the preparation of this legislation, and particularly the recognition of their expertise in other jurisdictions. It is those staff who have largely drafted the legislation that is before this house today.

Essentially, the bill provides for five main areas of change. They include, firstly, correcting an anomaly where at present the code registrar is required to record information about recommendations or decisions on the classification of pipelines, but there is no corresponding obligation on the National Competition Council—that council of which the gas sector is so fond (and I say that very firmly with my tongue in my cheek because they regularly joust with the NCC, and I know that the current minister is keen to have similar jousts—as indeed did I—and has no doubt already started). Secondly, the relevant ministers who make recommendations or decisions are to notify the code registrar of the recommendations or decisions. Thirdly, the bill also aims to clarify the point at which the right of appeal arises and closes: it is not currently clear within the existing act when the 14 day appeal period actually commences.

Fourthly, it expands the category of persons able to apply for review of a decision of a relevant regulator to include those who actually made submissions on an access arrangement or provisions drafted by the relevant regulator. At the moment, the existing bill only allows persons who made submissions on an access arrangement, or submissions submitted by the service provider, to apply for a review. This makes those provision more broad. It provides for appeals arising from decisions of a relevant regulator on the variation of reference tariffs. Fifthly, it also expands the definition of 'prescribed duty' in section 41 of schedule 1 of the principal act to include decisions on the variation of reference tariffs under the code. This will essentially give the relevant regulator power to require persons to provide information that may assist in making those decisions.

As I indicated, these are procedural changes. They are as a consequence of arrangements made by the previous Liberal government; and in fact in late 2001, when ministers of all Australian jurisdictions unanimously approved the bill to amend, I was the South Australian signatory, so I am very pleased to see these changes in their final form now pass through the parliament. With those words, I am happy to see the passage of the bill and advise that, as far as the opposition is concerned, there will be no need for this bill to go to committee stage.

The Hon. P.F. CONLON (Minister for Energy): I thank the opposition for its support.

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

ADJOURNMENT DEBATE

The Hon. P.F. CONLON (Minister for Government Enterprises): I move:

That the house do now adjourn.

Dr McFETRIDGE (Morphett): I would like to inform the house of a couple of events which it was my great pleasure to attend on the weekend representing the Leader of the Opposition. One, on Saturday evening, was the celebration of Afghanistan Independence Day and the installation of the interim government of Afghanistan. This event was attended by some 250 of the 700 Afghans, I believe, who are part of the multicultural society that we have in South Australia. The evening was one of some significance for the Afghan people—and we all know the history, particularly the recent history, of Afghanistan.

Whilst they all appreciate the fact that they live in the best country in the world, they maintain their cultural heritage, and I strongly encourage them to do so. The costumes that were worn and the food that we ate on the night—and there was certainly an abundance of food, particularly sweets—was something that words cannot describe. The hospitality of this community was overwhelming. The member for Wright and

the member for Florey were also there. I believe that a number of other government members and dignitaries were invited but that it was a very busy weekend for them, so only the three members of parliament attended. However, the Afghan community welcomed us with open arms and certainly filled our plates.

A good thing that I noticed about the night with the Afghan community was not just that they were celebrating what was happening in their home country: they were also celebrating their lifestyle here in Australia. At a number of multicultural events I have attended, I have noticed the presence of many children, and I have pointed out to those present that it is our children who are the most important members of our society. We, as members of parliament, think we are very important people. We are important in the role that we play and the responsibility we have, but certainly the important people are the members of the community—in this particular case, the Afghan community, and at the top of the list I would put their children.

We hear concerns about what is happening with children in Woomera but, having spoken to the Afghan people, I know that they are more than happy with the current handling of the illegal immigrant situation. To quote one of the members of the community, they said that many 'bad people' were trying to get into Australia and we have to be very careful about how this situation is handled. A lady I spoke with said that friends of hers were in Woomera and they were thankful to be in Woomera as they felt safe there. Certainly, it is a situation that we would like not to have to deal with, but it is a fact of life that people are arriving in Australia and are not doing this through what are the recognised channels.

The people in the Afghan community with whom I was speaking on Saturday night all came here through the normal legitimate channels. I was speaking to a doctor who arrived in Australia five years ago and who told me some stories about his experiences in his homeland, and to hear first-hand how bad it really is in Afghanistan is something that is hard to believe.

On *Four Corners* last night there was a documentary on the siege of a fort in Afghanistan showing scenes of the fighting and desolation occurring in that country. We have to welcome the members of the Afghan community, and it was certainly my pleasure to be with them on Saturday night, 18 August, celebrating Afghan Independence Day. The history of Afghans in South Australia goes back a long way. When I taught at Port Augusta there were many children who were part Aboriginal and also children who were part Afghan. Certainly the Afghan camel drivers played a very important part in the founding of this state, and members of the Afghan community now arriving here are also very important members of our community who hope to make South Australia an even better place to live in. I would like to congratulate Mr Ghulam Beedar, who is the President of the South Australia Afghan Association. I thank him, his wife and the other members of the community there for their hospitality on Saturday night.

I point out that 18 August is a day in the history of another group which needs to be celebrated—not perhaps with the enthusiasm of the Afghan Association but certainly with sincerity and some solemnity, and that is the Battle of Long Tan which was fought in Vietnam on 18 August 1966 and in which a number of Australians were killed. A US Presidential Unit Citation was awarded to D Company, Sixth Battalion, the Royal Australian Regiment; and I believe that is the same company in which the member for Waite was colonel. I know that he is proud of that association and I purchased a memorial badge for him which he was very pleased to receive.

I was not conscripted, as I missed out on the draft by two days either side; and I thank my lucky stars that I did not have to go through what many of our Australian soldiers went through in going to Vietnam. It was a war that was surrounded by controversy. People went there and put their life on the line, facing adversity and contending not only with the enemy shooting at them but also with the terrain and the weather, to say nothing of the fact that they were in a foreign country.

To honour the people who went there is something that we all need to do as Australians, especially when one reads of the Battle of Long Tan, which involved a huge imbalance in the number of forces. It is easy to understand why so many VC (Victoria Cross) and MC (Military Cross) awards and many other distinguished awards were given in the short period of that battle. The US Presidential Unit Citation was given for extraordinary heroism to the D Company, Sixth Battalion, which distinguished itself by extraordinary heroism while engaged in military operations against an opposing armed force. This was in the Phouc Tuy Province in the Republic of Vietnam, and at the end of the battle there were 245 Viet Cong dead.

In any war it is sad for people to die, but certainly for Aussie soldiers to have to go over to a war like the Vietnam war and then to be killed in action was a disaster. So, I congratulate all members of the Australian Military who went to Vietnam, particularly those who gave some and some who gave all at the Battle of Long Tan.

Motion carried.

At 5.49 p.m. the house adjourned until Wednesday 21 August at 2 p.m.