LEGISLATIVE COUNCIL

Tuesday 18 February 1992

The PRESIDENT (Hon. G.L. Bruce) took the Chair at 2.15 p.m. and read prayers.

QUESTIONS ON NOTICE

The PRESIDENT: I direct that the written answers to the followings questions, as detailed in the schedule I now table, be distributed and printed in *Hansard*: Nos 17, 24, 26, 30 and 54.

'SA SHORTS' CAMPAIGN

17. **The Hon. DIANA LAIDLAW** asked the Minister of Tourism: In relation to the launch of the 'SA Shorts' 1991-92 campaign, what was the cost:

1. of the launch at the Ramada Grand Hotel including the live performance;
2. of purchasing, printing and displaying the banners in King William Street; and
3. of producing the booklet?

The Hon. BARBARA WIESE: The replies are as follows:

1. $8 422.40.
2. $8 880.
3. $85 703.

DEPARTMENTAL REDEPLOYMENT LISTS

24. **The Hon. L.H. DAVIS** asked the Minister of Tourism: What are the numbers of persons on the redeployment list of each of the Minister's departments and Government agencies and how many of these persons have been on the redeployment list for: 1. longer than 12 months; and 2. longer than six months?

The Hon. BARBARA WIESE: The replies are as follows:

Tourism
1. Nil.
2. One.

Adelaide Convention Centre
1. Nil.
2. Nil.

Consumer Affairs
1. Nil.
2. Nil.

Small Business Corporation
1. Nil.
2. Nil.

26. **The Hon. L.H. DAVIS** asked the Minister of Tourism, representing the Minister of Industry, Trade and Technology: what are the numbers of persons on the redeployment list of each of the Minister's departments and Government agencies and how many of these persons have been on the redeployment list for: 1. longer than 12 months; and 2. longer than six months?

The Hon. BARBARA WIESE: The replies are as follows:

Department of Industry, Trade and Technology
1. Nil.
2. Nil.

Technology Development Corporation
1. Nil.
2. Nil.

Department of Agriculture
1. There are two employees who are seeking alternative placement within the Public Service and therefore being treated as redeployees.
2. There is one employee in the department who has been on the redeployment list for longer than six months and less than 12 months.

Department of Fisheries
1. Nil.
2. Nil.

Office of Multicultural and Ethnic Affairs
1. Nil.
2. Nil.

30. **The Hon. L.H. DAVIS** asked the Minister for the Arts and Cultural Heritage, representing the Minister of Transport: what are the numbers of persons on the redeployment list of each of the Minister's departments and Government agencies and how many of these persons have been on the redeployment list for: 1. longer than 12 months; and 2. longer than six months?

The Hon. ANNE LEVY: The replies are as follows:

Department of Correctional Services
1. Two.
2. Nil.

Department of Road Transport
1. One.
2. Nil.

Office of Transport Policy and Planning
1. Three.
2. Nil.

State Transport Authority
1. Nil.
2. Nil.

MINISTERIAL STAFF

54. **The Hon. R.I. LUCAS** asked the Minister for the Arts and Cultural Heritage:

1. What were the names of all officers working in the offices of the Minister for the Arts and Cultural Heritage, Local Government Relations and State Services as of 1 August 1991 and 1 February 1992?
2. Which officers were 'ministerial' assistants and which officers had tenure and were appointed under the GME Act?
3. What salary and other remuneration was payable for each officer?

The Hon. ANNE LEVY: The replies are as follows:

Name	Ministerial/ GME Act	Salary $
As at 1 August 1991		
L. Furler	Ministerial	44 542
V. Purman	Ministerial	46 079
C. Nelligan	GME Act	41 000
R. Bargwanna	GME Act	30 473
J. Komazec	GME Act	33 250
J. Hyland	GME Act	23 375
P. Simmons	GME Act	20 900
K. Klomp	GME Act	18 481
As at 1 February 1992		
L. Boswell	Ministerial	44 156
V. Purman	Ministerial	51 404
C. Nelligan	GME Act	42 025
R. Bargwanna	GME Act	31 235
J. Komazec	GME Act	34 081
R. Wall	GME Act	10 373 (.4 FTE)
K. Klomp	GME Act	18 943*
P. Simmons	GME Act	21 423
J. Hyland	GME Act	22 869

*Reverts to .6 FTE on 16 March 1992.

PAPERS TABLED

The followings papers were laid on the table:

By the Attorney-General (Hon. C.J. Sumner)—

Correctional Services Act 1982—Regulations—Urinalysis.

By the Minister of Tourism (Hon. Barbara Wiese)—

Citrus Industry Act 1991—Regulations—General.

By the Minister for the Arts and Cultural Heritage (Hon. Anne Levy)—

Motor Vehicles Act 1959—Regulations—Obscuring Number Plates.
Summary Offences Act 1953—Regulations—Traffic Infringement Notices—Obscuring Number Plates.
Metropolitan Taxi-Cab Act 1956—Applications to Lease.

By the Minister for Local Government Relations (Hon. Anne Levy)—

Local Government Finance Authority Act 1983—Regulations—Mannum District Hospital Inc.

QUESTIONS

STATE BANK ROYAL COMMISSION

The Hon. K.T. GRIFFIN: Will the Attorney-General give an unqualified assurance that the State Bank Royal Commission will not be curtailed in any way and, if he will not give that assurance, why not?

The Hon. C.J. SUMNER: That is a rather peculiar question from the Hon. Mr Griffin. The royal commission will go on, as the honourable member knows. There was never any suggestion that it would not go on. He should not believe everything he reads in the *Advertiser*. This morning's *Advertiser* article contained its usual mixture of fact and fantasy which, regrettably, we have become used to in this State in recent times. The suggestion that there was ever any consideration to stopping the State Bank Royal Commission is a nonsense. However, it is correct that the State Bank has written to me asking me, and the Government, to give consideration to the future of term of reference No. 3 of the Royal Commissioner's terms of reference.

It is common ground, except possibly from the Opposition, that the Auditor-General's inquiry and the royal commission should finish as soon as possible, consistent with a proper inquiry. Obviously, it is highly undesirable so far as the bank's reconstruction and the general economic and investment climate in this State are concerned to have the State Bank Royal Commission and the Auditor-General's inquiry going on longer than they need to. It is clearly in the public interest—and I would hope accepted by the Opposition, but it has its own political agenda, of course—to have these issues resolved as soon as possible.

We do know that the Auditor-General, for reasons of the court proceedings that have been taken dealing with natural justice issues and other reasons, will not finish his report by the current date of 31 March and we also know that the Royal Commissioner will not finish his report by the date originally given to him of 1 March.

So, extensions will have to be given to the date of reporting for both inquiries. Discussions are occurring between me, the Auditor-General and the Royal Commissioner on the dates to which the reporting of the inquiries should be extended, and announcements will be made as soon as those issues have been resolved.

The State Bank has raised the question of whether or not term of reference No. 3 could be withdrawn from the Royal Commissioner on the basis that the Auditor-General, as was always envisaged, is covering substantially the same ground. The original procedure was that the Auditor-General would report, that his report would then be made available to the Royal Commissioner before the Royal Commissioner concluded his report, and that he would then look at the Auditor-General's report and deal with term of reference No. 3, which covers substantially the same ground as the Auditor-General's report.

The Hon. K.T. Griffin: Not completely.

The Hon. C.J. SUMNER: Not completely. We now know, however, that that timing—the Auditor-General's report within six months and the royal commission report within 12 months—will not be met and, as I have said, we will have to consider what future extensions will be given. However, the issue of term of reference No. 3 has been put to the Government by the State Bank's solicitors and, obviously, is a matter we will have to consider in the light of the fact that these inquiries are now going on for much longer than originally intended. No decision has been made on those issues. They are the subject of discussion and at an appropriate time decisions will be announced.

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Attorney-General a question also about the State Bank Royal Commission.

Leave granted.

The Hon. R.I. LUCAS: For some time, the Attorney-General has been attempting to encourage public speculation and debate about the cost of the State Bank Royal Commission. Most recently he referred to the matter in this Chamber last Wednesday when he said:

> The Opposition got its royal commission, and all I am suggesting to members of the Opposition is that it was at great expense to the taxpayers, which cannot be overlooked.

The Opposition has never resiled from its view about the importance of a royal commission to determine, precisely and publicly, why the State Bank's losses occurred and to ensure that they never happen again. However, the Attorney-General is now waging a campaign, which some have described as deliberately misleading, with the aim of having the Opposition accept responsibility for the cost of the royal commission and curtailing the commission's inquiries.

The Attorney-General is aware that, before the composition and terms of reference for the royal commission were publicly announced, the Opposition put a point of view to the Government about the conduct of inquiries into the State Bank, which could have avoided some of the regrettable delays now occurring. For example, we proposed that three commissioners be appointed. We suggested that one of the royal commissioners could be the Auditor-General, as this would have had the advantage of eliminating overlapping inquiries. But the Government chose a different course. Now, it is attempting to criticise the Opposition for the cost of this exercise; indeed, for ever calling a royal commission in the first place. The Attorney-General also said in this House last Wednesday:

> The Government did not make the decision to call the royal commission before the Opposition decided to propose it.

That statement is completely untrue. The Opposition did not propose a royal commission until 12 February last year, two days after the initial announcement about the bank's losses. What I can now reveal to the Council is that days before our call for a royal commission, after he was made privy to the estimated massive losses of the bank, the Premier advised the Under Treasurer, Mr Emery, other Treasury officials and his personal staff that there would be a royal commission—eight days before we called for the royal commission. The minutes of a meeting the Premier had with these officers on 4 February 1991 record the Premier as saying:

> Royal commission will come later and we will have it.

My questions to the Attorney-General are:

1. Why did he mislead the Council last Wednesday by stating the Government did not decide to call a royal commission until after the Opposition had proposed it?

2. Will he end his campaign of deliberate misrepresentation about the royal commission, which is clearly aimed at obtaining public support for curtailing the inquiry before all relevant matters are dealt with?

The Hon. C.J. SUMNER: The Leader of the Opposition has made an extraordinarily fanciful set of statements. They were really quite extraordinary assertions and opinions expressed to which I did not object but, nevertheless, which were clearly out of order. I make no apology for commenting on the cost of the royal commission. I am not the only one who has commented on its cost. I have certainly not encouraged public speculation about its cost. When I have been asked about its cost, I have commented on it and provided information in relation to it. I do not think that the public or the Parliament would expect anything else.

When the press have asked my office about the cost of the royal commission, I have provided whatever information I have had in relation to those matters, and I do not think that that is unreasonable. As to a deliberate campaign, that is arrant nonsense. That is a figment—

The Hon. R.I. Lucas: Read the paper this morning.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: That is a figment of the imagination of the Leader of the Opposition. For him to suggest that I am in any way involved in a campaign which will lead, or which is intended to lead, to a curtailing of the commission's operation is arrant nonsense and he should know that that is the case. As to the question of the Opposition's proposition for a royal commission, the Opposition proposed a royal commission on the first day that we returned to Parliament last year. At that point the Government had not taken a decision to call for a royal commission.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. C.J. SUMNER: If the honourable member's proposition for a royal commission had been accepted by the Government, we would not be looking at the sorts of delays that—

Members interjecting:

The PRESIDENT: Order! The Council will come to order. The Hon. Mr Lucas asked a question; I suggest that he listen to the answer.

The Hon. R.I. Lucas: I'm not getting one.

The Hon. C.J. SUMNER: You are getting an answer. The fact is that if we had accepted the Opposition's proposition in relation to a royal commission there would be no end to it. If there were a royal commission into all the details of the bank's transactions, in the open, one can see the sort of process that has had to be gone through even in terms of the first reference of the royal commission. If we had had that with the Auditor-General's inquiry as well, there would have been no end to this inquiry. As that was not acceptable to the Government, we adopted the two stage process—an Auditor-General's inquiry which would feed into the royal commission, and a report as originally intended within 12 months.

As I have said before, there is now no doubt that the time for reporting, with respect to both the Auditor-General and the Royal Commissioner, will have to be extended. That is regrettable, but it has arisen because of events obviously beyond the Government's control.

In discussing those issues, the State Bank put the proposition that was referred to in the *Advertiser* this morning in correspondence to me (which I confirmed today in the Council), namely, that consideration should be given to withdrawing term of reference three from the Royal Commissioner and allowing the Auditor-General's report to cover all those issues, as there is a substantial area of overlap between those two in any event.

The Hon. R.I. Lucas: It smells like a cover-up to me.

The Hon. C.J. SUMNER: The adolecsent interjections of the Leader of the Opposition will get him nowhere. Mr President, I can assure members—

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

The Hon. C.J. SUMNER: I can assure the honourable member, as he would well know, that the original Government decision in relation to an inquiry into the State Bank, announced at the time the Premier announced the actions that the Government had taken to bail out the State Bank, was for there to be an Auditor-General's inquiry into the State Bank, and subsequently that was changed to a royal commission. It almost seems to me that the Opposition is now saying, 'This royal commission is nothing to do with us. It's all the Government's doing.' The reality is that the Opposition called for a royal commission, and it is represented before it at great cost to the taxpayer.

The royal commission and the Auditor-General's inquiry are costing the taxpayer a lot of money, as is fairly obvious, and anything that can be done to ensure that both inquiries are concluded as soon as possible should be done. However, that does not mean that there ought not to be a full and thorough inquiry. That has never been in doubt. That needs to be said and affirmed again: the Government wants to see a full and proper inquiry. I am sure that the community, the Government and public interest demand that the inquiries be finished as soon as possible given that overall objective.

The Hon. R.I. LUCAS: As a supplementary question, is the Attorney-General arguing that the minutes of the meeting of 4 February 1991, which the Premier had with the officers I mentioned, are incorrect?

The Hon. C.J. SUMNER: I have not seen the alleged minutes that the honourable member has, and I am really not particularly interested in them in any event. What I am interested in is what is on the public record. What is on the public record is the original decision the Government took—announced at the time that Premier Bannon made the announcements about the State Bank—for there to be an Auditor-General's inquiry, and subsequently that decision was changed to a royal commission. The question does not seem to me to be the biggest issue in the world, so I am not quite sure what turns on it, but the fact of the matter is that the original Government decision was for an Auditor-General's report. This was announced by the Premier, and subsequently as everyone knows it was decided to proceed with a royal commission.

TSA TRAVEL CENTRE

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Tourism a question about the TSA Travel Centre.

Leave granted.

The Hon. DIANA LAIDLAW: A travel consultant working at the Qantas Airways office at 14 King William Street has asked me to help the staff of Qantas alert visitors to South Australia to the fact that Qantas does not fly to Kangaroo Island, the Flinders Ranges or Port Lincoln, does not handle accommodation bookings for Victor Harbor and does not book day tours to the Barossa. The consultant tells me that since TSA closed the doors of its Travel Centre at 18 King William Street (which is almost next door to the Qantas office) in late November last year Qantas staff have encountered between 10 and 15 people daily who want assistance with travel plans within South Australia, including advice on where to catch the O-Bahn bus and how to find the Art Gallery.

I am told that for Qantas staff and the tourists alike, this situation is exasperating. The tourists are annoyed that they have wasted precious time in Adelaide queuing for help at the wrong place, while Qantas staff are annoyed that so often each day they must apologise to tourists for the fact that they cannot assist them. Recognising that the Government has designated tourism as one of the State's five key strategic industries, I ask the Minister:

1. Is she aware that the directions painted on the closed front door of TSA's former office at 18 King William Street are proving inadequate in helping many tourists to Adelaide

(particularly those who do not speak English as a first language) to find their way to TSA's new Travel Centre, and that this confusion is aggravated by the fact that, since the new Travel Centre was opened at 1 King William Street nearly two months ago, no prominent sign has yet been displayed to attract attention to the centre?

2. As Qantas staff suggest that the daily problems they are encountering would be alleviated if, at the front of the old Travel Centre, TSA provided visitors with take-away street maps noting the location of the new centre, will the Minister act on this positive suggestion?

3. When will the new Travel Centre display a bold sign or information printed on the front of the building—even on the windows—instead of the mere sandwich board on the footpath, to highlight the Travel Centre's new location?

The Hon. BARBARA WIESE: The Hon. Ms Laidlaw is certainly attempting to get her pound of flesh from the unfortunate circumstances that have led to the relocation of Tourism South Australia.

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: It has all been very negative.

Members interjecting:

The PRESIDENT: Order! The Council will come to order.

Members interjecting:

The PRESIDENT: Order! The Hon. Ms Laidlaw will come to order. Members ask questions and, if they want answers to them, I would suggest that they listen to them in silence. If they do not want answers, I do not know why they bother to ask the questions.

The Hon. BARBARA WIESE: As has been indicated on numerous occasions since the asbestos problem was discovered at 18 King William Street, efforts have been made to restore the organisation to providing a full service to members of the public as quickly as possible. As I indicated last week, negotiations are still in progress for the long-term accommodation arrangements for Tourism South Australia. I am not aware of the problems that have been expressed by Qantas but, then again, I would not expect Qantas staff or management to contact me if they felt that problems were emerging from the recent relocation of the Travel Centre from 18 King William Street to a location diagonally opposite in King William Street. However, if this were a serious problem, I would hope that they had communicated that to Tourism South Australia management and that whatever steps can be taken will be taken in order to overcome some of the confusion which, I believe, is inevitable when an organisation that is serving the public moves from one address to another.

It is true that some people are confused by the signs that appear in the windows of 18 King William Street, but I would suggest that a minority of people are confused in this way, because the numbers of people in the Travel Centre at any one time are very significant indeed. From my own observations, I know that numerous people who arrive at 18 King William Street at any time of the day are able to read the directions on the windows and cross the road to find the new address of the Travel Centre. I have observed this behaviour on numerous occasions as I have been passing through King William Street during these past few weeks and, as I indicated, very large numbers of people are using the new Travel Centre at its new address. So, I hope that very soon Adelaide people as well as visitors will be quite clear about the new address of Tourism South Australia and any constructive suggestions that can be made by members of the public, by Qantas—

The Hon. Diana Laidlaw interjecting:

The Hon. BARBARA WIESE: —or indeed by the Hon. Ms Laidlaw, if she is actually interested in the benefit of tourists and not simply stirring problems for people in the organisation, we will be happy to take up. Of course, arrangements are being made for appropriate signage for the new address at the AMP building in King William Street. I do not have the details of the timetable for the signwriters to attend at No.1 King William Street. That is usually not an issue that a Minister would be expected to be personally attending to.

However, I am sure that management of Tourism South Australia has this matter well in hand, and I hope that very soon there will be signage on the building. In the meantime, a prominent sign is on the footpath outside the travel centre's premises at No. 1 King William Street and, as I indicated, thousands of people each week are finding their way there and are receiving the excellent service that our Travel Centre staff provide to members of the public.

COOPERS CREEK FISHERY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for the Arts and Cultural Heritage, representing the Minister for Environment and Planning, a question about a Coopers Creek fishery.

Leave granted.

The Hon. M.J. ELLIOTT: Coopers Creek, along with a number of wetlands in the north-east of our State, are recognised by international treaty as wetlands of international significance. They are major points on migratory routes for quite a few bird species. For some time I have been aware of a great deal of illegal fishing going on, with truck loads of fish finding their way down to the markets in Melbourne.

This is not being policed because neither the Department of Fisheries nor the National Parks and Wildlife Service has permanent people in that part of the State. More recently there has been an application by the holder of a pastoral lease up there for a professional fishing licence to fish in Coopers Creek. The application first went to the Minister of Fisheries, and I am told that his advice from his senior officers was that the application should not be granted.

This area is not well known. As recently as the past couple of months a new genus of fish to the world was found only a little further upstream from where the fishery is to be located. This area is not well known, and I am told that the Adelaide University's Department of Zoology, which was doing work there, was gravely concerned by the application but had undertakings from Ministers that a fishery would not be granted for some time until after proper consultation had occurred.

In any event, the Minister of Fisheries apparently then went to the Pastoral Board, which shrugged its shoulders and passed the matter to the Department of Environment and Planning, whose advice, I am told, was that a licence should not be granted. Nevertheless, the Minister for Environment and Planning recommended it, and the Minister of Fisheries has now granted a licence for a professional fishery to catch callop in Coopers Creek. It was claimed by the people who want the fishery that they wanted to fish only as the waters receded and that they would be harvesting fish that would otherwise have died. There are people who claim that these fish are still an important part of the fishery, that there are always incidental catches, that other damage is being done and that, until proper consultation had occurred, no such licence should be granted.

I reiterate: senior officers of both the Department of Fisheries and the Department of Environment and Planning recommended no such licence be granted. I ask the Minister for Environment and Planning (and the question may need to be referred to the Minister of Fisheries as well, as both Ministers were involved) why a licence was granted in an area which is of such importance and for which people are seeking world heritage listing.

The Hon. ANNE LEVY: I will refer that question to my colleague in another place and bring back a reply.

HOTEL FAILURES

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Minister of Small Business a question about hotel failures.

Leave granted.

The Hon. L.H. DAVIS: Sixteen months ago I advised a then disbelieving Minister of Small Business that 16 hotels and motels had gone into receivership in South Australia during 1990. Industry sources have confirmed that before the end of this financial year 30 to 40 South Australian hotels are likely to fail financially as a result of the recession. The State's hotel industry employs some 15 000 people. Traditionally, December and January are busy and profitable months for the industry, as you, Sir, would well know, but revenue in many hotels for these two months of December 1991 and January 1992 has been down by 20 per cent or more. Front bar trade, usually the bread and butter of the industry, is well down, and tourist trade is also significantly lower.

In addition to the general economic downturn, hoteliers cite as reasons for the desperate plight of the industry the monstrous increase in WorkCover premiums. Before the introduction of WorkCover, hotels on average paid around 2 per cent of payroll for workers compensation cover. However, with the introduction of the bonus/penalty system by WorkCover many hotels are now paying WorkCover premiums of as much as 5 per cent. This makes a dramatic difference to profitability, given that hotel wage costs traditionally represent between 22 per cent and 45 per cent of every sales dollar. Sharp increases in land tax and, until quite recently, high interest rates, have also been significant factors affecting the profitability of the hotel industry. Of course, the cooler weather has not helped in the months of December and January.

There are several hotels in the country where the operator has simply walked away from the hotel and handed in the keys, leaving the bank or the landlord to operate as a receiver/manager in possession. In summary, the industry predictions of a failure of between 30 and 40 hotels before the end of June means that one hotel in every 15 in South Australia will go bad—a frighteningly high and unacceptable statistic.

I want to assure the Minister that, as normal, I have closely checked that fact and it is a widely held view in the industry. My question to the Minister is: is she aware of the plight of the hotel industry and what steps is she taking in preliminary pre-budget discussions to provide greater support and understanding for the hotel industry and other small businesses?

The Hon. BARBARA WIESE: I am very well aware of the difficult plight of people in the hotel and hospitality sector at this time. The honourable member should be aware, if he is not aware, that in my capacity both as Minister of Tourism and also as Minister of Consumer Affairs I am responsible for the Liquor Licensing Commissioner, who has daily extensive contact with the hotel and hospitality sector, and I am made aware on a regular basis of the conditions applying in that industry.

It is true that in addition to the impact of the recession, which is affecting most industries in our economy, the hospitality sector has been affected by this year's unusually cool summer conditions which have exacerbated the problems being experienced by many hoteliers. That is of concern to their industry associations and to me, as well as to members of the South Australian Government. I guess it is for this reason that members of the hotel industry have been pressing so strongly for the introduction of gaming machine legislation, which is now currently before the Parliament for debate.

Members of the hotel industry believe that the introduction of gaming machines into hotels and clubs in South Australia will assist in providing a new range of options to make their businesses more viable than perhaps some of them are at the moment. They are very well aware, as am I, that if gaming machines are introduced into hotels and clubs in other parts of Australia, in areas bordering South Australia in particular, some sectors of the hotel industry will be particularly adversely affected by competition coming from their counterparts across the border.

So, it is not surprising that the hotels and clubs in this State have put forward a proposition that gaming machines should be introduced in South Australia or that they have been lobbying members of Parliament in order to convince us that the introduction of gaming machines will be helpful to their businesses and, therefore, helpful to the economy of South Australia. I support the case that has been put by the industry in this matter and I recognise that it will be a conscience vote for all members of Parliament in both Houses. However, I certainly hope that, when members in this Council and in another place and exercise their consciences on this matter, they will take into account the plight of the hotel and hospitality industry in this State and the very adverse consequences that will be brought upon that industry should gaming machines be denied to them.

ASBESTOS

The Hon. J.F. STEFANI: I seek leave to make an explanation before asking the Minister representing the Minister of Housing and Construction a question about the Government's register of public buildings containing asbestos.

Leave granted.

The Hon. J.F. STEFANI: On 14 March 1991, pursuant to the Occupational Health, Safety and Welfare Act 1986 and with the advice and consent of Executive Council, regulations dealing with asbestos were published in the *Government Gazette*. These regulations became operative on 1 April 1991 and dealt with, amongst other matters, the identification and removal of asbestos. The regulations also dealt with the duties of building owners and other persons in possession of asbestos, and required that they take reasonable steps to identify any asbestos that has been installed in any building. The regulations further provided that a person being a building owner must ensure that:

1. If the asbestos is assessed as being in an unstable condition or otherwise imposes a significant risk to health, that the asbestos is removed as soon as it is reasonably practicable to do so.
2. That policies and procedures are established to control the asbestos and to prevent—or where that is not reasonably practicable, to minimise—the exposure of any person to airborne asbestos fibres.

I am informed that many years ago the Government established a register of public buildings containing asbestos.

However, I am advised that that register is incomplete and not reliable. Therefore, my questions are:

1. Will the Minister advise whether the Government, as the owner of many public buildings, is complying fully with the requirements of these regulations?

2. Will the Minister provide a copy of the register of public buildings that have been identified as containing asbestos?

3. Is the Minister aware of any building containing asbestos that may not be on the public register and, if so, will he provide a list of such public buildings?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

FAMILY PLANNING ASSOCIATION

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question about Family Planning Association services.

Leave granted.

The Hon. BERNICE PFITZNER: It has been brought to my attention that the Family Planning Association will be cutting back its direct services (that is, providing women with family planning advice and services) and reorganising its aims to become a more resource, as opposed to service, orientated association. It has been suggested also that local general practitioners could cope with these direct services. This might be justified in the metropolitan area where there are numerous alternative services—in particular, the services of women doctors—but the far rural areas are not as fortunate. In those areas, there are usually only one or two very busy doctors working flat out on sick patients. Those doctors are usually male whilst the Family Planning Association invariably provides female doctors.

I understand that visits by the Family Planning Association's doctor to Ceduna have been curtailed as has been the service to Coober Pedy. The local doctor in Coober Pedy works almost around the clock, seven days a week, attending to hospital patients. The woman doctor from the Family Planning Association, who goes to Coober Pedy regularly, is fully booked up for her two to three day sessions.

Links have been made with the nearby Aboriginal community, which now has the confidence to attend the Family Planning Association sessions. The dedicated CEO of the hospital, Mr Bob Briton, is determined that the family planning service must continue and proposes to use some of the hospital's budget to continue the service. These people are already disadvantaged by their isolation. My questions are:

1. Has the Family Planning Association looked at alternative arrangements for these rural communities before withdrawing its services?

2. What alternative arrangements are available to Ceduna?

3. Due to the proposed extra payment for the family planning service in Coober Pedy, will the Government provide extra funding to the hospital to meet this contingency?

The Hon. BARBARA WIESE: I will refer the honourable member's questions to my colleague in another place and bring back a reply.

POKER MACHINES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Attorney-General representing the Minister of Emergency Services a question about the gaming machines Bill.

Leave granted.

The Hon. M.J. ELLIOTT: My question relates to a story on the front page of today's *Advertiser* that quotes the Police Commissioner as saying that he had not been consulted on the legislation to allow poker machines into hotels and clubs in South Australia. He went on to say that it really was not his desire to express an opinion, because it was a conscience issue. I have had several phone calls from individuals concerned about this because, while they accept Mr Hunt's concern that his personal opinion should not apply in this case, they feel that his position as head of police puts him in a position to make comments about the potential for corruption that may arise from the form of this Bill and, in particular, as he has such close cooperation with interstate colleagues he would have that sort of information.

It is felt by the people with whom I have spoken that that information should be made available to members of Parliament so that while they are exercising their consciences they will have the information upon which to make the appropriate decision. I ask the Attorney: can he explain why the Commissioner of Police was not given an opportunity to provide advice; did the Minister's department submit its views; and does the Attorney acknowledge that the official police view in relation to corruption and poker machines would be useful to members of Parliament when considering how to exercise their conscience vote?

The Hon. C.J. SUMNER: I understand that that question was directed through me to the Minister of Emergency Services, and I will refer the question to him. All I can say is that the drafter and originator of the Bill is absolutely clear that procedures have to be put in place to ensure that there is no possibility of corrupt activity occurring through the use of poker machines. That is an underlying policy position which the Minister who introduced the legislation has, which I am sure the Government has and which I am sure all members of Parliament who vote on the issue will have. However, I will refer the specific questions to my colleague and bring back a reply.

JOB CREATION PACKAGE

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister representing the Minister for Environment and Planning a question about the Australian Conservation Foundation's job creation package.

Leave granted.

The Hon. J.C. BURDETT: A letter about this package dated 6 February 1992 was directed to all State members of Parliament. In that letter it was stated that a letter had been written to Mr Keating. The majority of the items in the package are Federal, but a number of them are State or have State implications. I refer to various paragraphs. Paragraph five states:

> Negotiation to encourage a more pro-active role in regeneration and conservation activities by State and local governments through measures such as concessional rating, zoning and subdivision provisions to encourage compliance with sustainable development strategies and plans.

Paragraph 10 is as follows:

> Strict standards on pesticides and agricultural chemicals to give Australia an export advantage in clean food. Immediate ban on all pesticides not registered for use in our export markets as recommended by CSIRO.

Usually these standards are enforced through State legislation. Paragraph 13 states:

Work with local government to limiting urban development on agricultural land.

Paragraph 14 (1) and (2) are as follows:

Acceleration of energy efficiency program to retrofit Government buildings and public housing with energy efficient equipment and appliances.

Incentives to use of solar hot water . . . Off-peak pricing policies by State utilities has been a disincentive.

Paragraph 16 states:

Phasing out of payroll tax—

that is a State tax at the present time—

and its replacement with an increasing energy tax should be investigated. This would be coupled to a program of increasing energy efficiency to maintain a level tax burden. This would halt the employment discouragement of the payroll tax and stimulate energy efficiency and its associated savings whilst maintaining tax revenue.

My question is: will the Government, through the Minister, supply a response to the Australian Conservation Foundation's job creation package and, if so, when is it anticipated that the response will be provided?

The Hon. ANNE LEVY: I will refer those questions to my colleague in another place and bring back a reply.

WORKCOVER

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Labour a question about WorkCover.

Leave granted.

The Hon. PETER DUNN: On 31 October I asked a question regarding a WorkCover claim by an employer who employed an itinerant labourer who, after a very short period of work, lodged a considerable claim (of about $12 000) on that employer, resulting in his premium rising considerably, from approximately 5.5 per cent to 13 per cent, for his employees for the following two years. Today I received a response from the Minister regarding that question, but it seems rather ambiguous and leaves up in the air what is the employer's role when employing itinerant workers. The reply states:

Section 113 states that a disability that develops gradually is deemed to have occurred once the worker becomes totally or partially incapacitated for work. Therefore, after consideration of the above information and section 113, this claim was correctly classed as a primary disability, and will affect the levy payable by the employer for only two years.

That is quite clear; there is nothing wrong with that, except that the reply further states (and it seems to be a bit of a shot at the employer):

It does not seem harsh that an employer pays an extra $400 levy one year for a claim that has cost $12 000.

Remember that the claim was made on an injury known as neuralgic angiotrophy which, as I understand, develops over a fairly long period. The response to that was:

Employers who wish to examine all potential workers prior to employment may do so if they desire. However, it may be worthwhile to mention that:

- if the worker has an 'unidentified primary disability', the employer will not be able to discover it,

That is a great statement! It continues:

- if the employer fails to provide work to someone on the basis of some physical impairment, they may in fact be in breach of the equal opportunities legislation; and
- any worker who is involved in repetitive-type work may be susceptible to a repetitive strain-type injury.

My question is: what action does an employer take if he believes that somebody he wishes to employ has a long-standing injury or an injury which he believes may manifest itself under his employ?

The Hon. C.J. SUMNER: I will refer the question to the appropriate Minister and bring back a reply.

STATE BANK ROYAL COMMISSION

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Attorney-General a question on the subject of the State Bank Royal Commission.

Leave granted.

The Hon. K.T. GRIFFIN: The Attorney-General has already addressed some passing remarks in relation to the third term of reference for the royal commission into the State Bank, and has indicated that the bank has made a submission to him that the third term of reference should not be pursued by the royal commission but rather that that issue should be left solely to the Auditor-General. As I understand it, the third term of reference really contemplates that the Royal Commissioner will not only receive the report of the Auditor-General but also make any other inquiries he deems necessary to enable him to report on the manner in which the board discharged its responsibilities, remembering that the board is a board of a statutory authority.

When legislation to facilitate the royal commission was before the Parliament last March, the Attorney-General said:

The relationship between the board and the Chief Executive Officer is another matter which should be dealt with by the royal commission. I would suggest that this will only be possible if the royal commission hears evidence under term three.

When the Attorney-General announced the terms of reference of the royal commission on 4 March last year, he did say:

It is essential we find out the processes leading up to the bank's massive debts and how we can avoid making the same mistakes in the future.

Again I would suggest that much of the evidence about these processes can only be dealt with under term three, and that we not rely only upon the investigation of the Auditor-General. As I understood, the appropriate procedure which was being contemplated and which was finally resolved by the Government was that the Auditor-General would do all the leg work and the Royal Commissioner would assess the report, determine whether or not other matters ought to be investigated consequent upon receiving that report, and then pursue those matters under term three. In addition, as I understand it, there will be not only a public report from the Auditor-General which will comprehensively report upon his terms of reference but also a confidential report which will not be available publicly.

I ask the Attorney-General, in the light of that background: if a limitation is placed upon the royal commission by terminating the commission after a report on terms one and two is contemplated, surely that will prevent public examination of the manner in which the board discharged its responsibilities and will prevent public disclosure, if that were appropriate, of at least some of the matters which might be raised by the Auditor-General in the confidential report which go to that issue, and may it not lead to speculation that important matters that the Parliament has generally agreed ought to be dealt with in public before a royal commission may in fact be hidden and not disclosed publicly?

The Hon. C.J. SUMNER: I think the answer to both those questions is clearly 'No': that is not a necessary result of removing term of reference three from the royal commission and enabling those matters to be dealt with by the

Auditor-General. I do not want this proposal to be blown out of proportion. It is a proposal put to us by the bank, and also it has been suggested to me from within the Attorney-General's Department. I think it is fair to say that there is another aspect to the proposal, or a variation of it, which would remove term of reference three for the time being and enable the Auditor-General to report, and then see whether or not the matters that were contemplated to be covered by term of reference three in fact have been adequately covered by the Auditor-General's report. That is one of the proposals that was suggested by the bank in its proposition to us, where it suggests:

> A decision could be taken at a later stage as to whether a fresh royal commission should issue covering some or all of the matters now set out in paragraph 3.

Obviously, the idea is that, if you remove paragraph 3, the royal commission would concentrate on term of reference one, and although that is what it has been doing it has been receiving some evidence of relevance to term of reference three. Obviously, the proposition was put forward to try to overcome the difficulties.

There would have been no difficulty had the problems with the delays not occurred, and obviously the problems with the Royal Commissioner's health, because the Auditor-General clearly was due to report well before the cut-off date for the royal commission and that report would have been fed into the royal commission. That timing is now all awry: it cannot be met. We are currently working out what times can realistically be set.

The Hon. K.T. Griffin: This is not only as a consequence of the Royal Commissioner's illness, is it?

The Hon. C.J. SUMNER: No, I didn't say it was. It is because of the extending of the times, including the fact that it was originally intended that the Auditor-General would report within six months, but he has now gone 12 months and will go longer. I will have to make announcements about that shortly. That is the problem, and given the main objective, which has to be to have a proper inquiry but to do it as quickly as possible, this proposal has been floated. Whether or not it will come to pass I cannot say. All I am saying is that the State Bank has put the proposition (obviously it is concerned about the time taken over the royal commission) and also the suggestion has arisen from within my department, so it has to be considered.

However, I am certainly not saying that a decision will be made to that effect at this stage. Discussions will have to occur with the relevant parties including, most importantly, the Royal Commissioner himself, and that is occurring. To answer the honourable member's question, it would still be possible, if term of reference three were removed from the Royal Commissioner, for the Auditor-General to substantially cover those issues in his report—in fact, to cover all the issues that were originally intended for term of reference three. I am only speculating about the various options because I was asked about them. What I do know and what I have said is that the completion dates for both inquiries will have to be extended, and in the context of that and the fact that the original timing envisaged by the Government has now gone wrong, we will have to look at the options that are available.

ROAD TRAFFIC (ILLEGAL USE OF VEHICLES) AMENDMENT BILL

The Hon. C.J. SUMNER (Attorney-General) obtained leave and introduced a Bill for an Act to amend the Road Traffic Act 1961. Read a first time.

The Hon. C.J. SUMNER: I move:

That this Bill be now read a second time.

This Bill amends section 44 of the Road Traffic Act 1961 ('the Act') to increase the penalties for the offence of driving, using or interfering with a motor vehicle without first obtaining the consent of the owner of the vehicle. An amendment to the Act was considered an appropriate response to recent publicity regarding illegal use of motor vehicles and the alleged inadequacy of existing penalties.

Currently, the Act provides for a term of imprisonment of 12 months for a first offence. A subsequent offence attracts a term of not less than three months or more than two years. The court may also order the defendant to pay to the owner of the motor vehicle such sum as the court thinks proper by way of compensation for any loss or damage suffered by the owner. Section 44 of the Act is used in cases where it cannot be shown that the offender intended permanently to deprive the owner of the vehicle, that is, where larceny cannot be proven.

The maximum penalty for larceny under section 131 of the Criminal Law Consolidation Act 1935 is five years imprisonment. It would not be appropriate for the maximum penalty under section 44 of the Act to exceed the maximum penalty for larceny. Therefore, it has been decided that the penalty for a first offence should be increased to a term of imprisonment not exceeding two years. This is accepted as the maximum penalty for a summary offence.

For a subsequent offence the penalty has been set at a period not exceeding four years (that is, a minor indictable offence which would involve the option of trial by jury). The minimum penalty for a subsequent offence is retained at three months to allow the court to assess the circumstances of the offence.

These increases would have the effect of doubling the present maximum penalties. Further, the amendment also adds as an additional penalty for an offence against this section a mandatory driving disqualification of six months duration. I commend this Bill to members. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal.

Clause 2 provides for the measure to be brought into operation by proclamation.

Clause 3 amends section 44 of the principal Act which creates the offence of driving, using or interfering with a motor vehicle without first obtaining the consent of the owner of the vehicle. The clause amends this section to increase the penalty from the current level (imprisonment for a maximum term of 12 months for a first offence and between a minimum of three months and a maximum of two years for a subsequent offence) to imprisonment for a maximum term of two years for a first offence and between a minimum of three months and a maximum of four years for a subsequent offence. The clause also adds as a further penalty for an offence against this section a mandatory driving disqualification of six months duration.

The Hon. K. T. GRIFFIN secured the adjournment of the debate.

SURVEY BILL

Second reading.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): I move:

That this Bill be now read a second time.

This Bill is the culmination of a review into the Surveyors Act 1975 which governs the surveying of land boundaries

and the licensing and registering of surveyors. The review was mounted as part of an overall examination of the Department of Lands legislative program. The review identified a number of specific problems that needed to be addressed. It questioned the need for a Government board and separate committee to register, license and discipline surveyors; it proposed that the responsibility for the professional aspects of surveying be the domain of the South Australia Division of the Institution of Surveyors, and identified the Commercial Tribunal as the appropriate body to hear disciplinary actions against surveyors.

It highlighted problems in the current methods of controlling land survey requirements and recommended that more flexibility could be introduced by removing technical matters from regulations and allowing the Surveyor-General to issue administrative instructions to cover these areas. The review also explored the specific surveying requirements of implementing the State's coordinated cadastre, it identified problems encountered in areas of poor original survey and posed solutions to the problems. The review concluded that, in order to bring about the proposed improvements, a completely new Act was appropriate. As part of the review process, comments were sought from interested parties.

A number of submissions were received from individuals working in the surveying arena, and associations representing both professional and para-professional surveyors. Continued dialogue has been maintained with these groups throughout the course of the review and their comments on draft proposals have been considered in the formulation of this Bill. A public meeting was also convened to provide a forum for the wider community to have input to the proposals. Attention may now be given to specific aspects of the Bill. The object is to repeal the Surveyors Act 1975, to provide new legislation for the licensing and registration of surveyors and to make provisions to ensure that the cadastral (land boundary) survey system is adequate to meet the needs of current and future South Australians.

Under the provisions of the Surveyors Act 1975, The Government, through the Surveyors Board and Surveyors Disciplinary Committee, is responsible for the registration, licensing and disciplining of the State's surveyors. The review of the Act questioned the need for direct Government involvement in these areas and concluded that they could be transferred to the South Australia Division of the Institution of Surveyors Australia (the Institution), without diluting the standards of surveying currently enjoyed by the community. The institution is the professional body representing registered and licensed surveyors, and its membership includes virtually all such South Australian surveyors. This Bill therefore establishes the legal framework within which the institution can license, register, investigate and discipline professional surveyors. It also vests the responsibility for major disciplinary actions against registered and licensed surveyors with the Commercial Tribunal.

The tribunal can direct either the Surveyor-General or the institution to investigate complaints made against registered or licensed surveyors and, if it decides, may hold an inquiry into the complaint. The new Act will provide the tribunal with a range of disciplinary actions it may take against a surveyor it finds guilty of an offence. This body is also to provide the forum where a surveyor can appeal against a decision of the Institution of Surveyors. The costs of administering the registration and disciplining of surveyors are currently jointly met by the surveyors through registration fees and the Government. In order to ensure that the institution can assume the responsibilities of the Surveyors Board, the new Act allows it to set a levy payable on all plans deposited with the Registrar-General and signed by a licensed surveyor. Adopting this procedure will see the costs associated with administering the system being jointly met by surveyors through the payment of registration fees and that segment of the community that uses the surveyor's service.

In addition the Bill provides protection for the public. It makes it an offence for any person or company to hold out as a licensed or registered surveyor unless they are so endorsed by the institution. It maintains the requirement that only licensed surveyors can survey property boundaries. Before carrying out survey work for the public, a registered or licensed surveyor will need to be covered by professional indemnity insurance. The new legislation will also require surveyors to participate in continuing professional development courses as a condition of renewal of registration or licensing.

To ensure that the public and the surveying profession have input into land surveying matters, the Bill establishes the Survey Advisory committee. This Committee, to be chaired by the Surveyor-General, will comprise representatives from the Government, the Institution of Surveyors and the public and will provide advice to the Minister on matters relating to cadastral surveying in South Australia. The new Bill also defines the role and responsibilities of the Surveyor-General as they relate to cadastral surveying. In particular, it empowers that office to issue administrative instructions in relation to technical matters affecting cadastral surveys and cadastral surveying. It also permits the carrying out of 'audit surveys' to ensure that appropriate standards of surveying practice are being met.

Survey marks in the form of wooden pegs or concrete permanent survey marks form the foundation of the State's land boundary system. As is the case with the current Surveyors Act, the new Act makes it an offence, except in specific circumstances, for any person other than a licensed surveyor to remove or otherwise interfere with these marks. In 1985 the Government commissioned a study to examine ways of improving the State's cadastral system. The study recommended that a Coordinated Cadastre be introduced, and the new Act allows the Surveyor-General to declare areas of the State where the Coordinated Cadastre applies. Complementary amendments to the Real Property Act require that, within these areas, the coordinates of the property boundaries will be evidence of their position.

In a number of areas of the State, the legal positions of boundaries disagree markedly with fences, buildings and other features which have over many years been accepted by landowners as marking the boundaries. This disagreement usually results from poor quality surveys in the early days of the survey of South Australia. This Bill provides that such areas can be defined and the boundaries therein determined by the principles of equity rather than common law. This will avoid the costly and time consuming actions which are currently required to remedy boundary problems in these areas.

This Bill is significant as it allows Government withdrawal from the regulation of a professional body while still ensuring that professional standards are maintained and the service to the public is not compromised. It also provides appropriate statutory backing to ensure that the State's cadastral survey system will meet the needs of all South Australians. The Government trusts that this Bill will be well received and looks forward to its passage through Parliament and its successful implementation.

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

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal.

Clause 3 repeals the Surveyors Act 1975.

Clause 4 is an interpretation provision. The following definitions are of particular note:

'cadastral survey' means any process of determining the boundaries of land by the measurement of distances and angles (including measurement by means of an electronic device) or by photogrammetry;

'Institution of Surveyors' means the Institution of Surveyors, Australia, South Australian Division Incorporated;

'survey' means—

(a) a cadastral survey;

or

(b) any process of determining—

(i) the form of land;

or

(ii) the position of a point, object, structure or feature on or in land,

by the measurement of distances and angles (including measurement by means of an electronic device) or by photogrammetry.

Subclause (2) provides that a person who holds a licence as a surveyor is also to be taken to be registered as a surveyor.

Part 2 deals with administrative matters relating to the Surveyor-General, the Survey Advisory Committee and the Institution of Surveyors.

Clause 5 establishes the position of Surveyor-General and requires that the person appointed to the position under the Government Management and Employment Act 1985 be eligible to be licensed or registered as a surveyor.

Clause 6 provides the Surveyor-General with power to delegate functions under this measure or under any other Act.

Clause 7 provides special powers to the Surveyor-General to enter land at any reasonable time for the purposes of performing his or her functions under the measure and to take such action as is necessary to enable those functions to be carried out effectively. These powers are similar to those given to surveyors generally in relation to the carrying out of a survey.

Clause 8 establishes the Survey Advisory Committee. It consists of the Surveyor-General, the Registrar-General, three persons appointed by the Minister (one of whom must be a person who is not a surveyor) and five persons appointed by the Minister on the nomination of the Institution of Surveyors. The terms and conditions of office of the appointed members are determined by the Minister and the Committee is subject to the direction of the Minister.

Clause 9 sets out the functions of the Committee, namely:

(a) monitoring the operation of the measure and the law relating to surveying and making recommendations to the Minister with respect to those matters;

(b) exercising a general oversight over surveying, and the keeping of survey records, in this State and making recommendations to the Minister with respect to those matters;

(c) monitoring the operation of survey instructions in force under the measure and making recommendations to the Surveyor-General with respect to those instructions;

(d) carrying out such other functions as are assigned to it by the Minister.

Clause 10 sets out the functions of the Institution of Surveyors under the measure. These are:

(a) exercising a general oversight over the professional practice of surveyors;

(b) monitoring the standards of courses of instruction and training available to those seeking licensing or registration as surveyors and surveyors seeking to maintain or improve their skills in surveying practice;

(c) consulting with educational authorities in relation to the establishment, maintenance or improvement of courses;

(d) making recommendations to the Minister with respect to the above matters;

(e) carrying out such other functions as are assigned to it by the measure.

Clause 11 requires the Institution of Surveyors to make administrative arrangements necessary for the performance of its functions under the measure. Included is a provision requiring the Institution of Surveyors to give the Surveyor-General free access to the register of surveyors. The Institution must consult the Minister in making these arrangements.

Clause 12 requires the Institution of Surveyors to keep separate accounts of fees and levies received under the measure and to have those accounts audited each calendar year. The clause also provides that the fees and levies may only be expended in carrying out functions assigned to the Institution of Surveyors by the measure.

Clause 13 requires the Institution of Surveyors to report annually to the Minister. The Minister is required to table the report in each House of Parliament.

Part 3 contains the scheme for registration and licensing of surveyors.

Clause 14 makes it an offence for a person to place a survey mark on or in land unless the person is a licensed surveyor or is acting under the supervision of a licensed surveyor or the survey is carried out as part of a course of training approved by the Institution of Surveyors.

Clause 15 makes it an offence for a person to carry out a cadastral survey (a survey of the boundaries of land) for fee or reward unless the person is a licensed surveyor or is acting under the supervision of a licensed surveyor or the survey is carried out as part of a course of training approved by the Intitution of Surveyors.

Clause 16 makes it an offence for a person to hold himself or herself out as a licensed surveyor if he or she is not one. It also makes it an offence for a person to hold out another as a licensed surveyor if that other is not one.

Clause 17 makes it an offence for a person to hold himself or herself out as a registered surveyor if he or she is not one. It also makes it an offence for a person to hold out another as a registered surveyor if that other is not one.

Clause 18 makes it an offence for a person to use the expression 'licensed surveyor' or 'registered surveyor' to describe himself or herself if he or she is not one. It also makes it an offence for a person to describe another as a licensed or registered surveyor in the course of advertising or promoting a service that he or she provides if that other is not one. The clause enables the regulations to reserve other expressions for the exclusive use of licensed or registered surveyors and to exempt persons of a specified class from the clause.

Clause 19, in effect, requires surveyors to carry professional indemnity insurance. The Institution of Surveyors may grant exemptions.

Clause 20 empowers a court in finding a person guilty of an offence against clauses 14 to 19 to disqualify that person from being licensed or registered under the measure permanently, for a specified period, until fulfilment of stipulated conditions or until further order.

Clause 21 provides for the making of applications to the Institution of Surveyors for a licence or registration.

Clause 22 governs the granting of a licence or registration. A natural person is eligible to be licensed or registered as a surveyor if the Institution of Surveyors is satisfied that the person—

(a) is a fit and proper person to be licensed or registered;

(b) has the qualifications required by the regulations (or qualifications and experience accredited as equivalent by a prescribed body);

(c) has the experience required by the regulations;

and

(d) fulfills all other requirements set out in the regulations.

A company is eligible to be licensed or registered as a surveyor if the Institution of Surveyors is satisfied that the memorandum and articles of association of the company are appropriate to a company practising as a surveyor and contain certain stipulations including the following:

(a) an object of the company must be to practise as a surveyor and the remaining objects (if any) must be to practise in any one or more of the fields of engineering, town planning or any other field allowed by the regulations;

(b) the directors of the company must be natural persons;

(c) at least half of the directors of the company must be practising surveyors (practising licensed surveyors in the case of an applicant for a licence) and the remaining directors must be—

(i) surveyors;

(ii) persons holding qualifications in, and practising in, a field included in the objects of the company;

(iii) employees of the company;

or

(iv) in the case of a company with only two directors—a prescribed relative of the other director;

(d) at least half of the shares in the company must be owned beneficially by practising surveyors (practising licensed surveyors in the case of an applicant for a licence) who are directors or employees of the company and the remaining shares must be owned beneficially by—
(i) directors or employees of the company;
or
(ii) prescribed relatives of directors of the company;
(e) at least half of the voting rights exercisable at a meeting of the members of the company must be held by practising surveyors (practising licensed surveyors in the case of an applicant for a licence) who are directors or employees of the company;
(f) no director of the company may, without the approval of the Institution of Surveyors, be a director of any other company that is a surveyor.

The clause enables the Institution of Surveyors to license or register a person (including a company) who does not satisfy the eligibility criteria if satisfied that the lack of compliance with the criteria would not adversely affect the ability of the person to practise surveying. This power can only be exercised with the approval of the Minister.

An appeal against a decision to refuse to grant a licence or registration is provided later in the measure.

Clause 23 allows the Institution of Surveyors to grant a licence subject to specified conditions in order to enable a person to do whatever is necessary to become eligible for a full licence. An appeal against a decision to impose conditions is provided later in the measure.

Clause 24 provides that the term of a licence or registration is one calendar year.

Clause 25 provides for the issuing of licences or certificates of registration.

Clause 26 enables the Institution of Surveyors to establish a continuing education program that must be undertaken by licensed or registered surveyors. If a surveyor does not undertake the required program, the Institution of Surveyors may—
(a) renew the licence or registration subject to conditions;
(b) refuse to renew the licence or registration until specified conditions are fulfilled;
or
(c) refuse to renew the licence or registration.
An appeal against a decision to exercise these powers is provided later in the measure.

Clause 27 makes it an offence for a surveyor to breach any condition of the surveyors licence or registration.

Clause 28 requires a company licensed or registered under the measure to report non-compliances with respect to the memorandum or articles of association of the company to the Institution of Surveyors and enables the Institution to give such directions as are necessary to secure compliance.

Clause 29 requires a company licensed or registered under the measure to obtain the approval of the Institution of Surveyors to any alteration to its memorandum or articles of association.

Clause 30 prohibits a company licensed or registered under the measure from practising in partnership with any other person unless authorised to do so by the Institution of Surveyors.

Clause 31 limits the number of surveyors that may be employed by a company licensed or registered under the measure to twice the number of practising surveyors who are directors. The Institution of Surveyors may allow a greater number of surveyors to be employed in individual cases. A person who is both an employee and a director does not count as an employee for this purpose.

Clause 32 imposes joint and several liability on any company licensed or registered under the measure and its directors.

Clause 33 requires companies that are licensed or registered under the measure to lodge annual returns with the Institution of Surveyors.

Clause 34 sets out the circumstances in which a surveyor is liable to be disciplined. These are if the surveyor—
(a) has been guilty of conduct that constitutes a breach of the measure or has contravened or failed to comply with survey instructions (see clause 43);
(b) has obtained a licence or registration improperly;
(c) has failed to exercise proper care in carrying out a survey;
(d) has, in the course of surveying practice, committed an offence punishable by imprisonment for a period of one year or more or been guilty of improper or unethical conduct, incompetence or negligence.

Clause 35 provides for the lodging of complaints against surveyors with the Institution of Surveyors and requires the Institution to attempt to resolve complaints by conciliation.

Clause 36 provides for the investigation of complaints against surveyors by the Institution of Surveyors. The Institution of Surveyors may appoint a person to carry out an investigation and that person may require the surveyor under investigation, or a person who is or was the employer, employee or partner of the surveyor to produce records or equipment for inspection.

Clause 37 provides that the Institution of Surveyors may, after conducting an investigation, reprimand the surveyor or lodge with the Commercial Tribunal a complaint against the surveyor setting out matters that are alleged to constitute proper cause for disciplinary action. The clause requires the Institution of Surveyors to give the surveyor an opportunity to make representations before exercising powers under the clause. Any evidence of the commission of an offence against the measure found in the course of an investigation must be reported by the Institution of Surveyors to the Surveyor-General.

Clause 38 sets out the disciplinary powers of the Commercial Tribunal. The Surveyor-General, the Institution of Surveyors or any other person may lodge a complaint against a surveyor with the Tribunal. The Tribunal may ask the Institution of Surveyors or the Surveyor-General to investigate the matter. If the Tribunal is satisfied that proper cause exists for disciplinary action against the respondent, it may—
(a) reprimand the respondent;
(b) impose a fine not exceeding a division 5 fine (maximum $8 000) on the respondent;
(c) impose conditions on the respondent's licence or registration restricting the right of the respondent to practise surveying;
(d) suspend the respondent's licence or registration for a specified period, until fulfilment of stipulated conditions or until further order;
(e) cancel the respondent's licence or registration;
(f) disqualify the respondent from being licensed or registered permanently, for a specified period, until fulfilment of stipulated conditions or until further order.

Clause 39 makes it an offence not to return, at the direction of the Tribunal, a licence or certificate of registration that has been suspended or cancelled.

Clause 40 prohibits a person whose licence or registration is suspended or cancelled from undertaking work in connection with a survey without the prior approval of the Tribunal. Any such approval may be subject to conditions.

Clause 41 provides that where a surveyor's licence or registration is suspended or cancelled elsewhere in Australia or in New Zealand it is also suspended or cancelled here.

Clause 42 provides for an appeal against decisions of the Institution of Surveyors to the Commercial Tribunal. The decisions that may be appealed against are as follows:
(a) granting of a conditional licence;
(b) refusal to grant a licence or registration;
(c) granting of a conditional renewal of a licence or registration;
(d) refusal to renew a licence or registration;
(e) a reprimand.

The appeal is to be conducted as a fresh hearing.

Part 4 deals with matters relevant to the Surveyor-General's role in surveying practice and to other general matters relevant to surveying practice.

Clause 43 provides for the making of survey instructions by the Surveyor-General after consultation with the Survey Advisory Committee. The instructions only relate to cadastral surveys. The instructions may include matters relating to the technical aspects of carrying out a cadastral survey and lodging survey plans. Survey instructions are to be promulgated in the *Gazette* or distributed to or brought to the notice of licensed surveyors by some other means approved by the Minister.

Clause 44 empowers the Surveyor-General to carry out an investigation in order to determine whether a survey plan lodged in the L.T.O. is defective in any respect or whether in relation to a cadastral survey there has been any contravention of survey instructions. The Surveyor-General may appoint a person to carry out the investigation and that person may require the surveyor under investigation, or a person who is or was the employer, employee or partner of the surveyor to produce records or equipment for inspection.

Clause 45 gives the Surveyor-General power to require a licensed surveyor to rectify any defects found in a survey pursuant to an investigation under the measure. The Surveyor-General must at the request of the surveyor concerned, refer a matter relating to a possible rectification of a survey to the Institution of Surveyors for advice. The clause makes it an offence to fail to comply with directions to rectify a defect and provides for the recovery of costs if the Surveyor-General carries out work to rectify the defect consequent upon that failure.

Clause 46 gives a surveyor, or a person authorised in writing by a surveyor, power to enter land at any reasonable time for the purposes of carrying out work in connection with a survey and to take such action as is necessary to enable the survey to be carried out effectively.

Clause 47 provides that a plan or document required by law to be signed or certified by a surveyor must be signed or certified by a surveyor who is a natural person. It also makes it an offence for a surveyor to certify as correct a plan prepared in connection with a survey that the surveyor did not carry out or supervise.

Clause 48 makes a surveyor liable for the acts or omissions of any persons employed by the surveyor in carrying out a survey.

Part 5 contains provisions relating to the establishment of the coordinated cadastre for the State and to the definition of land boundaries in certain areas.

Clause 49 places the responsibility of establishing a coordinated cadastre for the State on the Surveyor-General. The clause provides that for that purpose the Surveyor-General may—

(a) establish and maintain a network of permanent survey marks;

(b) declare designated survey areas—areas in which surveys must be carried out by reference to the permanent survey marks;

(c) record the coordinates for land boundaries surveyed in designated survey areas;

(d) compare and adjust those coordinates when all land in an area has been surveyed by reference to the permanent survey marks;

and

(e) lodge a plan in the L.T.O. delineating the boundaries of land within the area on the basis of those adjusted coordinates.

An amendment to the Real Property Act 1886 travels with this measure. The amendment recognises the coordinated cadastre by providing that coordinates entered in the register through the means described above are to be accepted as rebuttable evidence of the boundaries of the land.

Clause 50 provides for the declaration by the Surveyor-General of a Confused Boundary Area where the Surveyor-General is satisfied that generally the occupation of land within the area does not accord to a substantial extent with the boundaries of land as shown in records or plans kept in the L.T.O. The Surveyor-General is required to consult with the Survey Advisory Committee with respect to declarations.

Clause 51 provides that where a survey is conducted within a Confused Boundary Area the boundaries of the land surveyed must be determined on the basis of what is fair and equitable having regard to—

(a) existing physical boundaries;

(b) the length of time that those boundaries have departed from the boundaries as shown in any public records of survey or as marked by existing survey marks;

and

(c) all other relevant factors.

When the plan is lodged in the L.T.O. a copy is to be forwarded to the Surveyor-General for approval. The Surveyor-General is to give an opportunity to make representations on the plan to all persons with a registered interest in the land or adjoining land and to all other persons who have a registered interest that is likely, in the opinion of the Surveyor-General, to be directly or indirectly affected.

The Surveyor-General may approve the plan with or without modifications and must notify the surveyor and the persons referred to above of his or her decision. An appeal against the decision of the Surveyor-General may be lodged in the Land and Valuation Court by any person entitled to be notified of the decision. The appeal is to be conducted as a fresh hearing.

Part 6 deals with miscellaneous matters.

Clause 52 makes it an offence to disturb, damage, remove, destroy or otherwise interfere with a survey mark. A general defence of lack of intention and knowledge appears in clause 56. Certain exceptions are built into the clause relating to interference in the course of the erection of a fence, the conduct of a survey or major works carried out in association with the division of land.

Clause 53 makes it an offence to hinder or obstruct a person in the exercise of a power conferred by the measure or to refuse or fail to comply with a requirement made by a person for the purposes of an investigation carried out pursuant to the measure.

Clause 54 makes it an offence to make a false or misleading statement in furnishing information required under the measure.

Clause 55 imposes an obligation to keep information derived from investigations under the measure confidential.

Clause 56 provides a general defence to offences against the measure—that the offence was not committed intentionally and did not result from any failure on the part of the defendant to take reasonable care to avoid the commission of the offence.

Clause 57 provides that a person may be both convicted of an offence and have disciplinary action taken against him or her under the measure.

Clause 58 enables the Institution of Surveyors to charge a levy of an amount approved by the Minister on each plan certified as correct by a licensed surveyor and lodged in the L.T.O. Under clause 12 the Institution of Surveyors must use the money in the administration of its functions under the measure.

Clause 59 provides that any approval given by the Minister, the Surveyor-General or the Institution of Surveyors under the measure must be in writing and may be conditional.

Clause 60 is an evidentiary provision relating to the register of surveyors.

Clause 61 provides that an offence against the measure is a summary offence and that a prosecution must be commenced within two years or such further period as the Minister allows.

Clause 62 makes provision for the methods of service of notice under the measure.

Clause 63 is a general regulation making power. It enables documents to be incorporated into the regulations by reference.

The schedule contains transitional provisions. It includes a provision allowing a company that was practising cadastral surveying before the commencement of the measure to continue to do so until the following 31 December, notwithstanding that its memorandum and articles of association do not comply with the requirements of the measure. Such a company will be taken to have been granted a licence. The provisions of the measure relating to the liability of directors etc. apply. At 31 December a company will have to comply with the provisions of the measure relating to the memorandum and articles of association of a company (and consequently the structure of a company) to be able to hold a licence, or to be registered, as a surveyor.

The Hon. R.I. LUCAS secured the adjournment of the debate.

METROPOLITAN TAXI-CAB (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 February. Page 2667.)

The Hon. DIANA LAIDLAW: The Liberal Party supports this Bill, which we have been waiting to debate in this place for some time. Indeed, the industry has been anxious to receive the Bill and to see its passage. Essentially it is a Bill that one could describe as technical in nature. It follows an assessment or review by a panel that looked at a number of matters to streamline regulations governing the industry in this State. This Bill addresses matters such as definitions and fines that are now to be brought into line with other Acts, and the powers of the Metropolitan Taxi-Cab Board. These powers are updated, modernised and, to some extent, limited with respect to the commercial operations of the industry. The Bill also addresses the operations of the Metropolitan Taxi-Cab Board in terms of streamlining and making those operations more flexible and efficient, and also widens the appeals process.

This Bill was introduced before the Parliament rose for the Christmas recess. The industry had been anxious at that time that the Bill be debated and passed before Christmas, but that could not be accommodated within that time frame. However, I am pleased that it will be receiving a speedy passage at this time. As we all know, the taxi industry is very important in the lives of many people in South Australia, not only those who own, lease and drive taxis but also those of us who from time to time are dependent on taxis as a mode of transport. In South Australia there are 876 licensed taxi cabs, including access cabs, and some 3 600 registered drivers and owners of those vehicles.

Very recently the Metropolitan Taxi-Cab Board issued 15 more licences, and I want to comment on this issue because it has caused turmoil in the industry for a considerable time. Members may recall about 18 months ago huge rallies of taxi owners outside this place lined up along North Terrace with major protest meetings as well, and all those

protests and rallies followed a decision by the Minister of Transport to allow open entry for hire car vehicles, which was seen as the first stage of open entry for taxi cabs.

That was vigorously and successfully resisted by the industry, which had the support of the Liberal Party and the Australian Democrats in the industry's zeal to suppress the number of licences at that time, because we believed that that measure had been introduced without any consideration of the impact on the industry and the lives of people who had invested in it. We also believed strongly that there were a whole range of other initiatives in the passenger and community transport area that the Government could tackle if it had the heart to do so, without having a go at the less unionised workforce involved in the taxi industry.

Much has happened since those angry days about 18 months ago. The Minister set up a consultative group to talk with officers of his department. The regulatory panel that was established is the subject of this Bill. The Minister also guaranteed that he would freeze the number of licences for some 12 months in order to assess the economic circumstances and to see whether they improved. The Minister indicated to the industry that he would reconsider his decision about the number of licences after that 12 month freeze.

However, the industry itself has used this period over the past 18 months constructively to try to get its own house in order. As I see it, as a person dealing with the industry almost on a daily basis in policy terms and as a person using taxi-cabs from time to time, one of its disappointing aspects is the division within the industry and the general lack of maturity in addressing a number of policy questions.

Those reflections on the industry are not as valid today as they were about 18 months ago. The industry has grown up a great deal in that time, and I believe enormous credit is due to the South Australian Taxi Association, its President, Mr Sievers, and those who work on the board. However, I do not deny that the association is not the font of all wisdom in this area, and I have certainly had beneficial discussions with a number of the independent and cooperative taxi companies and collectives in this State.

Certainly, I am pleased to see that they are offering competitive services to the established radio taxi companies in this State. A great deal more has to be done to improve both the operation and the image of the industry. It is important that we address the issue of Cabcharge in the public interest because it is having an impact on the restriction of trade in this State. Indeed, I understand that the Trade Practices Commission has undertaken a national inquiry to look at that matter.

The South Australian Taxi Association is to be applauded for the excellent strategic review of the South Australian taxi industry that was undertaken in the middle of last year. The report was released in September, and essentially the Liberal Party endorses the bulk of the recommendations for change, progress and reform within the industry.

I believe that the report accurately assesses the weaknesses, strengths and opportunities of the taxi industry in this State and the Liberal Party at this time—and hopefully the Government, shortly—looks forward to working with the taxi industry to implement many of the constructive forms outlined in this document.

The issue of licences has caused much heartbreak within the industry for some time. It has certainly caused a great deal of debate in this place from time to time. Members may recall that in August last year the Council defeated regulations that the Minister wanted to move in respect of 15 licences which were to be issued to existing owners. The Liberal Party and the Australian Democrats thought, for good reason, that that was unacceptable and that the opportunity to gain a licence, after a number of licences had been frozen for 15 to 17 years, should not be confined simply to current owners but that it should be extended to other licensees, including drivers.

The Minister, after the uproar that followed the open entry for hire cars and the threatened open entry for taxis, and following the disallowance of the regulations for the issue of new licences, came to his senses and appointed a mediator or consultant in the form of Dr Ian Radbone to look at a future options paper for the industry. That paper, released late last year, followed wide consultation, and a final paper has subsequently been released and endorsed by the Government, although there are a number of questions that I have in that respect. The South Australian Taxi Association recommended that, in respect of the issue of further licences, 15 should be issued by tender, and that course of action was endorsed by the Liberal Party. I note that on 22 January 1992, 15 new taxi-cab licences were issued from a total of 469 tender forms. Interestingly, the average tender price was $67 091 and the average tender price for the 15 successful tenders was $91 104, the highest tender being $96 050 and the lowest zero dollars—the tender having no dollar figure attached. The 15 highest tenders pulled out of the box ranged from $89 080 to $96 050.

I understand that since 22 January one of those successful tenderers has withdrawn and other tenderers have been asked if they want to take up the licence. It is of great interest to me in feedback from the industry that, in this time of recession and hardship in the industry in gaining patronage and income, these incredible sums of money have been bid for 15 taxi licences in this State in the knowledge that more licences will be issued in the future.

So, plate values of taxis have certainly been maintained notwithstanding the anguish in the industry some 18 months ago. Since the issue of the 15 new licences, I understand that the board has at its monthly meeting considered also the transfer of licences, and last month five licences were accepted for transfer, two at $95 000 each. I have discussed this matter with a number of people associated with the taxi industry, and it is thought that the high prices paid for tenders may result from the fact that people see very few other good investment opportunities at this time; the building property industry is uncertain, as are commercial investments in property; interest rates of banks and building societies have certainly reduced substantially in recent times; and the share market is volatile.

So, it appears that taxi licences and plates are seen as a most worthwhile investment, particularly if they can be leased at about $350 a week, which is the going price of a lease today. Many people are taking up these leases at this time of high unemployment. So, I believe that the taxi industry remains quite volatile because of the increasing number of people who are leasing licences rather than owning and driving vehicles. It will be interesting to keep an eye on the changes in the industry arising from the changed nature of the industry from owner/driver to lessee driver.

I wish to make a general point in relation to the Metropolitan Taxi-Cab Act and the board established by it. One of the recommendations contained in the paper prepared by Dr Ian Radbone on the taxi and hire vehicle industry reflected on the almost unanimous view of the taxi industry in this State that the Metropolitan Taxi-Cab Act should be repealed and that a community transport Act covering community transport as a whole, including stretch limousines, car pools, community buses, the State Transport Authority, private buses, hire cars and taxis should be implemented.

It is hard to find what progress, if any, the Government is making on the development of a community transport Act and whether it intends to include the STA within its ambit. Certainly, the recommendation by Dr Radbone reflects the recommendations of Professor Fielding, who looked at metropolitan public transport in Adelaide in the 1990s. Professor Fielding's report has been highly acclaimed, although the Government did not accept his recommendations in relation to the STA, the Metropolitan Taxi-Cab Board and the integration of other vehicles for hire.

Dr Radbone has now repeated that same recommendation, but I have not heard whether the Government will accept the full extent of that recommendation. I hope that that is the case. I can certainly confirm that it is the Liberal Party's intention when in government to repeal the Metropolitan Taxi-Cab Act and the State Transport Authority Act and to combine all passenger vehicle responsibilities, as we assess them to be, within the ambit of a passenger transport Act. That decision was announced in a taxi and hire vehicles position paper that I released on behalf of the Liberal Party in October last year.

In conclusion, I am very pleased to see the changes in the industry over the past 18 months, and I am keen, as are my colleagues, to encourage greater self-regulation and responsibility for individual practices by various participants in the industry. I am keen to encourage this industry, which is so important not only for the daily transport of many people within Adelaide but also for tourism within this city, to expand its operations and to improve its image. I believe that the industry is making progress along the way and that this Bill will help to achieve those ends.

Bill read a second time.

In Committee.

Clauses 1 to 8 passed.

Clause 9—'Taxi-cab licences.'

The Hon. DIANA LAIDLAW: While I have the responsibility within the Liberal Party as shadow Minister of Transport, most of the Liberal Party's questions in relation to this Bill were asked in the other place where the Minister was able to respond directly. Having read through this Bill with the assistance of the Act, I ask the Minister to answer a query that I have in relation to this clause 9. I believe that all the words to be struck out in line one on the third page have not been included in the Bill. It is proposed to strike out from subsection (2) of section 30 the words 'a taxi-cab' and to substitute 'the taxi-cab to which the licence relates'. I believe that the words to be struck out should read 'a taxi-cab licence'.

I apologise for indicating earlier to the Minister that there was no need for her to obtain advice because the Bill could go straight through, but I picked up this point just a few moments ago. I do not want to hold up the Bill unnecessarily, but perhaps this matter should be looked at.

The Hon. ANNE LEVY: As the honourable member has indicated, she suggested to me that she had no particular questions or problems with the Bill. Consequently, I do not have advisers present, and I am unable to indicate whether the point she is making is important. If it is just a question of ensuring that correct English is used, is there not power for clerical errors to be corrected without their having to be drawn to the attention of the Parliament? It may be that Parliamentary Counsel can be of assistance.

The Hon. DIANA LAIDLAW: After consultation with the Hon. Trevor Griffin, I have had this matter clarified, and it is okay as presented in the Bill. There are two references to a taxicab in the Act, and I was looking at the first reference, not the second. So we do not need advisers—other than the Hon. Mr Griffin.

The Hon. ANNE LEVY: I have received advice that, at first glance, what is printed in the Bill is correct, but we are seeking further advice from Parliamentary Counsel regarding this matter.

Clause passed.

Remaining clauses (10 to 15) and title passed.

Bill read a third time and passed.

CROWN PROCEEDINGS BILL

In Committee.

Clauses 1 to 8 passed.

Clause 9—'Right of Attorney-General to appear in proceedings.'

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

Page 3, line 18—Leave out 'to the Attorney-General for any other State' and insert ', if the interests of another State or the Commonwealth may be affected by the outcome of the proceedings, to the Attorney-General for that other State'.

I raised this issue during the second reading debate. This clause deals with the right of the Attorney-General to intervene on behalf of the Crown in any proceedings which are described in subclause (2). Subclause (5) provides that references to the Attorney-General in this section extend not only to the Attorney-General for this State but also to the Attorney-General for any other State or the Commonwealth, and references to the Crown have a correspondingly extended meaning.

The question I raised during the second reading debate was whether that was in fact too wide and put each other State's Attorney-General and also the Commonwealth Attorney-General in exactly the same position as the South Australian Attorney-General in respect of all matters. So, it was not limited to the Attorney-General for Victoria, for example, intervening in a matter in South Australia that affected the Crown in the right of Victoria but also the Crown in the right of any other State or the Commonwealth.

By virtue of this amendment, I seek to limit the right of other Attorneys to intervene to those situations in which the interests of another State or the Commonwealth may be affected by the outcome of the proceedings. It seems to me that that effectively limits the power of other Attorneys-General in relation to matters which might have no immediate interest to them, anyway. I am open to any other observations which the Attorney-General cares to make on the amendment as to whether or not that is appropriate. I think it is, because otherwise it would put the other States' Attorneys-General in no different a position than the South Australian Attorney-General, and I do not really think that is appropriate in relation to the variety of issues which might not even affect those other States or the Commonwealth. The only other question that should be raised is whether it needs to have some reference to a Territory and not just a State or the Commonwealth. Actually, the definition clause covers that, so that is fine.

The Hon. C.J. SUMNER: The Government opposes this amendment on the grounds that it is unnecessary and, secondly, that the Bill is supposed to be part of a uniform scheme which has already been agreed to by the special committee of Solicitors-General and the Standing Committee of Attorneys-General. Whilst this is the first piece of legislation introduced to give effect to that uniformity agreement, as part of the agreement this section relating to intervention by other States was included. Obviously we do not know whether the other States will pass the legislation in the agreed form, but I would suggest that we stick as far as possible to the agreed form.

The honourable member should note that clause 9 already provides for limitations on the Attorney-General's right of appearance. It provides:

(2) The Attorney-General may intervene, on behalf of the Crown, in any proceedings—

(a) in which the interpretation or validity of a law of the State or the Commonwealth is in question;

(b) in which—

(i) legislative or executive powers of the State or Commonwealth, or of an instrumentality or agency of the State or Commonwealth are in question;

or

(ii) judicial powers of a court or tribunal established under the law of the State or Commonwealth are in question;

or

(c) in which the Court grants leave to intervene on the ground that the proceedings raise issues of public importance, for the purpose of submitting argument on issues of public importance.

That is already reasonably restrictive. It could be argued that the honourable member's amendment will give Attorneys-General from elsewhere a wider right to intervene than we will have interstate, if the model Bill is adopted Australia-wide, because of the formulation used by the honourable member. In my view, the restrictions in clause 9 are adequate. It is not envisaged that there will be a large number of attempts to intervene by interstate Attorneys or their counsel. In fact, that happens quite rarely in State courts now. By way of analogy, constitutional matters often begin in a State's lower courts, and it is very rare for States to intervene at that stage, even though they have the right to do so.

So, we do not imagine that it will be a right exercised very often. If it is exercised it has to comply with the restrictions in clause 9 and, as a matter of comity with other Governments in Australia, we think it is reasonable that their Attorneys be given the right to intervene along with the Attorney in this State.

The Hon. K.T. GRIFFIN: I appreciate the point about uniformity, although we are first in line to enact this legislation. I take it, from what the Attorney-General says, that he is relaxed about the Attorney-General of the Commonwealth or another State or Territory having the right to intervene in a South Australian action in which the interpretation of a South Australian law might be in question. The interpretation of a South Australian law is likely to arise on many occasions. From a practical point of view it may not be appropriate for any other State, or even the South Australian Attorney-General, to intervene. The power of intervention is very broad. The interpretation of the law of the State—that is, South Australia—is a sufficient basis upon which another State Attorney-General can intervene.

I suppose the legislative or Executive powers of the State might have some consequence interstate, and that is probably not so much of a difficulty as subclause (2) *(a)*. Then there is the question of the judicial powers of a court or tribunal established under the law of the State—that is, South Australia. As I interpret it, the Attorney-General for, say, Victoria will have a right to intervene in a case which might involve either the interpretation of a South Australian law or an issue relating to judicial powers of, say, the small claims jurisdiction or the Commercial Tribunal. Is the Attorney-General satisfied that it is appropriate for the Attorneys-General of other States and the Commonwealth to have the right of intervention?

The Hon. C.J. SUMNER: I am satisfied that it is not inappropriate. I do not imagine that it will occur often. If it does occur, I assume that it would be on issues of major importance. I am quite happy with the proposal as introduced, despite the honourable member's reservation.

Amendment negatived; clause passed.

The CHAIRMAN: I point out that clause 10, being a money clause, is in erased type. Standing Order 298 provides that no question shall be put in Committee upon any such clause. The message transmitting the Bill to the House of Assembly is required to indicate that this clause is deemed necessary to the Bill.

Clauses 11 to 16 passed.

Clause 17—'Cases where right of Crown to legal representation is restricted.'

The Hon. K.T. GRIFFIN: I raised a question about this clause in the second reading debate, and the Attorney-General replied that it is in a form similar to that already in the Crown Proceedings Act 1972. On that basis I decided not to further pursue the issue.

Clause passed.

Clauses 18 and 19 passed.

Clause 20—'Regulations.'

The Hon. K.T. GRIFFIN: I raised a question about clause 13, about prescribed information that may be required to be endorsed on or annexed to the process by which the proceedings are commenced against the State Crown, and the Attorney-General did give an answer to that in his reply at the second reading stage. As I recollect, it was along the lines that there was no immediate proposal to prescribe information, but it was there as a safeguard in the event that some unforeseen information arose in the future where that was necessary. Do I take it from that—and this is obviously related to clause 20, the regulation making power—that at present there is no intention to enact regulations, or am I mistaken in presuming that situation?

The Hon. C.J. SUMNER: There are no regulations in contemplation. However, that does not mean that at some stage in the future there may not be some regulations.

The Hon. K.T. Griffin: I am not arguing that; I was seeking to know the immediate prospect.

The Hon. C.J. SUMNER: Nothing.

Clause passed.

Title passed.

Bill read a third time and passed.

ASSOCIATIONS INCORPORATION (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 11 February. Page 2583.)

The Hon. I. GILFILLAN: The Australian Democrats support the second reading of the Bill, although there are aspects of it which I believe the Government should reconsider and which I will raise in general terms. This Act first came into operation in 1985 following widespread political and public debate on the issue. At the time it was widely believed that the legislation would place significant burdens on many small charitable, social and sporting clubs. Now in 1992 we have a new batch of amendments to deal with and a new set of problems arising from those amendments. Although the amendments before the Council are aimed primarily at big associations, I believe that they are so broad in nature as to make it almost impossible for many small community groups to operate.

Some of the amendments are draconian and I agree with much of the Hon. Trevor Griffin's criticism, although I believe he did not go far enough with some of that criticism. I would ask the Attorney to say, in reply, whether or not this legislation has been made available to a wide range of incorporated associations. If so, which associations and what

was their reaction? I find it hard to believe that smaller associations would be in any way supportive of a number of the proposals that are contained in the Bill. Originally, groups became incorporated to gain protection for people holding office within that group, yet many of the changes proposed in the Bill would erode that protection and make it impossible for many to operate or to find people who are prepared to serve on committees.

It must be recognised that small associations often struggle as it is to find people to serve as secretary or treasurer and many do the best they can. Under the Government's proposals for accounting and auditing procedures and the subsequent fines that could be imposed for breaches of those procedures, many small associations simply would not be able to attract volunteers to hold those positions. Similarly, associations must maintain the right to decide how they will operate without the level of interference proposed by the Government. At present, constitutions have to be approved: that should suffice.

The Government's proposal relating to the changing of rules does not appear to take into account the fact that some associations change rules by secret postal ballot of all members and that many decisions are made by an elected council or executive which is representative of the whole membership. Clause 16 provides:

(1) An alteration to a rule of an incorporated association may only be made by a special resolution of the association.

Yet in the definition section of the Bill, 'special resolution' is defined as:

. . . it is passed at a meeting referred to in this paragraph by a majority of not less than three-quarters of such members of the committee as, being entitled to do so, vote in person at that meeting . . .

As I stated earlier, this definition does not take into account associations that allow for alteration to rules by secret postal ballot. Complying, therefore, with the Government's proposal would be virtually impossible, leaving many small associations operating in breach of the Act. A more cynical view might be that it could provide another revenue raising exercise for the Government by way of fines ranging from $1 000 to $4 000—perhaps appropriate in really big associations but enough to financially cripple many smaller groups.

Comments on the Bill I received from Mr Kelvin Dickens, Chairman of the Aged Care Organisations Association raise a number of points worth considering. Mr Dickens states that:

. . . the amended Act would be quite overwhelming to members and officers of many smaller associations . . . much of the language and terminology is unknown to committee members of voluntary service organisations . . .

He suggests that a handbook be produced by the Government to enable terms to be properly understood or at the very least education funding be made available so that courses or seminars can be conducted by peak bodies to inform members of the changes and their impact.

In 1985 an exemption to the terms of the Act was included to allow smaller associations not to be unduly burdened by the auditing procedures included in the Bill. The exemption limit (in which the Democrats played a part), was set at $100 000 gross receipts, a recognition of the difference between large and small associations. However, at the time, 'gross receipts' was defined as the total amount of receipts excluding subscriptions, gifts, donations, bequests or the proceeds from the sale of assets.

This Bill seeks to amend that definition to include all of the above, plus Government grants. Yet, at the same time, the Government is keeping the limit set at $100 000, without taking into consideration 6½ years of inflation and the additional amount of items included as receipts. This is far too broad and would have a direct impact on hundreds, if not thousands, of smaller associations previously not covered by this legislation. The limit must be raised to a far more realistic level, at least double the existing amount, perhaps even higher. However, I also believe that Government grants need not be included in this definition because the groups that receive grants must already comply with strict Government regulations and their inclusion would just complicate matters.

The Australian Democrats raised many similar questions in relation to this Bill back in 1985, when my former parliamentary colleague the Hon. Lance Milne sought for smaller groups to be exempted from the very expensive audit provisions proposed at the time, and I will do so again this time. I believe that, with the current structure of this legislation, the time has come for the Government to seriously consider a separation of some sort into small, community, non-profit groups, which operate with few if any paid staff, and large associations which may turn over millons of dollars a year and operate with a number of paid staff.

I am very concerned about the level of proposed fines and their application in the Bill as it is currently drafted. Fines of $4 000 would be enough in some cases to cripple some associations which may commit a breach of the Act unintentionally and only because of a lack of adequate staff and expertise. I wonder if in the drafting of this Bill the Government really appreciated just how hard it is for small assocations to recruit people who, on a voluntary basis, must often put in long hours in attempting to maintain accounts and comply with existing rules and regulations. I acknowledge there must be adequate protection against fraud, but this Bill appears to catch anyone who may for quite genuine reasons not be able to comply.

Rev. George Martin of the Port Adelaide Mission recently told me that, if this legislation goes through in its current form, he will be informing all his volunteer management board of the potential problems that could arise. He said he believes a number of them would feel compelled to resign because of the level of fines and the personal responsibility forced on them by the audit provisions proposed in this Bill. Rev. Martin also feels that the outcome of those provisions relating to corporations law is uncertain and fears that it will take a test case in the courts to know exactly what the limits are. These provisions will mean that, in some cases, associations will be more regulated than partnerships and private companies.

I will not go over the ground covered by the Hon. Trevor Griffin in the points he raised during second reading, points which he introduced as 'issues of substance'. Suffice to say that we believe his concerns to be well founded and we share them.

In conclusion, I would once again ask the Attorney to reconsider many aspects of the Bill raised in this place, particularly the intrusive nature of amendments relating to constitutions and the onerous audit provisions that would be forced upon many smaller associations not previously covered under the Act. I would also ask him to consider raising the exemption level to allow for inflation and the inclusion of subscriptions, donations and asset sales and to exempt government grants. I believe there must be a recognition of the need for broad based community consultation in relation to an issue of this nature. To the best of my knowledge many small associations are totally unaware of this piece of legislation and what it will mean to them and they must have some input into this debate.

I would like to make a brief comment on a point raised by the Hon. Trevor Griffin, referring to clause 46 of the Bill. Proposed section 62 (4) provides:

> An examination under this section must be held in public, except to such extent (if any) as the Court considers that, by reason of special circumstances, it is desirable to hold the examination in private.

People to whom I have spoken and who are involved with these smaller organisations were quite horrified at the impact of this, and even the fear that such an event could occur to the sort of people who tirelessly serve in many roles in these smaller organisations. I believe that this aspect must be considered if we are to continue to expect people to come forward and serve, as they do many times, for the good of the community at large. It is often an unselfish and generous gesture on their part, and it is very important that we do not frighten these people away even with the bogey of legislation and, in particular, where this legislation imposes unacceptable burdens on such people. However, we support the second reading of the Bill. I do not believe the Government is malicious in its intent with this Bill and I hope that, having heard the constructive criticism that the Hon. Trevor Griffin and I have given, the Government will be amenable to changes where we believe they are necessary.

The Hon. C.J. SUMNER (Attorney-General): I thank members for their contributions and support for the second reading. I will deal with the Hon. Mr Gilfillan's speech first. In my second reading explanation, I said that the proposed amendments are the product of experience since the original Act was passed, the input of persons who responded to a public invitation to make submissions and the views of persons and organisations to whom drafts of the Bill had been exposed. So, there has been a consultation process. I will get the details of that process and provide them to the honourable member during the Committee stage.

This is not just something that has been dreamed up by the Government off the top of its head. It has gone through a consultative process involving a public invitation for submissions from interested parties. I note the points raised by the Hon. Mr Gilfillan and it is clear that this is now a Committee Bill and the Government would certainly look at any amendments prepared by the Hon. Mr Gilfillan or the Hon. Mr Griffin and consider further issues raised by those members in the context of any amendments that they move. Therefore, I await their contribution by way of proposed amendments to the Bill.

The Hon. K.T. Griffin: They are progressing.

The Hon. C.J. SUMNER: I am pleased to hear that and I look forward to seeing them. It is a Committee Bill and the Government will consider amendments raised by both members. At this time I can reply to issues raised by the Hon. Mr Griffin, as I have had a little more time to consider those matters.

A difficulty in the principal Act was settling a threshold to distinguish between small and large incorporated associations. A threshold figure was fixed at gross receipts of $100 000, or such greater amount as is prescribed. At that point, after $100 000, an association was bound by the accountability provisions of Division II of the Act.

The definition of 'gross receipts' which resulted from an amendment by the Hon. Mr Griffin at that time, excludes from the $100 000 subscriptions, gifts, donations, devises and bequests, and money received from realisation of assets. Large associations receiving Government assistance, and/or substantial funds from public appeals are in consequence often exempt from public accountability. This accountability includes, in addition to auditor accounts, the requirement to lodge an annual return with the accounts annexed with the Corporate Affairs Commission. Those who make gifts or donations to associations, or as taxpayers contribute to grants and subsidies, then have access to publicly filed documents disclosing the stewardship of those in charge of such associations. It is also in the public interest that the Corporate Affairs Commission should have an opportunity to examine publicly filed accounts.

In the present climate of public opinion less than full accountability by large associations is clearly unacceptable. When this Bill was exposed for public comment, and indeed since its introduction, no objection has been raised to the amendment of the definition of 'gross receipts' to correct this anomaly. Indeed, there may be an argument that gross receipts should comprise all moneys received by an incorporated association. Small associations are not affected because the figure of $100 000 would be far in excess of the gross receipts of small tennis clubs, social clubs and progress associations.

The only associations affected by the Bill will be those which should be accountable in the public interest. The vast majority on the register would probably be delighted if their receipts were anything approaching $100 000. The Bill gives a general absolving power to the commission in a case where the accountability proposed is inappropriate.

The status of the National Institute of Accountants under this Bill has been raised by the Hon. Mr Griffin. Under the corporations law, membership of the Australian Society of Certified Practising Accountants or of the Institute of Chartered Accountants in Australia is one of the prerequisites for registration as a company auditor. As a prerequisite to this membership a significant training in auditing is required, whether or not the intending member wishes to become a registered company auditor. Membership of the National Institute of Accountants is not recognised for the purpose of registration as a company auditor. Members of that institute may apply to the commission for approval to act as the auditor of a specified association. A number of members of that institute have been approved, with the commission taking account of the complexity of the audit and the experience of the applicant. If the national institute attains status under the corporations law, then consideration must be given to making members eligible as of right to audit associations.

The Hon. Mr Griffin is rightly concerned that an auditor of an association is provided with adequate information. He has foreshadowed an amendment placing an obligation on members for this purpose. I believe he must be referring to the members of the committee. This matter is dealt with adequately in the proposed section 37 (2).

Under the proposed section 37 (2) the accounts of an association either have or have not been prepared using the accrual method of accounting. The Corporate Affairs Commission and the accounting bodies consider that large associations subject to Division II of the Act should use this method. If in a particular case they do not, then the auditor should certify that the receipts and payments method defined in clause 3 of the Bill is appropriate in the circumstances. The provision as drafted in the Government's view is therefore correct.

The Hon. Mr Griffin is rightly concerned that an auditor of an association is provided with adequate information. He has foreshadowed an amendment placing an obligation on members for this purpose. I believe he must be referring to the members of the committee. This matter is dealt with adequately in the proposed section 37 (2).

The proposed section 39b follows the corporations law except that in that law the words 'other than' appear in lieu of 'not being'. The provision will invalidate a contract of

insurance the premiums in respect of which are paid by an association. This matter was not made clear in the clause explanation in *Hansard* of 12 November 1991 on page 1708.

I concede that the proposed section 39d could extend to the auditor of an association in lieu of 'registered company auditor'. An amendment will be proposed to clarify a 'chain of relationships' referred to in clause 3.

The Hon. Mr Griffin has made frequent reference to the voluntary nature of associations, and to the penalties proposed in the Bill. I do not accept that appropriate penalties in this legislation are a disincentive to the holding of an unpaid office. The Act should engender a realisation that the holding of voluntary office imposes considerable responsibility. In the judgment against the former chairman of the National Safety Council in Victoria, the court did not distinguish between paid directors and the volunteer committee person in awarding damages. Given the range of associations and given the undoubted public concern as to the application of their funds, particularly 'the charity dollar', penalties under the Act should coincide with public belief and perceptions. It is for the courts to apply the appropriate penalty, according to the seriousness with which Parliament has indicated it views particular conduct.

In cases where dishonesty is not involved, the Corporate Affairs Commission would prosecute as a last recourse. It does expend considerable time and energy informing persons about their responsibilities under the legislation. To my knowledge there has been no other complaint about the proposed penalties, or allegations of inappropriate prosecutions under the Act.

The Hon. Mr Griffin is concerned about clause 15 of the Bill. Although this provision sets out the matters which should be covered in well drawn rules, there is no question of Government interference in the content of rules. This amendment is to correct the present unsatisfactory situation, where the Corporate Affairs Commission has no power to reject rules which are inadequate and which may be quite adverse to the interests of members, creditors and possibly the general public. The provision has been adapted from a report of the New South Wales Law Reform Commission on associations legislation in that State.

The provision that rules can be altered only by a special resolution of the association goes beyond the question of mere uniformity with other body corporate legislation. Associations have been frustrated by provisions in rules which make an alteration to those rules very difficult to achieve. One large association has specifically requested that this Bill should have a mandatory method of altering rules. A special resolution for this purpose is in no way inappropriate to incorporated associations. In an exceptional case an association could apply to the commission for relief from the requirement to pass a special resolution, that is under the general absolving power in clause 34 of the Bill.

Clause 37 deals with invitations to non-members to deposit money with an association. It clarifies a provision in the principal Act. The explanatory statement is a document given to a potential depositor, and would contain nothing more than basic information which any potential investor should have. This provision will not affect in any way 'the various denominational development funds' referred to by the Hon. Mr Griffin.

The few applications to the Commission for approval under the section have all been granted. Those approvals have been given on the basis that information basic to any decision to deposit should be provided in a written document which can include any other information which is not false or misleading.

The Bill authorises an association to enter into a scheme of compromise or arrangement with its creditors. This provision expands the range of insolvency administrators open to associations. The other type of scheme of arrangement under the corporations law is a scheme between a company and its members. This type of scheme is appropriate in cases of capital reconstruction in companies; it would affect members of a company in their capacity as members; and it is inappropriate to an incorporated association. This type of scheme has therefore been specifically excluded by the Bill.

The Hon. Mr Griffin has referred to the basis on which an application can be made to the court for the winding up of an association. An application can be made on the ground that a debt exceeding $1 000 has remained unpaid for 21 days following a written demand for payment. The Hon. Mr Griffin has suggested that $1 000 may be inappropriate in the case of small associations. There have been no complaints in respect of the few associations which have been wound up compulsorily under this provision. The question whether or not a debt is disputed is a matter for the court to decide, whether the alleged debtor is a company or an association.

In relation to clause 32, I consider that the final words of the clause are adequate. I agree that it would be appropriate if clause 39 made a reference to the commission in lieu of the Minister.

The provision for the public examination of officers is taken from company law. If the corporations law gives a discretion to decide whether the hearing is to be public or private the court should also decide in the case of an association. While I concede that some of the questions of a technical and drafting nature raised by the Hon. Mr Griffin have substance, the basic thrust of the Bill is moderate and necessary. There is nothing which places the burden of regulation where it should not be placed. The Government has sought and acted upon the views of the accounting bodies, the Law Society and the general public, as I have indicated, although I will in Committee provide more information on the consultation process raised by the Hon. Mr Gilfillan.

Magical things happen in this job from time to time. My briefing notes in relation to section 39d were as follows:

> I concede that proposed section 39d could extend to the auditor of an association in lieu of a registered company auditor.

That has now been changed to:

> Don't say what is there in section 39d, but instead say this: 'I do not consider any necessity for proposed section 39d to be extended specifically to auditors of associations.'

They are two differing points of view, but no doubt we can sort out that matter in the Committee stage.

The Hon. I. Gilfillan: There will be searching questions in the Committee stage.

The Hon. C.J. SUMNER: The Hon. Mr Gilfillan interjects by saying, 'There will be searching questions in the Committee stage.' Obviously the advisers have changed their view in relation to this matter, but that does not matter very much.

The Hon. K.T. Griffin: Yours is the view that counts.

The Hon. C.J. SUMNER: Not quite. The Hon. Mr Griffin's and the Hon. Mr Gilfillan's views are the ones that count in this Council, and in the final analysis we will resolve this matter during the Committee stage. If members have any amendments to put in relation to this issue, obviously we will consider them. I suspect there is some difference of view as to what is the appropriate response. I thank members for their contributions.

Bill read a second time.

STATUTES AMENDMENT AND REPEAL (PUBLIC OFFENCES) BILL

Adjourned debate on second reading.

(Continued from 26 November. Page 2255.)

The Hon. K.T. GRIFFIN: The Opposition indicates its support for the second reading of this Bill, which follows a public discussion paper entitled 'Discussion paper on offences of a public nature' released by the Attorney-General in October 1990. That paper suggested a range of offences identified in sections 237 to 266 of the Criminal Law Consolidation Act, some of which have been repealed without replacement, some of which should be repealed and replaced, some of which should be retained, and in relation to some of which there was still some doubt as to what course of action should be followed.

The public discussion paper was helpful in identifying the history of some of the offences that had been translated into the Criminal Law Consolidation Act or were still in force as a result of the development of the common law. However, there are in the Bill matters that are not, I would suggest, adequately addressed in the discussion paper, although there is a comprehensive examination of those issues in the Attorney's second reading explanation. I speak particularly of the offences of a public nature relating to public officers and public office where there is quite a significant change in the law replacing old offences that are akin to bribery and corruption. It is those on which I want to focus some attention during the course of this speech.

Part VII of the Criminal Law Consolidation Act deals with offences of a public nature that are repealed by this Bill in a major rewrite of this part. It repeals and amends other provisions of the Act, the Summary Offences Act, the Correctional Services Act and other Acts, and codifies a series of offences that deal essentially with four areas. The first offence relates to the impeding of the investigation of offences and the apprehension of offenders and escapees.

The second offence is against the administration of justice, including perjury, fabricating or concealing evidence and tampering with witnesses, jurors and judicial officers. The third offence deals with public corruption, including bribery, intimidation, extortion and abuse of public office, and the fourth is a miscellaneous group of offences including criminal defamation, offences in relation to industrial disputes, forcible entry onto land, riot, the conduct of public meetings and offences of interrupting religious worship and molesting preachers.

In some respects, the proposals in the Bill are controversial and potentially far-reaching in their consequences. I propose to deal with what I see as the main issues arising from a consideration of the Bill. I will deal first with those offences relating to the impeding of investigation of offences and assisting offenders. Specifically, the old offences of compounding and misprision of a felony are to be abolished. In essence, compounding an offence occurs where a person has brought action under a penal statute against another, compromises the action and withdraws it without the order or consent of a court.

Misprision of a felony occurs when a person knows that another person has committed a felony and conceals or procures the concealment of that felony. An example is where an employee embezzles money from his or her employer and the employer, becoming aware of such embezzlement by that employee, agrees not to report the matter to law enforcement authorities but compromises by accepting some restitution or dismisses the employee, or does both, and that is the end of the matter so far as both the employer and employee are concerned. The employee is then free to get another job and embezzle further money if so inclined, having got away with it on that first occasion.

I would suggest that, in the circumstances to which I have referred, the employer is committing an offence on the basis that where a breach of the criminal law occurs it should not be covered up. A similar situation may apply in relation to shoplifting, particularly where there is an agreement between a shopkeeper and the shoplifter not to pursue charges.

The second reading explanation gives as its reason for repealing these offences the interests of cost and expediency. It uses the encouragement of neighbourhood mediation, alternative disputes resolution and similar initiatives as the basis for saying that these avenues are more appropriate 'so that scarce criminal justice resources may be brought to bear on those cases which are thought to justify them'. It uses the conservation of scarce public justice resources and public expediency, and the interests of the victim and society as the reasons for no longer making it an offence to cover up a criminal act in the sorts of circumstances to which I have referred.

The Bill seeks to enact a new section 240 which provides that a person who, knowing or believing that another person has committed an offence, does an act with the intention of *(a)* impeding investigation of the offence, or *(b)* assisting the principal offender to escape apprehension or prosecution or to dispose of proceeds of the offence. In those circumstances, the person who does impede the investigation or assists the principal offender to escape apprehension or prosecution is guilty of an offence. The second reading explanation expresses the hope that this would avoid those situations where it might be in the so-called public interest not to proceed to court.

In his second reading explanation, the Attorney-General further stated:

> In many cases, some 'composition' between the offender and the victim to expiate the commission of what might be considered, on the face of it, a quite serious offence is in the public interest.
>
> The enforcement of the criminal law is now and will become a different thing from the days in which the predominant interest was in the vindication of a centralised public order system in a context in which that system relied upon private policing. The conservation of scarce public justice resources is an increasing influence, too; just as it is now recognised that, in a number of situations potentially involving the criminal law, the invocation of the full panoply of the criminal justice system will be counterproductive to a problem oriented resolution of the underlying causes of the behaviour involved.

He further states:

> It is clear that, on the one hand, there needs to be some way of making sure that any corrupt agreement between, say, a witness and an offender that the former will not testify against the latter for a price requires criminal sanctions. In some cases such an agreement savours of blackmail. On the other hand, the law should not punish acceptable informal dispute resolution in appropriate cases. The conservation of scarce public justice resources and, often, the interests of the victim and society demand that appropriate alternative dispute resolution mechanisms be encouraged, not prohibited, by the criminal law. The new offence has been phrased in a way which should not criminalise these agreements.

I take some significant exception to that expression of what I must take to be Government policy, because it equates civil dispute resolution with the enforcement of the criminal law and the maintenance of a standard of morality between citizens in so far as it relates to criminal action to a mere neighbourhood dispute. Although in many instances shoplifting might be regarded as relatively minor, I did express the view at the end of last year in this same session, when we were considering issues relating to summary offences, that shoplifting is a serious offence and, although the goods

stolen may be small in value, nevertheless the offence is serious because it is dishonestly depriving another person of his or her property, expecting to avoid detection. It does not matter whether it is a small or large item; I would suggest that the principle is the same. The criminal law and Governments should not be tolerating or even condoning that sort of behaviour.

In relation to the old offences of compounding and misprision, I know that there were occasions when employers, for example, did dismiss an employee on the basis that some restitution was made or even without restitution, and were pleased to be rid of the employee rather than having to go through an expensive court action, although the only expense in a criminal prosecution was the time involved in giving evidence, making statements to the police and attending court.

I would suggest that such expediency is not something that the criminal law or society ought to tolerate. I know that there are some minor cases of a trivial nature where the law enforcement authorities close their eyes to the technical breach of the law, the consequences are trivial and prosecutions do not necessarily continue. However, I think that it is a serious matter and a matter of grave concern when a Government adopts as policy an expediency approach to a wide range of criminal behaviour in the circumstances to which I have referred.

I do not believe that the old offences of misprision of felony or compounding (perhaps in a more modern form) should be abolished; that there ought not to be a focus on so-called alternative dispute resolution in relation to the criminal law, either in relation to these sorts of offences or any other. I suggest that what that can lead to is a total disrespect for the criminal law, which is intended to reflect contemporary morality in relation to relationships between citizens and the protection of the rights of citizens and their property, and can bring the law into contempt and may ultimately lead to more ills than benefits. If a person does pass a valueless cheque, embezzle money or if there is fraud involved in relation to an employer there ought to be an obligation for that to be reported to appropriate law enforcement authorities.

The Mitchell committee made some reference to this in its fourth report on the subject, by suggesting certainly the abolition of the old offence of compounding and misprision of a felony but provided that there was in its place a more specific provision modelled on the United Kingdom Criminal Law Act 1967 relating to accessories after the fact. Its recommendation, on the basis that the distinction between felonies and misdemeanors should be abolished, was that something along the lines of section 4 (1) of the United Kingdom Criminal Law Act should be enacted in the following terms:

> Where any person has committed an arrestable offence, any other person who, knowing or believing him to be guilty of the offence or of some other arrestable offence, does without lawful authority or reasonable excuse any act with intent to impede apprehension or prosecution shall be guilty of an offence.

The Mitchell committee recommended the enactment of that offence, but with certain qualifications, and those qualifications were expressed in the following terms:

> So far as the mental element is concerned we would substitute for the requirement of knowledge or belief the requirement of belief or recklessness thereto, in relation to the guilt of the person the defendant is charged with having assisted. The other part of the mental element, that the defendant act with intent to impede apprehension or prosecution, should be similarly expanded by the addition of 'or with recklessness thereto'. There is a question whether the expression 'any act' includes a deliberately misleading statement or even mere silence. In our view the offence should be drawn in such a way as to make clear that it includes a deliberately misleading statement but we see no necessity to cover silence also, regardless of whether the silence is in response to a question or not. Our reason for distinguishing between a deliberately misleading statement and mere silence is that the former is a definite act whereas the latter is not. It is possible for a person legitimately to wish to preserve silence without necessarily doing anything actively to mislead. This distinction we believe to be a real one and one which should be respected by the scope of the offence under discussion. The English section is limited to arrestable offences. This limitation is inappropriate in South Australia. In this jurisdiction at present a person may be arrested for any offence, a position which is not disturbed in principle by the recommendations made in the second report of this committee. The offence presently being recommended can therefore be of general application in its terms.

It then goes further in relation to other qualifications. The conclusion that I and the Liberal Party have reached is that there ought to be some accountability, that any act designed to resolve the issue of an offence by some form of alternative dispute resolution ought not to be approved and that something along the lines of the United Kingdom provisions (as expressed in the Mitchell committee's report), but with some broader application so that making an agreement is part of the deliberate act, I think would be appropriate.

I turn now to offences relating to jurors. New section 244 creates offences in relation to jurors, and those offences include such things as seeking to give benefits to a person who is to be a juror as a reward or inducement for not attending as a juror or for acting improperly. One of the recurring concerns, publicly I suggest, is the attempt to elicit information from jurors for publication. We have seen it only recently in the United States with two very public cases—the American trials of Kennedy-Smith and Tyson. They have demonstrated the pressure that can be on jurors who may be questioned and have their views published by the media and others.

In Australia the reporting of the Kennedy-Smith case and the views of the jurors were quite prominent, probably more prominent than in the Tyson case, but nevertheless reflected an inquisitiveness by the media that I personally believe to be inappropriate. We have seen it to some extent also in the recent Bjelke-Petersen jury trial in Queensland. Regardless of what one may think of Sir Joh Bjelke-Petersen, I think all persons would regard as undesirable the questioning and probing of jurors as to what went on in the jury room, what was the view of each juror in relation to the charge and who did what in the jury room in relation to either seeking to persuade others to a point of view or not reacting in a particular way.

I suggest that that behaviour, both in the American cases to which I have referred and in the Bjelke-Petersen case, is inappropriate and may well impose unreasonable and unnecessary pressure on jurors in the deliberations that they make in the secrecy of the jury room. If it becomes common practice in Australia to interview jurors and publish information, I suggest that it would be most intimidating for jurors and result in a breakdown in the jury system.

Advice is given to jurors in South Australia by trial judges that they should not disclose the discussions in the jury room, but there is no law which prevents them from doing that, nor is there any law which prevents the media from publishing that information.

When the Juries Act Amendment Bill was before Parliament in 1984 (that was at a time of very substantial revision of the Juries Act), we on this side of the Council sought to include an amendment that a person should not solicit from a juror any information as to the deliberations of the jury or any information as to whether a juror did or did not concur in a decision or verdict of a jury. The penalty we sought to impose at that time was a fine of $2 000 or imprisonment for three months. The amendment was not

successful, but I think there is now merit in reviewing that situation.

I refer particularly to what has happened in Victoria. In 1985 or 1986, three summary offences were created in Victoria relating to the publication of jury room proceedings, the soliciting or obtaining disclosures of jury room proceedings and provisions relating to a person who is or has been a juror disclosing jury room proceedings, and the penalty in each case was a financial penalty or imprisonment for three months or both. In New South Wales, amendments have been made to the Jury Act of 1977 to include sections 68a and 68b, providing for an offence in relation to the soliciting of information from, or harassment of, a juror or former juror for the purpose of obtaining information on the deliberations of a jury for inclusion in any material to be published or any matter to be broadcast.

That included opinions to be expressed, arguments advanced or votes cast by members of the jury. The second offence, in section 68b, provides that a juror should not, except with the consent or at the request of the judge or Coroner (because in that State there are Coroner's juries), wilfully disclose during the trial or inquest information on the deliberations of the jury to any person. I would propose that we take the opportunity in Committee to review the situation with jurors and amend it to make it an offence to publish details of jury room proceedings as well as to solicit that information.

I want now to turn to offences relating to public officers, and I would suggest that this is likely to be one of the more difficult areas of the Bill. The common law and the statute law already deal to a significant extent with bribery or corruption in relation to judges or judicial officers or public officers and the buying or selling of a public office. Those offences are all to be repealed, to be replaced by a series of provisions. I would suggest that some of those will or may have a significant bearing upon the work of members of Parliament and I want specifically to deal with some of the issues that are created by a quite significant redraft of those provisions.

While the heading to new section 246 is 'Bribery or corruption of public officers', the words 'bribery and corruption' do not occur in the substantive provisions of the Bill. I would suggest that the traditional way of setting the limits of the offences which might be committed by public officials has been to use the description 'corrupt', but the argument of the Attorney is that this adds nothing to the clarity of the offences concerned and contributes to the mystification of the courts and those who are concerned to look to the statutes in order to determine what is and what is not permissible behaviour. I would suggest that that does not necessarily follow by using the description 'corruption'. I think the very use of the word 'corruption' suggests illegality and is probably more widely understood than the word 'improper'. In fact, 'improper' has a number of innocuous meanings, as well as meanings which connote some criminality. 'Corruption' is quite obviously something which goes to the very heart of public behaviour.

The second reading explanation did not deal with the issue in a way that I believe adequately addresses the issue and makes it clear for those who may be dealing with this legislation as to what the limits of behaviour might be, even though the second reading speech states that something more in the way of guidance for the users of criminal law is required than the use of the description 'corrupt'. The basis for various offences relating to public officers and public office is a description of the behaviour as 'improper'. I think one should remember that 'public officer' includes, according to new section 237: a person appointed to public office by the Governor; a judicial officer; a member of Parliament; a person employed in the Public Service of the State; a member of the Police Force; any other officer or employee of the Crown; a member of a State instrumentality or of the governing body of a State instrumentality or an officer or employee of a State instrumentality; or a member of a local government body or an officer or employee of a local government body. So, it has very wide application.

What new section 238 seeks to do is to set some criterion by which impropriety may be determined. It leaves the issue to the courts by providing:

(1) . . . a public officer acts improperly, or a person acts improperly in relation to a public officer or public office, if the officer or person knowingly or recklessly acts contrary to the standards of propriety generally and reasonably expected by ordinary decent members of the community to be observed by public officers of the relevant kind, or by others in relation to public officers or public offices of the relevant kind.

(2) The determination of the standards referred to above is a question of law to be answered by judicial assessment of those standards and not by evidence of those standards.

I have some difficulty in comprehending what the standard is to be, and I am concerned that the determination of the standard is to be left to judicial assessment, presumably based not on evidence but upon submission by counsel. It is to be determined as a matter of law by the court. It may be that the court will also take into account its own experiences, its own knowledge and its own personal views as to what may or may not be an appropriate standard of propriety and what may be reasonably expected by ordinary, decent members of the community.

It may be that the Attorney-General in reply can allay some of my concerns about that broad description and about the way in which subsequent sections in division 4 may be framed. I am not suggesting, I hasten to say, that I condone any improper behaviour, but one has to remember that this Bill deals with the criminal law and imposes imprisonment for seven years maximum in a number of cases. In those circumstances, I would suggest that the statute does need to be drafted in clear terms so that a public official's behaviour can be clearly identified as either proper or improper, legal or illegal, and not be the subject of any damaging speculation or even threat where the behaviour is not within that category of improper.

I could suggest that the description of 'impropriety' in new section 238 really adds no more clarity to the law than the use of the word 'corrupt'. There is a defence under section 246 that there is lawful authority for the behaviour of the public officer or that the offence is trivial. That applies equally to other offences. New section 246 provides:

(1) A person who improperly gives, offers or agrees to give a benefit to a public officer or former public officer or to a third person as a reward or inducement for—

(a) an act done or to be done, or an omission made or to be made, by the public officer or former public officer in his or her official capacity;

or

(b) the exercise of power or influence that the public officer or former public officer has or had, or purports or purported to have, by virtue of his or her office,

is guilty of an offence.

'Benefit' is defined in new section 237 in relation to a public office, as follows:

. . . does not include a benefit that consists of remuneration or any perquisite or condition of appointment or employment properly attaching or incidental to the public office:.

I suppose what that can mean is that the situation which has arisen in Tasmania under its criminal code, where an offer was made to the Ombudsman (Mr Batt) prior to his appointment as Ombudsman to take up the office on the basis that he would not subsequently seek to be elected to

Parliament in the event of a vacancy, could not be at issue here.

Similarly, offering positions such as that of Speaker or Chairman of Committees or Chairman of a committee would not be improper behaviour in return for support by that person for a particular political Party. It would not be caught by that provision, although there are some who would regard that as improper in the whole context of public behaviour.

New section 247 deals with the situation where:

> . . . a person causes or procures or threatens or attempts to cause or procure any injury to a person or property—
>
> *(a)* with the intention of influencing the manner in which a public officer discharges or performs his or her official duties or functions;
>
> or
>
> *(b)* on account of anything said or done by a public officer in good faith in the discharge or performance or purported discharge or performance of his or her official duties or functions,.

My question in relation to that is whether the reference to 'causing an injury' is adequate or whether something additional should be included such as 'loss', because it is the causing or procuring or threatening the loss or injury, which might be not so immediate as injury to a person or property, that can equally cause concern.

New section 248 provides:

> A public officer who improperly—
>
> *(a)* exercises power or influence . . .
>
> *(c)* uses information that the public officer has gained by virtue of his or her public office,
>
> with the intention of—
>
> *(d)* securing a benefit for himself or herself or for another person;
>
> or
>
> *(e)* causing injury or detriment to another person,
>
> is guilty of an offence.

New section 249 deals with the demanding of a benefit by a public officer for himself or some third person. Section 250 deals with a public officer who improperly exercises power or influence that the public officer has with the intention of securing the appointment of a person to a public office or securing the transfer, retirement, resignation or dismissal of a person from public office.

Some of the questions arising under these sections throw doubt on a number of situations. One can envisage a Minister seeking to get rid of an employee who may have leaked information to another political Party with the intention that by leaking that information a detriment would be caused to the Government. The real question is whether that behaviour might be categorised as improper and thus attract the full force of the criminal law.

It may be that the information leaked deals with some important public issue and, whilst one may argue that there is some reasonable excuse for that, it does not necessarily follow where it may be, under Government management and employment rules, a breach of those rules and improper to have released that information.

What the Attorney-General said last year when he introduced this legislation—I think by way of press release—was that there would be protection for whistle-blowers. Unless I have missed something in my reading of the Bill, I suggest that it does not provide that protection.

The person in the circumstances to which I have referred could find himself or herself, if detected, in a situation of facing a criminal court. I suppose the situation could also arise where a member of Parliament may have some very valid criticism about the way in which a public servant has dealt with a constituent. The behaviour of the public servant is dubious. It may be that the member of Parliament takes some action to bring pressure to bear upon a Minister to ensure that the public servant is shifted or even dismissed, but there may be some argument about the factual situation. If a member of Parliament were to do that, it may be argued that the member of Parliament had reasonable excuse for the act, but if the demotion actually occurs one must question whether or not the behaviour was improper in all the circumstances. Some people might regard that as improper even though in the mind of the member of Parliament it was justified.

One must recognise also that in many instances persons in public office act in a way that might be prejudicial to particular individuals or to a Government in a way which others would argue would not as an end result be improper where some public benefit flows from it. I am not entering into a moral debate about that sort of behaviour, but I raise the question for consideration by the Attorney-General and his advisers whether in the way in which this legislation is drafted there is not a very real risk that behaviour which might be regarded as not being appropriate but which nevertheless is not improper might be caught by the legislation. It may be that it is better to revert to the use of a word such as 'corrupt' to import into the legislation the significance that ought to be placed upon these criminal acts. It may be that, as a result of the issues I have raised, there will be some amendments, but I prefer to leave open that possibility until it is considered by the Attorney-General.

I turn now to the aspect of criminal defamation. The Criminal Law Consolidation Act at present creates an offence of maliciously publishing any defamatory libel knowing it to be false. The Bill enacts a similar provision but provides for the proceedings not be commenced without the consent of the Attorney-General. There are mixed views about whether or not the Attorney-General ought to be in the position of approving or not approving the institution of these sorts of proceedings, but I point out that that provision is new to the Criminal Law Consolidation Act. I am not satisfied that it is justified. I hope that the Attorney-General will be able to explain in more detail why it is necessary for the Attorney-General to authorise such prosecutions. I would have thought that those provisions relating to criminal defamation already in the Criminal Law Consolidation Act have not created a problem in the past without any constraint on issuing proceedings such that no change ought to be necessary. Unless the Attorney-General is able to convince me otherwise I will propose that that additional provision relating to the authority of the Attorney-General be removed.

The Bill deals also with offences limited in relation to industrial disputes and restraint of trade. Under the present Criminal Law Consolidation Act, where two or more persons act in contemplation or furtherance of an industrial dispute as defined in the Industrial Relations (South Australia) Act 1972, that is not punishable as a conspiracy unless the act, if committed by one person, would be punishable as an indictable offence. That provision is continued in the Bill. One may have some reservations about it, but because it has been part of the law for some decades we will not seek to amend that provision.

The only matter in relation to new section 255 (1) to which I want to draw attention is that in the Criminal Law Consolidation Act that section relates to offences that would be punishable by imprisonment, but in the Bill it relates only to offences that would be punishable as an indictable offence. I suggest that that narrows the field quite considerably, and I would like the Attorney-General to indicate why we are not, in effect, maintaining the *status quo* in relation to the nature of those offences. New section 255 (2) provides that no person is liable to any punishment for

doing or conspiring to do an act on the ground that that act restrains or intends to restrain the free course of trade unless the act constitutes an offence against this Act.

The discussion paper does not deal effectively with this issue. All it says is that it also seems wise to maintain a legislative abolition of any common law or received offence dealing with the obstruction of free trade. I am not satisfied that that situation ought to be maintained and I reserve the Liberal Party's position on that matter. I would have thought that there is some good argument not to so maintain that legislative abolition of any common law or received offence dealing with the obstruction of free trade, because in our society we are moving more and more towards opening up opportunities and endeavouring to restrict those circumstances in which persons may be able to picket or otherwise to prevent law abiding citizens from going about their daily work and engaging in trade activities. That is an issue about which I will have something more to say in Committee.

The loitering provisions of the Bill relate to section 18 of the Summary Offences Act. That section is repealed and is replaced with a redrafted section which maintains the grounds upon which a person loitering in a public place may be moved on. Those grounds are where a member of the Police Force apprehends on reasonable grounds that:

(a) an offence has been or is about to be committed by that person or by one or more of the persons in the group in the vicinity;

(b) a breach of the peace has occurred, is occurring or is about to occur in the vicinity of that person;

(c) the movement of pedestrians or vehicular traffic is obstructed or is about to be obstructed by the presence of that person or group or of others in the vicinity; or

(d) the safety of a person in the vicinity is in danger.

That is in identical form to the present provisions of the Summary Offences Act. On previous occasions the Liberal Party has sought to give more certainty to this by providing that a police officer who gives the order to move on may require a person to move beyond a place within a one kilometre radius of where the person is loitering and for up to a particular period of time. Under the present law, that means not only that a person who moves on has to move up the street 100 metres or so but also that he or she can be moved out of the area. I would have thought that that was reasonable, and during the Committee stage we will seek to move an amendment which provides the one kilometre radius and for a period of up to eight hours.

Other matters are raised in the Bill which, to some extent, follow the discussion paper on these parts of the Criminal Law Consolidation Act. Section 242, which relates to the unlawful administration of oaths, is repealed. The discussion paper does not give a great deal of detail about this, but I ask the Attorney-General whether he is satisfied that there is adequate provision in the Oaths Act or some other law relating to the unlawful administration of oaths. If not, I may be inclined to move to include in the Bill some provision relating to that behaviour.

Old section 245 relating to persons who, being riotously assembled, unlawfully and with force prevent, hinder or obstruct the loading, unloading, sailing or navigating of any ship or other vessel is also deleted. I would have thought there was some good reason to retain that. Whilst it falls into the same group of offences as riotous assembly, nevertheless it seems to me that, because the unloading, sailing or navigating of any ship or other vessel is of significant importance to South Australia, unless there is some comparable offence in the law dealing with that behaviour, there is probably good argument for retaining something along the lines of section 245.

Section 249 is included in the part of the legislation relating to criminal defamation and relates to the publishing of parliamentary reports and the procedure by which a person who might be charged with criminal defamation in relation to the malicious publication of a report of proceedings of the Parliament can provide certificates to the court as to the proceedings in Parliament. Again, I am not sure why that has been deleted. It may be that, in the context of the whole area of criminal defamation, there is now no need for that. I ask the Attorney-General to address the reasons why such a provision is no longer needed.

Section 255 relates to lewd exposure in a public place. The discussion paper suggests that the Summary Offences Act contains offences which are apt to deal with the situation. It says that section 7 of the Summary Offences Act makes it an offence, punishable by a maximum penalty of $1 000 or imprisonment for three months, to behave in an offensive manner in a public place. Section 23 of the Act creates an offence with the same penalty if a person behaves in an indecent manner in a public place. The suggestion is that these offences are more than adequate to deal with the lewdness provisions of the Criminal Law Consolidation Act which largely deal with exposure of oneself in a public place where the penalty under the Criminal Law Consolidation Act is two years for a first offence and imprisonment not exceeding four years for subsequent offences. I would like further to explore that issue during the Committee stage of the Bill.

Section 256 relating to the wilful exposure of a person in a public place, where that person is suffering from a dangerous infectious disease, is removed. The discussion paper merely states that these matters should be and are better dealt with in the Health Act or its legislative equivalent, and gives as a footnote an example of infectious and notifiable diseases and infestations under Part 9A of the Public and Environmental Health Act 1987 with respect to tuberculosis. I would suggest that this is particularly relevant to those circumstances where a person who may be infected with a contagious disease embarks upon some criminal behaviour which in those circumstances may cause danger to other citizens. I suppose it is akin in some respects to the use of a syringe filled with what appears to be blood that is asserted to be infected and is thereby used as an instrument of persuasion.

Those are the major matters to which I want to give attention. There may be some other issues that we will raise during the course of the Committee consideration of the Bill, but I indicate support for the second reading.

The Hon. J.C. BURDETT secured the adjournment of the debate.

MOTOR VEHICLES (LICENCES AND DEMERIT POINTS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 13 February. Page 2743.)

The Hon. DIANA LAIDLAW: The Liberal Party supports the second reading of this Bill. It is an important measure to amend the Motor Vehicles Act to provide that drivers of heavy vehicles are licensed in a manner that is recognised across the nation. This Bill is part of the push by State and Federal Governments and the road transport industry for uniformity in the heavy vehicle sector of that industry.

This Bill also arises from the Federal Government's 10-point black spot program which was launched about 18 months ago to try to increase safety on our roads through

a number of funding measures. That program has been particularly controversial, and we have debated in this place blood alcohol concentration limits, lowering the general speed limit to 100 kilometres an hour and the compulsory wearing of bicycle helmets. All those matters are part of the 10-point black spot program, as is this Bill.

The Liberal Party believes very strongly that there is a need to enforce the policy of one person one licence, and under the new arrangements drivers of heavy vehicles will be able to hold only one driver's licence—and that will be the new magenta (purple) coloured licence. This new licence, which is already operating in Victoria, New South Wales and the Northern Territory, will distinguish between professional drivers and other drivers, prevent abuse of the drivers' licensing system and make Australian road transport safer by keeping disqualified drivers off the roads.

Many members will recall hearing of drivers who, having been picked up and losing their licence in one State after gathering sufficient demerit points, continue driving under a licence they have acquired in another State, no matter how hazardous they are on the roads or the number of offences they have accumulated in that other State. This is an unacceptable practice, and I am pleased that it is being addressed by this Bill and at a national level.

Another important aspect of this Bill is the introduction of a national points demerit scheme. This is not only a very important part of the 10-point black spot road funding package but also a critical part of ensuring greater safety among drivers of heavy vehicles in this State and nation. This Bill will affect not only drivers of heavy vehicles but all drivers. It is of interest to me, in terms of uniformity, that the Government has chosen to introduce a two-part demerit system, one part being national to comply with the requirements of the Federal Government and the other part being a State demerit system that includes a number of offences which this State has deemed to be necessary but which the rest of the nation has not seen fit to adopt.

One demerit point criterion that we believe important in this State concerns a person with a blood alcohol content between .05 per cent and .079 per cent. That was the only way that the majority of members were able to accept the lowering of the blood alcohol limit to .05 per cent in this State and, if we did not maintain a State demerit points system, we would have enormous trouble with respect to that .05 per cent blood alcohol limit.

I know that many people in the heavy vehicle transport industry in this State are quite agitated because we are moving towards uniformity yet we are not, because we are adopting a national demerit system and continuing to maintain a State system. It is confusing, and I appreciate their concerns. However, there is good reason why we should keep the .05 per cent blood alcohol limit for general motorists. The two demerit systems—national and State—are of additional concern to the drivers of heavy vehicles, because another Bill is before the Parliament to lower to zero (although effectively it will be enforced at .02 per cent) the blood alcohol limit of drivers of heavy vehicles.

I have received representations on this Bill from the Livestock Transport Association, the Country Transporters Association and the National Transport Federation highlighting this rather odd two-part demerits point system. I understand their concerns, but the Liberal Party does support this two-tiered measure.

I commend the Minister in the other place for accepting an important amendment, which was moved by the member for Eyre on behalf of the Liberal Party, to provide that, for farmers in particular, it was not compulsory to carry a driver's licence when journeying some 80 kilometres from their farm. We recognise that the Minister in Victoria, where national uniformity with respect to licensing measures was passed last year, accepted a similar amendment. The Victorian amendment, as with the South Australian amendment, was based on the standard that has been accepted for many years—that of not requiring a person travelling within 100 kilometres from their principal place of business in South Australia to carry their logbook.

The amendment moved in the Lower House confined this area to a radius of 80 kilometres on the basis that Victoria had passed such a limit. We have sought to keep some uniformity by conforming to what applies in Victoria, but we are distinguishing this State, as has Victoria, from the provisions in the Northern Territory and New South Wales which require all drivers at all times to carry their licence.

A great deal more work is to be undertaken with respect to the licensing of drivers of heavy vehicles. The National Road Transport Commission, in its issues and objectives paper which was released in January 1992, outlined how it wishes to address many issues in gaining uniformity in road safety provisions in the road transport industry. The commission itself was established following the Special Premiers Conference last May. One section of the issues and objectives paper which outlines the areas that the commission believes we will be addressing in future in terms of driver licensing procedures and law is as follows:

> The treatment of heavy vehicle drivers is, however, still far from consistent between jurisdictions.

That is following the implementation of the measures that we are discussing in this Bill. The paper continues as follows:

> To correct this, the commission, with the assistance of Austroads and others, will be seeking uniformity in the licensing process, particularly in the following areas: driver licence classifications; minimum age and experience requirements for different classes of vehicles; driver testing procedures; driver training curricula; driver medical fitness; and restriction, suspension and cancellation of licences.

I have held the position of shadow Minister of Transport for two years. I wish to commend the road transport industry for the growth that I have seen in that industry over that two-year period. The industry is now working as a much more united and responsible force in this State and our nation generally, and this is to the credit of all involved. It is a very diverse industry. I mentioned earlier just some of the associations in South Australia: the Country Carriers; Livestock Transporters; the South Australian Road Transport Association; the National Transport Federation; the Long Distance Drivers' Association; and the TWU, just to name a few. There are more associations in other States.

Almost all of those associations have combined in recent times under the umbrella of the National Road Transport Forum, and I was very delighted to meet with that forum when it held meetings in Adelaide last week. The Hon. Mr Dunn and the member for Custance also attended that meeting. We were all left with the impression of the growing maturity in the road transport industry, and the determination of the coordinators of the road transport forum to improve the image, safety standards and general performance of drivers and owners of heavy transport and also to impress upon those people who require road transport to deliver goods to be less exacting in terms of the time schedules that they insist upon in the delivery of goods from one State to another.

This issue of delivery and time is critical; it is imposing enormous pressures on drivers and companies involved as freight forwarders, and I would hope that, as part of the growing appreciation of the pressures under which the road

transport operators are conducting their business in this State, we can see more understanding developed by those who need to deliver their goods and allow the drivers sufficient time to deliver those goods without putting extraordinary pressure on drivers and posing a threat to others who are sharing the road at the time they are driving. The Liberal Party welcomes this Bill. Again, we are pleased that the Government in another place saw fit to support the amendments we moved and I believe that this measure will see enormous improvements on our roads in this State and nationally.

The Hon. PETER DUNN: What the Hon. Diana Laidlaw has said is quite so. I would like to add a few points and take up where she left off. As one who has used a lot of road transport in the past for the conveyance to market of the product that I grow, I have some confidence that what I have to say is correct. I am impressed with what the heavy road haulage industry is trying to do to clean up its act. It is now looking at having standards of its own for the licensing of its drivers so that those truckdrivers do not just drive the truck (they know the road rules, how to change gears in the truck and how to keep it on the left-hand side of the road) but they also look after the product on the truck, and know how it is loaded, how it is maintained and how it should be driven for its most efficient use. While I am on that subject, I can say that enormous advances have been made just recently in the efficiency of road transport and it is now approaching the efficiency of rail transport. It is not as efficient as rail transport but rail transport can never compete with road transport, because we just do not have the railways in Australia to do that.

What we have to do is to make this very important industry as clean and efficient as it can be. I am sure it is endeavouring to raise its image. It has been very fragmented in the past and drivers have been like rogue bulls. An odd one or two amongst them have given the whole industry a bad name. From my own point of view, the industry has been very good; on Eyre Peninsula its record is very good. Much of this image has a lot to do with interstate hauliers. It has been well-known in the past that many of them have created problems or broken the law in one State, lost their licence and then subsequently produced a licence from another State, or they have used a number of scams which have allowed them to continue in the industry. I am pleased to see that this Bill cleans that up. Perhaps it should have happened before this and perhaps if it had the industry would not have gained as bad a name as it now has.

I reiterate the importance of this industry. I understand that transport in this country is about 9 per cent of our gross domestic product. That is an enormous industry, if we think of it. I am a bit disappointed that more people are not here to join in this debate, because I think what we are doing here is something that has a great bearing on the productivity, well-being and wealth of this nation but, like many of these practical matters, they tend to get dismissed because everybody thinks, 'Well, that will happen and it is not terribly important, because we have talked about it for a long time.' However, it is very important.

I am very impressed with what the National Road Transport Association and the industry itself are doing to help the industry and I think it is because they have been communicating with the Federal Minister or with State Ministers, because they understand that previously their industry did not have the best image in the world. It is interesting to hear them say that they want their members to stick strictly to the speed limit, not to pop pills (amphetamines and so on) to keep themselves awake. They are really down on that now and this can only lead to much better safety. We have had a few accidents recently which involved trucks and which have had very high death rates attached to them. It may have had nothing to do with this Bill or what it will do, but this creates an image because they are horrific accidents when they happen. This creates an image which always gets into the press and so we all say, 'Oh, that damned trucking industry.' However, I again stress the importance of that trucking industry to the standard of living of us all and our ability to be competitive on the world market.

Mention has been made of the livestock industry. That is important, and I think that livestock will always be carted by the trucking industry—for a simple reason. I shall give the example of what happens if one carts stock from a long way out by rail. For instance, if one is on the Birdsville Track and wishes to load stock, one would take them to Leigh Creek to load them. First, we must remember that they are highly agitated animals, because they have come from areas where they have not seen many human beings. So, they are loaded onto a train and they are unloaded at Leigh Creek and loaded onto another train. They come to Port Augusta and are probably unloaded there because of the work practices applying to some of these trains, requiring stock to be watered within a certain time. So, they are unloaded at Port Augusta to be watered and fed and then loaded again. They are then unloaded at Gepps Cross and handled in the yards. By the time the meat gets onto the plate, it is more like hamburger because of the battering the cattle have had. However, if they are loaded into a truck and deposited straight to Gepps Cross (and that is what happens with 98 per cent of cattle today) they are loaded and unloaded only once, so there is much less stress on the animal. So, we receive a much more tender piece of beef on our plate than if the stock had been transported via the rail system. It is my opinion that the rail system has had its day.

The Hon. T. Crothers: You support the export of live sheep, do you?

The Hon. PETER DUNN: I certainly do, because that trade takes up a section of a product that we cannot sell in Australia. We have no use for it or do not want to use it, yet the people in the Middle East do.

The Hon. T. Crothers: What about the stress on the animals?

The Hon. PETER DUNN: The honourable member talks about the stress on sheep, but has he been down to look at the boats? Has he seen how the sheep are handled and programmed before they are put on the boats and how they are fed? I believe that the handling system is very sophisticated in terms of how they transport the sheep to the Middle East. They have now discovered that by putting them in relatively dark areas the sheep do not get stressed out to the same extent as previously. So now the ships are covered and the product arrives at its destination in a much better condition. That has little to do with this Bill, as we have digressed somewhat. However, I emphasise that the Bill is about demerit points. The Bill aggregates demerit points so that people in Queensland cannot break the law in that State without affecting their record in South Australia, Western Australia and New South Wales. This provision relates to interstate transport.

The case was put and an amendment made in another place allowing local people carrying produce to market over a short distance to do so without carrying their licence. That is the sensible provision. Carting wheat, grapes or livestock short distances is often a dirty job and one does not want to carry one's licence in those conditions. It would look like

a piece of toilet paper after about the first week if it was carried in one's hip pocket if one was wearing just a pair of shorts, as many people do during the hot period of the year. It is sensible that people can now have 24 hours to produce their licence within a radius of 80 kilometres. The fact is that people will carry their licences when they travel interstate because there is no way they can get back to South Australia from New South Wales within 24 hours and produce their licence at a police station for a reasonable cost. Therefore, people will carry them anyway. I do not believe that that matters, but it is important that they have one licence and one licence only.

I finish by saying that I hope we have seen the last of the blackmail that has occurred in some instances within the Federal Minister's department, for example, with the black spot program. I thought that was the greatest piece of blackmail and sleight of hand that I have seen for a long time. It relates to this industry. South Australia was told, for example, that we could have $12 million if we lowered the blood alcohol content from .08 to .05 and if we drove at 100 km/h. Who wears that? The people who wear it most are the people who live in the country, yet not one razoo has been spent in the country. It has all been spent in the city, which is where the black spots are located. That was one of the quickest and most clever sleight of hand tricks I have seen in a long time. In future if we are going to get grants under such conditions, I think as a State we ought to stand on our hind legs and say 'No'.

The Hon. Diana Laidlaw: The precedent has been set now.

The Hon. PETER DUNN: The precedent has been set, but that does not have to happen in the future. We should get our share of funding for those roads. I agree fully with what this Bill does: it makes a law that is common to the whole of Australia. We live in a Commonwealth and we are passing a common law. That is how it should be. In the future, I hope that Federal grants for road funding are common rather than it all finishing up in the Eastern States or perhaps Western Australia. I commend the Bill to the Council. It is a good Bill and I think it will go towards helping us run this country. It will raise the standard of living for everyone and we will all be better off as a result.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): In closing the debate I thank honourable members for their contributions. I am glad that there is clear bipartisan support for this legislation and I look forward to its speedy passage through the Council and its coming into operation as soon as possible.

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

TECHNICAL AND FURTHER EDUCATION (MISCELLANEOUS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. ANNE LEVY (Minister for the Arts and Cultural Heritage): 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.

Explanation of Bill

This Bill contains a number of amendments to the Technical and Further Education Act brought about by the continuation of the deregulation process related to certain private training institutions, the need to realise opportunities for increased and more effective use of the facilities of the Department of Employment and Technical and Further Education, and the need to respond to industry demands for a broader range of fee for service activities related to technical and further education beyond the provision of courses.

The Bill also reflects agreed changes in employment and makes a number of technical changes.

This Bill repeals the mandatory licensing provisions relating to certain private technical and further education providers to continue the deregulation process begun earlier this year when the relevant TAFE Regulations were revoked.

In these times it is important that private training providers can operate with a minimum of Government regulation. It is also important to realise that the safeguards administered by the Office of Fair Trading operate to control the activities of unscrupulous operators and to provide recourse mechanisms for consumers who may feel aggrieved by their treatment at the hands of unethical private training providers.

While these mandatory licensing provisions are to be repealed, it is possible that current Commonwealth-State negotiations regarding a national framework for recognition of training may lead to a voluntary registration scheme to allow competent and ethical training providers to receive proper recognition in a national tralning framework which may be established by legislative means.

The Bill proposes that the Minister be empowered to provide assistance to community bodies and in return obtain rights to enable colleges to share in the use of the assets of such community bodies.

It also allows better and more productive use to be made of departmental equipment, facilities or buildings without detracting from their main purpose. Provision is also made to formalise the involvement of TAFE students in realistic practical training by their participation with commercial or community bodies. The highly successful on-the-job training component of many TAFE courses, in which students spend some time with employers gaining hands on experience in a real working environment, is an example of this. Another application is the involvement of students in conjunction with their lecturers in providing assistance to community bodies, such as the manufacture of footwear for the Australian Drill Team or involvement as hospitality guides for the Australian Grand Prix. These activities provide invaluable experience for students and allow their lecturers to assess their competence under real life conditions.

The ability is also provided for staff of the Department of Employment and Technical and Further Education to provide consultancy and other services in which they are skilled and for the wealth of intellectual property developed within the department to be applied or sold to allow appropriate use by others. This department has an enviable reputation in the development of distance learning technology and materials, for example, and appropriate use of this by others increases the benefits of these developments and contributes to State revenue.

The section which suggests that collaboration may take place with certain bodies in relation to the provision of technical and further education courses is deleted as the bodies listed no longer exist. Appropriate coordination is established through mechanisms such as the Tertiary Education Act and a number of working arrangements with a large number of State and Commonwealth bodies.

The delegation powers of the Minister and the Chief Executive Officer are extended to facilitate efficient administrative operations.

One amendment allows formally established advisory committees to undertake other functions as assigned by the Minister. While extensive use is not foreseen for this provision, it provides a convenient option for increased responsibility to be given to an advisory committee if necessary.

The role of the Chief Executive Officer of the department is redefined to more properly reflect the management role of the most senior appointment within a large and complex organisation, the primary aim of which is the provision of technical and further education.

The people required to prepare TAFE students for their vast contribution to the working fabric of our society are primarily experts in practical fields who also have the ability to pass on their knowledge and skills to students, with pedagogical training provided for staff as necessary. The appointment section is amended to more appropriately reflect this situation. This section is also amended to include the broad role performed by TAFE staff in fields such as development of learning resources, educational administration, competency assessment and training consultancies.

Recognition is also included of the long-standing practice of some appointments being made on a part-time basis, either to

suit individual needs or because of a limited client group in certain areas.

More appropriate measures to provide for the termination of employment of officers appointed on a probationary basis rather than the current inappropriate disciplinary process required under the Act are included. Full appeal rights are included to ensure that a natural justice safeguard is provided.

The long service leave provisions will be amended to increase from six weeks to three months the period of any break for which continuity is granted between prescribed employment and service as an officer, as applies in the Public Service.

In addition, an anomaly with regard to the recognition of service in previous employment will be corrected.

The Act currently provides that college councils are established by the Minister, have their members appointed (apart from elected student and staff representatives) by the Minister, require ministerial consent to borrow money or deal with real property, may be abolished by the Minister if the relevant college to which they are attached has been closed and subsequently have their assets disposed of by the Minister. Councils operate as semi-government instrumentalities, and this situation is recognised by providing that they hold property on behalf of the Crown. This clarifies the ultimate ownership of council assets.

The borrowing power of college councils is amended by a requirement for Treasury approval to be given and to allow for administrative instructions relating to council borrowings to be issued by the Chief Executive Officer of the Department of Employment and Technical and Further Education.

The regulatory provisions relating to the conditions required of college councils before a guarantee can be given by the Treasurer in relation to a council loan have been varied to allow a more flexible approach depending on individual circumstances. Whereas currently a council is limited to borrowing no more than 50 per cent of a project's total cost and is required to deposit in cash a minimum of 50 per cent of the council's direct cost of the project with the Minister in order to secure a guarantee for a loan, the proposed amendments will allow a more suitable joint arrangement between a council and the Government if appropriate.

The Minister is authorised to make a loan to college councils under these amendments, rather than merely a grant as currently provided.

A new provision requires college councils to make financial reports annually to the Chief Executive Officer. This provision is already acted upon in spirit by councils, but it is prudent to establish the need for such returns within the legislation. Reports can also be sought as and when required if circumstances necessitate.

Concurrent with the proposal to formally recognise part-time employment within this Act is the inclusion of a provision to recognise the logical principle that part-time work attracts part-time pay. This principle has been recognised in an industrial agreement with the South Australian Institute of Teachers for some time, but it is proper that it should be contained in the legislation which provides the employment authority and basic employment conditions.

While legal advice suggests that the established practice contained in the industrial agreement removes the possibility of claims similar to those received by the Education Department prior to 1991, it is prudent to prevent the possibility of inappropriate claims by providing legislative recognition of the fundamental principle concerned.

Protection from offensive behaviour will be provided to a broader range of departmental employees and others and the range of people who may request persons to leave college premises is changed to provide greater safeguards for property and persons.

The regulation-making powers are amended by providing for the regulations dealing with fees, exemptions and refunds to allow more flexibility and to allow regulations to be made in relation to fees for services provided.

The Bill contains a number of other minor revisions and drafting reforms.

Clause 1 is formal.

Clause 2 provides for commencement on a day to be fixed by proclamation.

Clause 3 amends section 4 of the principal Act, which is an interpretation provision. A definition of 'Chief Executive Officer' is substituted for the existing definition of 'the Director-General'. 'Officer' is defined as an officer appointed under section 15 of the Act, while 'employee' is defined as a person employed under section 9. 'Council' is defined as a college council established under Part IV of the Act.

Clause 4 amends section 5 of the principal Act, abbreviating a reference to colleges of technical and further education and deleting an obsolete reference to colleges of advanced education.

Clause 5 amends section 6 of the principal Act. It removes a reference to 'the teaching service' from subsection (1) and repeals subsection (2). Subsection (2) currently lists a number of bodies that the Minister may collaborate with in determining courses of technical and further education.

Clause 6 repeals section 8 of the principal Act and substitutes a new section 8. Both the old and the new sections are delegation provisions which empower the Minister to delegate his or her powers under the Act to office-holders under the Act or in the department. The new section 8 changes a number of outmoded references and makes it clear that the Minister can specify conditions in the instrument of delegation. It also now empowers the Minister to delegate to the presiding member of an advisory committee established under section 10a.

Clause 7 amends section 9 of the principal Act. It abbreviates a number of references to colleges of technical and further education in subsections (1) to (4) of section 9 and clarifies an existing reference to the assets of a college.

This clause also repeals subsections (5) and (6) of section 9 and substitutes new subsections. The existing subsections empower the Minister to make premises and equipment available for technical and further education and employ persons for the proper administration of the Act. The new subsections are to similar effect, but new subsection (5) *(b)* also empowers the Minister to provide assistance to community bodies in return for the use by colleges of land, buildings, equipment or facilities belonging to those bodies. This addition is based on a similar provision in section 102a of the Education Act 1972.

This clause also inserts new subsections (8) and (9). New subsection (8) provides that where, in the opinion of the Minister, land, buildings, equipment, facilities or services used or provided for (or incidentally to) the provision of technical and further education can also be used or provided for commercial, community or other purposes without substantially detracting from the provision of technical and further education, the Minister can authorise their use or provision for those other purposes. The Minister can enter into a lease, licence, or other arrangement for that purpose. New subsection (9) empowers the Minister to undertake a number of activities related to the provision of technical and further education. The Minister can, in order to provide students with practical training and experience, establish or carry on a commercial, community or other enterprise or activity and can provide for the participation of students in such an enterprise or activity carried on by some other person or body. The Minister can also provide consultancy or other services in areas in which persons employed in the department or under the Act have expertise developed wholly or partly in the course of (or incidentally to) the provision of technical and further education. Where any intellectual property, product or process is created or developed wholly or partly in the course of (or incidentally to) the provision of technical and further education, the Minister can undertake or provide for the development or use of that property, product or process for commercial, community or other purposes.

Clause 8 amends section 10a of the principal Act. Section 10a provides for the appointment of advisory committees by the Minister to investigate and advise on aspects of technical and further education and matters affecting the administration of the Act. This amendment empowers such a committee to perform any other function assigned to the committee by the Minister.

Clause 9 repeals section 11 of the principal Act. Section 11 is an obsolete provision that deals with the continuation of the department. Clause 9 also substitutes sections 12, 13 and 14 of the principal Act. The existing section 12 sets out the duties of the Director-General (now Chief Executive Officer) of the department. The new section 12 is in similar terms but makes it clear that the Chief Executive Officer of the department is responsible for maintaining a proper standard of efficiency and competency among employees appointed under section 9 of the Act as well as officers appointed under section 15. It also requires the Chief Executive Officer to be responsible for the efficient and effective management of those officers and employees and for ensuring that available resources are managed so as to obtain the highest practicable standards of instruction, training, facilities and services for students enrolled in courses under the Act. These responsibilities are expressed to be in addition to those of the Chief Executive Officer in respect of the department.

Section 13 of the principal Act empowers the Director-General (now Chief Executive Officer) to delegate his or her powers or functions under the Act to officers or employees in the department or appointed under the Act. The new section 13 makes it clear that any such delegation can be made subject to written conditions and it now also empowers the Chief Executive Officer to delegate to the presiding member of an advisory committee established under section 10a.

Section 14 of the principal Act requires the Director-General (now Chief Executive Officer) to submit a report on the administration of the department each calendar year, which is to be tabled in both Houses of Parliament by the Minister as soon as

practicable after its receipt. The new section 14 requires the report to be presented to the Minister on or before 31 March each year and specifies that the report is to deal with the operation of the colleges as well as of the department. It must be tabled by the Minister within six sitting days of its receipt.

Clause 10 substitutes new headings to Part III and Division I of Part III of the principal Act.

Clause 11 amends section 15 of the principal Act. Section 15 deals with the appointment of teachers under the Act. This clause removes references to 'the teaching service' and specifies that appointments under the section can be made on a part-time basis. The existing provision in section 15 (3) that the first appointment of an officer under the section may be made on probation is amended to permit any appointment under the section to be made on probation. It is made clear that the existing requirement that officers may only be 'dismissed' or 'retired' in accordance with the Act applies also to the 'retrenchment' of officers under section 16 of the Act and the 'termination of appointment' of officers on probation under new section 15a.

Clause 12 substitutes a new heading to Division II of Part III of the principal Act.

Clause 13 inserts a new section, section 15a, into the principal Act. New section 15a provides that the Minister may (by written determination) at any time terminate the appointment of an officer who is on probation.

Clause 14 amends section 16 of the principal Act (which deals with the retrenchment of officers) by removing a number of references to 'the teaching service' and by deleting subsections (3) and (4). Subsections (3) and (4) deal with appeals to the Appeal Board against retrenchment. These appeals are now provided for (in the same terms) by a general appeal provision, new section 17a (inserted by clause 16).

Clause 15 amends section 17 of the principal Act (which deals with retirement or transfer on the grounds of physical or mental incapacity) by removing references to 'the teaching service', substituting 'Chief Executive Officer' for 'the Director-General' and deleting subsections (6) and (7). Subsections (6) and (7) make provision for appeals against decisions made under section 17. Such appeals are now provided for (in the same terms) by a general appeal provision, new section 17a (inserted by clause 16).

Clause 16 inserts a new section, section 17a, into the principal Act. New section 17a consolidates sections 16 (3) and (4) and 17 (6) and (7) into one section. It provides that an officer may appeal against a decision (made under section 15a, 16 or 17) to terminate the officer's appointment (or retrench, transfer or retire the officer) within 14 days of receiving notice of that decision. The appeal is to the Teachers Appeal Board established under the Education Act 1972. The Appeal Board can revoke the decision and, where effect has already been given to the decision, can order that the officer be reinstated as if no such decision had been made.

Clause 17 amends section 20 of the principal Act by substituting 'Chief Executive Officer' for existing references to 'the Director-General'.

Clause 18 amends section 21 of the principal Act by removing a reference to 'the teaching service'.

Clause 19 repeals sections 22, 23 and 24 of the principal Act and substitutes new sections 22, 23 and 24.

Section 22 of the principal Act provides that where an officer's service is brought to an end otherwise than by resignation or dismissal for misconduct, and that officer is subsequently re-employed as an officer within two years of that interruption in service (or within a longer period if the Minister allows), that prior service is to be taken into account for the purposes of determining long service leave under the Act as if there had been no interruption. Where the prior service was interrupted by retirement on the ground of invalidity, the interruption is to be ignored regardless of the length of the interruption. However, section 22 does provide that where any long service leave (or payment in lieu) has been granted, the period of service to which that leave relates is not to be taken into account in determining entitlement to long service leave. New section 22 is to the same effect as the existing section, but it makes it clear that where long service leave has been granted (or payment made in lieu) only the amount of long service leave to which the officer is entitled is reduced, not the period to be taken into account in determining entitlement to long service leave.

Section 23 of the principal Act provides that where an officer is transferred to any other State Government employment, and that employment is continuous with his or her employment under the Act, his or her service as an officer must be taken into account in determining the long service leave to which he or she is entitled in that new employment. However, any service as an officer for which long service leave has been granted (or payment made in lieu) is not to be taken into account for that purpose. New section 24 replaces section 23 and is to similar effect, but makes it clear that where long service leave has been granted (or payment made in lieu) only the amount of leave to which the officer is entitled should be reduced, not the period to be taken into account in determining entitlement to long service leave.

Section 24 of the principal Act provides that where a person who has previously been employed in public service (or other approved) employment is appointed as an officer under the Act, and the interval between ending that public service employment and taking up service as an officer is not more than six weeks (or such longer period as the Minister permits), then that previous employment is to be treated as employment under the Act for the purpose of determining long service leave entitlement under the Act. However, any period of service for which long service leave has already been granted (or payment made in lieu) is not to be taken into account for that purpose. New section 23 replaces section 24 and is to similar effect, but it makes it clear that where long service leave has already been granted (or payment made in lieu), only the amount of leave to which the officer is entitled is reduced, not the period of service to be taken into account in determining entitlement to long service leave. New section 23 also increases the period of interruption that is automatically permissible from six weeks to three months.

Clause 20 amends section 25 of the principal Act, which deals with the retirement of officers. It deletes two subsections, (1a) and (2), that no longer have any effect.

Clause 21 amends section 26 of the principal Act by removing references to 'the teaching service' and substituting 'Chief Executive Officer' for 'the Director-General'.

Clause 22 amends section 27 of the principal Act by substituting 'Chief Executive Officer' for existing references to 'the Director-General'.

Clause 23 amends section 28 of the principal Act by abbreviating references to 'colleges'.

Clause 24 amends section 29 of the principal Act by updating the language and inserting new subsection (1) *(d)* which provides that college councils incorporated under section 29 hold their property on behalf of the Crown.

Clause 25 repeals sections 30 and 31 of the principal Act and substitutes new sections 30 and 31.

Section 30 empowers college councils to borrow money for the purposes of erecting buildings or providing facilities for the college. The money may only be borrowed from a bank carrying on business in South Australia and the approval of the Minister is required. Section 30 also empowers the Treasurer to guarantee the repayment of a loan made to a college council under this section. This power of guarantee is only available where the loan for which the guarantee is sought does not exceed half of the cost of the building or facilities and the council has raised (and deposited with the Minister) half of the amount necessary for the building or facilities. It is also subject to various other restrictions set out in subsections (3) and (6). The council is required to provide the Minister and the Treasurer with such information as to the loan and its purposes as they may request. New section 30 provides college councils with a different borrowing power. Under this new section, councils may borrow money from any person (rather than just from a bank) for the purposes of erecting buildings or providing equipment or facilities. However, any such borrowing may only be undertaken with the approval of the Treasurer (rather than the Minister) and in accordance with any administrative instructions issued by the Chief Executive Officer under this section. The Chief Executive Officer is empowered to issue, vary and revoke such instructions. Councils are required to supply the Minister, the Treasurer or the Chief Executive Officer with such information relating to a loan or its purposes as may be required. No provision is made in this section for the guarantee of loans by the Treasurer. Authority for the Treasurer to guarantee such loans could be brought into operation under the Public Finance and Audit Act 1987 sections 17 to 20.

Section 31 of the principal Act empowers the Minister to make grants to college councils. New section 31 continues that power to make grants but also empowers the Minister to make loans to college councils on such terms and conditions as he or she thinks fit.

Clause 26 amends section 32 of the principal Act by substituting 'Chief Executive Officer' for 'the Director-General' and abbreviating references to college councils.

Clause 27 inserts a new section, section 32a, into the principal Act. New section 32a requires college councils to provide the Chief Executive Officer at the beginning of each calendar year with a return relating to their financial position. The return must specify the money received or spent by the council during the preceding calendar year, the money currently held or owed by the council and such other information as the Chief Executive Officer may require. The Chief Executive Officer is empowered to request (by written notice) a further or fuller return.

Clause 28 repeals Part V of the principal Act. Part V regulates the licensing of prescribed schools or institutions to provide prescribed courses of academic, vocational or practical instruction or training.

Clause 29 repeals section 40 of the principal Act and substitutes three new sections, sections 39a, 40 and 40a.

New section 39a deals with the rate of remuneration for officers employed under the Act on a part-time basis. It provides that where an officer is employed on the basis that he or she will work in any pay period a specified percentage of the time ordinarily expected of a full-time officer, the rate of remuneration applicable to the officer (including any allowances) is that same percentage applied to the rate of remuneration applicable if he or she were employed full time. As far as salary is concerned, that is the case notwithstanding any Act, law, contract, award or industrial agreement to the contrary. But in the case of an allowance the rule gives way to any express provision in a contract of employment, award or industrial agreement for payment of the full allowance. The rule applies regardless of the number of working days (and the period worked in any one day) over which the officer performs the required amount of work in a pay period. It also applies to any past or present entitlement to remuneration, whether it arose before or arises after the commencement of this new section. However, the section does not affect the payment in full of an allowance to a part-time officer if the payment was made before the commencement of the section or is made after commencement in respect of an allowance that was being paid in full immediately prior to that commencement.

New section 40 makes it an offence for a person who is on college premises without lawful authority not to leave the premises if lawfully requested to do so. This is currently an offence under the regulations (Technical and Further Education Regulations 1976, regulation 7). A request is lawful only if made by an officer or employee appointed under the Act or employed in the department, a college council member, a person engaged by the Minister for the protection of college property or another person authorised by the Chief Executive Officer and if the offender is advised of the authority of the person making the request. The Chief Executive Officer is empowered to certify, for the purposes of legal proceedings for an offence against the Act, that a specified person was at a given time authorised to request persons to leave college premises. Such a certificate must be accepted as proof of that authority in the absence of proof to the contrary.

New section 40a replaces section 40 of the principal Act, which makes it an offence to behave in an insulting manner to an officer acting in the course of his or her duties. New section 40a expands the range of people protected by this offence. Under new section 40a it is an offence to behave in an offensive or insulting manner to an officer or employee appointed under the Act or employed in the department or to a person referred to in section 40 (for example, a college council member or security officer) who is exercising the power under that section to request persons to leave college premises.

Clause 30 repeals section 42 of the principal Act. Section 42 requires money needed for the purposes of the Act to be paid out of money provided by Parliament for that purpose. Provisions of this kind are no longer normally included in legislation of this type and this section is now arguably inconsistent with the provisions of the later Public Finance and Audit Act 1987.

Clause 31 amends section 43 of the principal Act, a regulation making power. It removes references to 'the teaching service', substitutes 'Chief Executive Officer' for 'the Director-General' and abbreviates references to colleges. It strikes out the current power to make fees by regulation in relation to instruction, training or materials provided to students (section 43 (2) *(da)*) and substitutes a power to prescribe fees for the instruction, training or assessment of students; the assessment and certification of qualifications (whether or not relating to instruction or training under the Act); and the use of land, buildings, equipment, facilities or services provided under the Act (clause 31 *(f)*). These fees can be differential fees (new section 43 (2a), inserted by clause 31 *(g)*) and the regulations can regulate the payment of a fee, provide for exemptions or refunds and provide for the recovery of fees. As under the present Act (section 43 (2) *(da)*), the regulations can also empower the Minister or some other person or body to fix these fees. Clause 31 also makes several consequential amendments. It removes the power to make regulations prohibiting trespass on college grounds (section 43 (2) *(i)*) since new section 40 places a trespass offence in the Act. It also strikes out that part of the regulation-making power (section 43 (2) *(m)*) that relates to Part V of the principal Act, which is repealed by clause 28.

The schedule to the principal Act makes a number of statute law revision amendments of a non-substantive nature.

The Hon. R.I. LUCAS secured the adjournment of the debate.

ADJOURNMENT

At 6.8 p.m. the Council adjourned until Wednesday 19 February at 2.15 p.m.