LEGISLATIVE COUNCIL

Thursday 14 October 1993

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

OMBUDSMAN'S REPORT

The **PRESIDENT** laid on the table the Ombudsman's Report 1992-93.

QUESTION TIME

TEACHERS AWARD

The Hon. R.I. LUCAS: I seek leave to make an explanation before asking the Minister representing the Minister of Education, Employment and Training a question about teacher award negotiations.

Leave granted.

The Hon. R.I. LUCAS: On 13 September this year Cabinet considered a confidential submission jointly signed by the Minister of Education, Employment and Training, Ms Lenehan, and the Minister of Labour Relations and Occupational Health and Safety, Mr Gregory, on the issue of teacher award negotiations. That submission highlighted considerable concern within the Department of Labour about the huge costs of agreeing to all the union demands currently being discussed in the Government-union negotiations on teacher awards. For example, section 5 of that Cabinet submission, under the heading 'Costs', states:

> Anticipated revenue implication is in the order of $42.1 million.

Section 4 of this Cabinet submission outlines a number of options, and the submission recommends the essentially revenue neutral option entitled 'Option 2' which excludes significant sections of the union demands.

My sources within Cabinet have informed me that Cabinet at its meeting on 13 September deferred making a decision on the submission from Ms Lenehan and Mr Gregory until further information was made available to other Cabinet members. Since that meeting there has still been no public statement by the Minister of Education, Employment and Training on this issue which has been reported anywhere in the press or media. My question to the Minister is: has the Cabinet made a decision on this submission; and, if so, did Cabinet agree to option 2 as outlined in that confidential Cabinet submission?

The Hon. ANNE LEVY: I think it most unlikely that information about Cabinet discussions would be provided. As the honourable member knows, Cabinet discussions are confidential, as are Cabinet papers, under the Freedom of Information Act. However, I will refer the question to my colleague in another place and bring back a reply.

BENCHMARKING SURVEY

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Attorney-General a question about a benchmarking survey.

Leave granted.

The Hon. K.T. GRIFFIN: I have been provided with a brief to undertake a benchmarking survey in the South Australian public sector. This quite obviously relates to the issue of public sector reform. The proposal is to undertake a benchmarking study within the South Australian public sector that will include the key areas of human resources, financial management and information technology with an option of extending the process to customer services. The brief outlines the objectives of the study as follows:

- to identify areas of strengths and weaknesses of each organisation, and where major gaps exist in the allocation of resources compared to practices from a range of industries.
- provide information on the relative standing of the agency against other organisations on important indicators in each of the four categories listed above.
- provide information on the major cost drivers within each category and the respective agencies.
- provide a set of baseline data from which to measure future performance, particularly as amalgamations take full effect.
- to provide data to each chief executive officer in a form that will assist them in their strategic decision making regarding the formation of new corporate service structures.

According to the brief, some 22 of the constituent departments involved in the amalgamation are to participate in the public sector study. The consultancy which is to be let in accordance with this brief requires the consultant to do a number of things: to develop a process to identify and collect relevant data; and to validate all data and store it based on a computer database, which is to be made available to the South Australian public sector at the completion of the study. It makes the point that data accessibility will be paramount.

The consultant will be required to compare data with a wide cross-section of other benchmarking best practice studies carried out elsewhere and identify and report on the examples of best practice that have been recognised by their independent peers; to compare the findings of the surveys across a range of other organisations, including constituent agencies of newly amalgamated departments in the public sector, across the whole of the public sector, across similar industries and across other industry sectors, both private and public; to present quantitative outcomes in a clear and understandable format; and finally to ensure that the identity of the data collected from individual agencies remains confidential to the South Australian public sector.

The timing of the study according to the brief is that the consultancy will be let by 24 September 1993 with the data collection commencing shortly thereafter—early October 1993—and the results of the study to be available no later than the end of December 1993. In the context of that brief to a consultant, my questions to the Attorney-General are:

1. Can he inform the Council whether or not the consultancy has yet been let? If it has been let, can he indicate to whom the consultancy has been let, at what cost the consultancy is to be undertaken and the reporting date? If the consultancy has not yet been let, can he indicate by what date it is expected to be let?

2. Can he indicate why there is a requirement in the brief that the consultant should ensure that the identity of the data collected from individual agencies remains confidential to the South Australian public sector when I would have thought that the whole object of benchmarking was to set some standards and then, at least in the public sector, to have agencies measurable against those benchmarking standards?

The Hon. C.J. SUMNER: This is an important project as part of the program of public sector reform which has been referred to earlier, that is, to ensure that the South Australian

public sector is up with the best standards within Australia and, indeed, internationally.

As far as I am aware, the South Australian Government initiatives in this context are ahead of most other States in Australia except perhaps New South Wales, but we are very much in the forefront of initiatives in this area. The honourable member will be aware that, when the public sector reform program was announced, one of its key elements was to ensure that we had a Public Service that was as effective and efficient as possible compared with other public and private sector organisations. That process has been going on, as the honourable member knows, with the original document 'The Bias for Yes for the Development of Citizens Charters' and now this benchmark study in corporate and customer services.

The honourable member has outlined the process, and I intend to make a further statement about this matter in the Council next week. The consultancy has, I believe, been let—or is almost in the process of being let. I do not know the exact timetable. I think the documents have been signed, but I can check on that—if they have not been they are about to be. I will obtain information on the cost and a reporting date and any information relating to the confidentiality issue raised by the honourable member.

The Hon. K.T. Griffin: And the person or group to whom you send that?

The Hon. C.J. SUMNER: Yes.

BICYCLES

The Hon. DIANA LAIDLAW: I seek leave to make an explanation before asking the Minister of Transport Development a question about bicycle riding on footpaths.

Leave granted.

The Hon. DIANA LAIDLAW: In February this year, the Liberal Party supported Government legislation providing for the shared use of designated paths and bikeways by pedal cyclists and pedestrians. In South Australia, bicycle riding on all other footpaths is not permitted under the Road Traffic Act. Recently, I received a copy of a paper entitled 'Uniform National Guidelines on Footpath Sharing for Bicycle Riders'. These guidelines apply to the shared use of all footpaths, not just designated bikeways.

The paper features draft national guidelines for footpath sharing which are to be discussed at a meeting in Adelaide next month convened by the Federal Office of Road Safety. The paper recommends that pedestrians using footpaths should keep as far to the left as practicable, not block the footpath and look out for bicycle riders. A number of older people have contacted my office protesting at the possibility of having to be on constant alert for a cyclist flying past while they are walking on a footpath. They say that cyclists on footpaths would be scary and at odds with campaigns, such as campaigns that are being held in the current Seniors Week, to encourage them to walk every day for fitness and pleasure.

I am aware that the Council of Pensioner and Retired Persons Association in South Australia (representing over 300 000 older South Australians) is about to launch a campaign to lobby against the introduction of any move to legalise pedal cycling on footpaths. Meanwhile, the Shire of Nunawading in Victoria has just completed a trial of cycling on footpaths. The CEO, Mr Geoff Olton, advises that the shire will not be legalising pedal cycling on footpaths because of strong objections from elderly pedestrians and the antics of male cyclists in the 15 to 18 year age group. Apparently, Shepparton and Bulla Shires in Victoria have extended their trials. I ask the Minister:

1. As I am aware that a representative of the Bicycle Planning Unit of the Department of Road Transport has attended meetings in relation to the preparation of the draft national guidelines on footpath sharing for bicycle riders, has the Government determined whether or not it will endorse these guidelines?

2. Will she give an undertaking that no move will be made to legalise bicycle riding on footpaths until a trial has been undertaken to determine the community's response to this initiative, or at least until other permanent bicycle facilities have been provided, such as designated shared use bicycle paths or on-road bike lanes, as we discussed earlier this year in this place?

The Hon. BARBARA WIESE: I have no idea what input the officer from the Department of Road Transport has had into the discussions on this matter at the national level. He has certainly not put to me any ideas for endorsement; therefore, any views that may have been expressed either for or against such a proposition are his views and not necessarily those of the Government. However, as to the general issue of riding on footpaths, the sentiment which I expressed earlier this year and which was largely reflected in the legislation that I introduced is a sentiment that I still hold, that is, that some serious problems have to be discussed before any move is made to allow bicycles to share footpaths with pedestrians in all areas.

The move we made earlier this year to provide for the designation of some footpaths in council areas for shared use was very much in response to the concern that we know exists within the community, particularly amongst elderly people, that they should be able to use footpaths as pedestrians without being in danger of being bowled over or frightened by passing cyclists. The step that we took to allow for the designation of shared use was based very much on the view that some footpaths and not others are appropriate for shared use, and the criteria that we discussed at the time were based very much on choosing footpaths where the least amount of conflict was likely, where fewer rather than more obstacles or access points would cause problems for both cyclists and pedestrians. So, I recognise that this is a vexed question.

Of course, on the other side of the argument, many parents, for example, would prefer that their children are allowed to ride on footpaths rather than having to do battle with cars on the roads. So, trying to strike a balance between the needs and the safety issues for various parties who want access to footpaths is not an easy task, and I would certainly be very reluctant to move down the path of some sort of open-slather policy that would allow for the riding of bicycles on all footpaths, regardless of the dangers involved. I will be interested to look at the report to which the honourable member referred, and I can certainly give her an undertaking that I have no intention of introducing measures that would allow for shared use in all respects in any location without very careful consideration, community consultation and, possibly, trials.

RENTAL LEGISLATION

The Hon. I. GILFILLAN: I seek leave to make an explanation before asking the Attorney-General a question about the review of legislation controlling landlords and tenants.

Leave granted.

The Hon. I. GILFILLAN: With small business in South Australia already reeling under the effects of the recession, it has been brought to my attention that there is great concern about uncontrolled rent hikes placing these businesses under even greater strain. Just last week, the Small Retailers Association, in a letter to the *Advertiser*, spoke of handling almost daily desperate requests for help as tenants face rent increases of up to 71 per cent—rises which the association says would cost jobs and destroy the viability of businesses that people have worked countless hours to develop with their own money.

My attention has been drawn to a specific instance of what would seem to be ruthless bullying and intimidation by a landlord against small business tenants. The West Lakes Mall, operated jointly by Westfield and T&G/National Mutual, has a mix of large department stores as well as specialty shops operated by small business people. These small retailers are being hit with huge rent hikes which have been arbitrarily decided by Westfield and which discriminate against them in relation to the larger stores. For example, one tenant is being charged $800 per square metre per annum, while John Martins, the major department store, is estimated to be paying around $150 per square metre per annum. The discrimination becomes a double impost for struggling businesses because the amount of rent paid determines their share of council and E&WS rates.

What I find even more disturbing from the information given to me is that the small businesses are being intimidated by Westfield. Eighteen months ago about 50 small businesses in the West Lakes Mall formed an association to negotiate as a group with Westfield on rents and other matters. It was told in no uncertain terms that Westfield did not recognise the association and would only deal with businesses individually. Since then, small business people have been confronted with rent hikes of up to 34 per cent. While they may subsequently have negotiated a lower increase, once a deal is done, they have to agree to a non-disclosure clause which effectively gags them. There is a real climate of fear among small tenants which prevents them from speaking out about what appear to be clear abuses of the Landlord and Tenant Act. Small business is crying out for a review of this Act and its proper policing.

My question to the Attorney-General is: taking these circumstances into consideration will he give an immediate undertaking on behalf of himself and the Government that such a review of the Landlord and Tenant Act will be implemented?

The Hon. ANNE LEVY: I rise to respond to the honourable member's question as this is a matter for the Minister of Consumer Affairs, not the Attorney-General. The Landlord and Tenant Act is committed to me for its administration. I sympathise very much with some of the problems which the honourable member has raised. There have been a number of small business people who have contacted the Department of Consumer Affairs on matters relating to rents and conditions in their leases. I am not aware of any specifically from Westfield shopping centre, but they may have made contact with the department. If not, I would certainly encourage them to do so.

The whole question of landlords and tenants is, of course, regulated by the Act and either landlords or tenants, of course, do have access to the Commercial Tribunal. The Commercial Tribunal does have power to consider terms and conditions of leases, and under the terms of the Act, where felt appropriate, it has the ability to vary these. I do not want to comment on any individual cases without knowing the details of them, but I would certainly urge people in this situation to make contact with Consumer Affairs or with the Registrar of the Commercial Tribunal to see what assistance can be made available to them.

With regard to the Landlord and Tenant Act there have been discussions regarding a review of the Act. Certainly, it is intended to undertake a review along with the Residential Tenancies Act, which is a related but not identical one, of course, but which deals with related matters. Discussions have been occurring with interested parties, including the Small Business Association, the Retail Traders Association and obviously a large number of interested groups such as the Consumers Association.

I believe that the bulk of the review is expected to take place next year and, certainly, no final report or recommendations have been presented to me at this time. It may not be of great assistance to these individuals to know that a review is taking place, but I can assure the honourable member that we are aware of the problems and are prepared to do whatever is within our power to assist these people.

The Hon. I. GILFILLAN: I would like to ask a supplementary question. I apologise to the Minister for not having been aware: I should have investigated that, and I appreciate her answer, which I find helpful. It appears to me that individual small tenants are fearful of approaching in any public way because they are fearful of some form of retribution. I am not asking the Minister to make a judgment in specific terms but, from the evidence I put to the Council in my question, does she believe that there is an infringement of the current Landlord and Tenants Act?

The Hon. ANNE LEVY: I find that absolutely impossible to answer. First, I am not a lawyer; secondly, it is a matter for the tribunal to determine; and, thirdly, I am not aware of the fine details of the cases to which the honourable member refers. Apart from that, I think it is against Standing Orders to give hypothetical answers or to ask hypothetical questions.

ENGINEERING AND WATER SUPPLY DEPARTMENT

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Attorney-General, in his capacity as Leader of the Government or representing the Minister of Public Sector Reform, a question about the E&WS computer.

Leave granted.

The Hon. L.H. DAVIS: Fifteen months ago, the State Government approved a $39 million computer system for the Engineering and Water Supply Department and Tandem was the successful tenderer. This system was meant to replace totally the existing computer infrastructure of E&WS. However, there was public criticism of the decision at the time, including adverse comments from employees within E&WS. Their worst fears have been realised. I am told by very good sources that this project is already 10 months behind schedule and there are claims that it could run at least $20 million over budget.

Well-informed sources say that the $40 million estimate for the computer system will blow out to at least $60 million and, instead of being ready in February 1994, it will be lucky to be operational by the end of 1994. What is alarming is that it is already well behind schedule very early in the development cycle. Most computer systems get into trouble typically when they are 90 per cent complete. These early problems

suggest that the E&WS system is likely to have massive additional problems before completion and that it is likely to run into operational difficulties, high maintenance costs and quality problems.

I understand from these well-informed sources that the budget for the E&WS computer package does not include any system implementation costs. That means that the costs of user training, the provision for networking implications, performance implications—for example, machine upgrades—and ongoing technical support have not been included in the $40 million original estimate. These costs by themselves typically add at least an additional 30 per cent to 50 per cent—that is an additional $12 million to $20 million.

The E&WS billing system is currently run by State Systems on a Cyber computer, and this is meant to be converted as part of the $15 million customer services information systems (CSIS). However, a major audit of the whole Tandem project has occurred in the E&WS in the past six weeks. The result is that the program has been deferred and there is now a concentration on a line by line code conversion from Cyber to Tandem in a desperate effort to get the system up and running. The contract with Cyber runs out in February 1994 and, if the system is not converted by then, E&WS will be up for an additional $1 million to lease Cyber for another 12 months. All the information coming across from Cyber will have to be ditched and reworked to bring it into line for what is required for the CSIS.

The 1993 Auditor-General's Report also notes that a new financial management system introduced by E&WS was meant to be in place by 1 July 1992 at a cost of $6.4 million. It was meant to be in place 15 months ago. However, one important element of this system—human resources/payroll system—still had not been implemented by 30 June 1993 and is said to be in real trouble. There is obviously crisis management and a desperate attempt to cover up the magnitude of this computer fiasco, and this is all without the additional complications of the Government's proposal to merge E&WS and the Electricity Trust of South Australia. My questions to the Minister are:

1. How much of the $40 million for the E&WS computer system has been spent to date?

2. Will the Government confirm that the implementation of this program is massively over budget and well behind schedule?

3. How much is the E&WS computer system expected to cost and when is it expected to be finished?

4. Has the E&WS examined the option of cancelling the project and paying the $15 million penalty associated with such cancellation?

5. In view of the importance of the questions, will the Minister undertake, if possible, to obtain answers to those questions and present them to the House next week?

The Hon. ANNE LEVY: It looks as though I have become invisible to members opposite, but I certainly represent the Minister of Public Infrastructure in this place. I will be happy to refer that complicated series of questions to the Minister as my colleague in another place and bring back a reply.

INDUSTRIAL COURT

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Labour Relations and Occupational Health and Safety, a question about the delays in hearings in the Industrial Court.

Leave granted.

The Hon. J.F. STEFANI: On 7 September 1993 the Attorney-General tabled the 10th annual report of the President of the Industrial Court and Commission of South Australia. The report highlighted a significant increase in the number of matters lodged in the magistrates jurisdiction of the court, both in prosecution and also in monetary claims. A significant increase has also occurred in the number of applications lodged for review by the court following the issue of notices by industrial inspectors under sections of the Industrial Relations Act and the Occupational Health, Safety and Welfare Act, as well as the Long Service Leave Act.

The workload of the two magistrates has reached a stage where undue delays of up to four months are now occurring in the hearing and determination of matters lodged with the Industrial Court. In view of this situation, my questions are:

1. Will the Minister advise if the Government has taken any action to address the problems outlined in the report?

2. Does the Minister agree that the delay of four months in determining industrial matters is excessive and therefore unacceptable?

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

SOUTH-EAST GROUND WATER

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 of Public Infrastructure, a question about South-East ground water.

Leave granted.

The Hon. M.J. ELLIOTT: Questions regarding ground water in the South-East have been asked by me on a number of occasions. Back in April 1989 I asked the Government what testing was being done in relation to ground water in the South-East. I was aware that some work had been done with nitrates and bacteria, although limited, but noted there was the potential for significant other contamination from industrial sites. There is no record in *Hansard* of my receiving a reply to that question.

I asked another question on 24 October 1989 about ground water contamination and noted in therein that the Government had reactivated a committee to investigate potential sources of contamination because of some recently discovered contamination in the South-East.

Then on 13 November 1990 I received answers to some questions on notice that I asked the Minister of Water Resources about what testing of ground water had been carried out in the South-East of South Australia. The Minister said:

> In the South-East of South Australia testing or monitoring of ground water quality is undertaken to investigate the effects of point sources of contamination, ambient ground water quality, which can change with time, to provide a service to private water users and for assessment of potential pollution problems. Samples being collected from 12 networks of point source observation wells, from all wells which are used for municipal water supply and from three networks designed to monitor ambient ground water quality.

And the answer went on. But the sort of answer the Minister was giving was an assurance that all is well in South Australia, although there was ample evidence at that time that it was not. However, we were assured that from now on everything would be okay.

We now find that there are reports in this week's *Border Watch*, having moved on another three years, about further contamination of ground water in the South-East. This is following on from reports around which my questions were phrased previously, particularly in relation to copper chrome arsenate. It appears that Mount Gambier Pine Industries has been using a chemical known as pentachlorophenol since 1953. It is also now apparent that this chemical contains traces of dioxin.

Further, on 9 August this year the Government suddenly discovered that there was ground water contamination beneath the mill. As the article in the *Border Watch* states, it appears that they tested the water at all only after some literature from New Zealand suggested that pentachlorophenol did contain dioxins, but there is no explanation as to why they had not tested the water earlier, not just for dioxins but for the pentachlorophenol itself.

The *Border Watch* of Tuesday of this week, under a heading 'Lake pollution threat', talks about the Blue Lake water supply and the fact that a draft management plan has been released. The article stated:

> The draft plan stated ground water pollution existed because of inappropriate waste disposal practices in the past.

This plan was quite clearly written before even some of that other testing had taken place. The report went on:

> There are sites where we know the ground water is polluted. We also know of sites where pollution may have occurred. Few potential polluters have investigated or monitored pollution plumes to see how big they are or where they are going.

I have cited only a few brief parts from those reports, but they make quite clear that in fact a lot of industrial sites have not yet been tested. This is some three years after the Minister was giving assurances in this place that testing was going on and everything was okay. I must say that I took several different Ministers at their word: that indeed testing was going on and that there was now nothing worry about. Will the Minister return to this place with a full statement as to what testing is going on in the South-East generally, and the results of that testing?

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

STRYCHNINE

The Hon. PETER DUNN: I seek leave to make a brief explanation before asking the Minister representing the Minister of Primary Industries a question about packaging of strychnine bait.

Leave granted.

The Hon. PETER DUNN: As we all know, there has been a mouse plague in South Australia, and there have been a number of methods of trying to combat that by the use of strychnine bait. I have received a letter from a firm called Rural Aviation, which manufactures a product called Dynamice. I have a copy of the label of Dynamice, which is a commonly used product and has been around since about 1977 as far as I can remember, and it is sold in packages of about 1.75 kilograms. A package of that weight is approximately nine inches in diameter and five inches in height—quite a considerable sum of a very lethal product.

When Rural Aviation went to re-register its label, wanting a new label, to its surprise it was told that the label had never been registered. A letter from the Department of Primary Industries to Rural Aviation states:

> In your telephone call to Mr J Kassebaum, Senior Registration Officer, Plants, on 18 May 1993 you were advised that no label for Dynamice was currently registered under the Agricultural Chemicals Act and that such a registration was required. On searching our records we found a lapsed application for registration of Dynamice dated 6 July 1977. The contents of the file indicate that the application was never finalised and registration was not issued. In your letter to Mr J Kassebaum dated 18 May 1993 you enclosed a copy of your current 200 gram and 1.75 kilogram labels and asked for our requirements so that registration could be achieved.

Naturally there have been changes to the registration of chemicals so the label was out of date, despite the fact that it appears that it was never registered and that the department never pursued the issue, although the product has been widely distributed throughout the State for close to 20 years.

The response was rather interesting. Rural Aviation was told when it wanted to register this new label that it would have to change its packaging to 5 kilogram packs. In relation to the reasons for that, the letter further states:

> The current pack sizes are also of concern. The availability of small packs significantly increases the likelihood of domestic use, which is not acceptable. Registration of 200 gram and 1.75 kilogram packs could only be considered as an interim measure until existing container stocks can be used up. Pack sizes of 5 kilograms and above are required to discourage purchase for domestic use. The new containers should also be fitted with double tight or triple tight lids to increase the level of safety in storage.

That brings a very interesting dimension to this problem because people will purchase 5 kilogram packs and subdivide them, and that happens all the time. The problem that appears to arise when you do that is that they do not get the right label on them. Strychnine is an extremely dangerous product; there is no known antidote to it. I cannot understand the department's requiring 5 kilogram packs of it because that is a considerable sum of grain (wheat is used, and it is covered with sugar and strychnine). People will buy it and subdivide it, and I know that has happened in the past. Why has the department, other than its explanation, asked for it to be in such big packs when it knows full well that those 5 kilogram packs are being bought and subdivided? Is there any law stopping people from subdividing 5 kilogram quantities? Will the Minister allow smaller containers such as 1.75 kilogram packs still to be used, so that it can be assured that the label will still be on that container?

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

MIGRANT HEALTH

The Hon. BERNICE PFITZNER: I seek leave to make a brief explanation before asking the Minister of Transport Development, representing the Minister of Health, a question about migrant health.

Leave granted.

The Hon. BERNICE PFITZNER: Two relatively new groups have been established recently, one being the Survivors of Torture and Trauma Assistance and Rehabilitation Service (STTARS), and the other being the Migrant Health Service. STTARS was initiated in 1991 from a steering committee, the members of which gave their time voluntarily to set up that organisation. The committee members included Professor McFarlane, a recognised expert in the treatment of traumatic stress; Dr Ashby, who worked in the Medical Foundation for Survivors of Torture in London; Reverend Chittleborough, who has worked extensively with survivors of trauma and with the Refugee Council

of Australia; and Father Jeff Foale, who is President of the Indo-Chinese Refugee Association. This group has now been set up in an office in Brompton with some staff. I understand that the group is busy counselling victims of torture and trauma.

The other group has recently been established in Market Street in the city. It is the former Migrant Health Unit of the South Australian Health Commission, changed to be called the Migrant Health Service. I understand that the former co-ordinator of the unit is now the co-ordinator of the service. Although it could be argued that migrant health and refugee health have different requirements, they appear to have more similarities than differences. Such similarities would include difficulties in language, difficulties with psychological upheaval and cultural differences, and so on. My questions to the Minister are:

1. What did the Migrant Health Unit of the South Australian Health Commission do, and how is this different from the changed unit now called the Migrant Health Service?

2. What is the difference between STTARS and the Migrant Health Service in terms of the types of people they see and the types of service they provide?

3. With the contraction of the health dollar, will the Government look into amalgamating the two not dissimilar services or arrange for the sharing of their staff with each other?

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

DRIVER TRAINING

The Hon. CAROLINE SCHAEFER: I seek leave to make an explanation before asking the Minister of Transport Development a question about country driver training.

Leave granted.

The Hon. CAROLINE SCHAEFER: The issue of country driver training has been a running sore ever since responsibility for testing was transferred to the Department of Road Transport and away from the Police Department. I am aware that the Hon. Peter Dunn asked questions about this issue some 12 months ago, and I have certainly had a steady stream of correspondence on the matter. I have sought help from the Minister privately on some specific cases and would like to acknowledge that she has been most helpful in these cases. However, this is a much larger problem than a couple of isolated people.

My local town of Kimba is approximately 130 kilometres from the nearest training centre at Whyalla and is visited on a monthly basis by the departmental tester. I have just received information from a constituent who has outlaid almost $1 000 in an effort to gain his semi-trailer licence so that he can cart his own grain to the nearest wheat silo. This $1 000 was made up largely of the cost of four 300 kilometre return trips to Whyalla to have lessons and the cost of those lessons.

An honourable member interjecting:

The Hon. CAROLINE SCHAEFER: Yes, and he has been a truckie all his life. This situation is clearly untenable. I have been told, however, that the department is encouraging accredited private testers to take over driver training where possible. Clearly, driver training in a small town such as Kimba would not constitute a living, but it could be taken up on a part-time basis. I thought that this may be an answer, but I then learnt that just some of the requirements to become an accredited trainer are: a 10-day compulsory training course in Adelaide at a cost of $2 000, plus licence fees and follow-up training, etc., bringing the cost to a minimum of $2 500. There would also be the cost of 10 days away from home, travel to and from the city, accommodation, etc.

Clearly, the department does not want driver training to be taken up by the private sector in country areas under these circumstances. My question is: will the Minister introduce as quickly as possible some changes to the present system which would make licence testing and trainer accreditation as accessible to country people as it is to those in regional cities and the metropolitan area?

The Hon. BARBARA WIESE: I am a little surprised that the honourable member is raising this question here as she has indicated that we have already had a number of discussions about the driver training and licensing issue with particular reference to concerns and complaints that have been received in and around Kimba. I think the honourable member knows pretty well the situation with respect to future plans. The newly introduced system, which is not yet fully implemented, is working quite well around the State so far. I point out to members, however, that there are a couple of exceptions to that with respect to the sort of complaints that the honourable member raises, and they come from two particular locations. I suggest that this has as much to do with local personalities as it does with some of the practical operational issues that are in place or in the process of being put into place in various country locations.

I fully acknowledge that it is not always easy for people in remote locations who want to obtain a heavy vehicle licence to travel in order to gain that licence particularly if, in the first place, they do not own a heavy vehicle. In some cases that will mean hiring a vehicle if they cannot wait for Government or private enterprise accredited trainers or testers to come to their location. I have indicated previously to the honourable member that the situation in her part of the world is that currently there is only one Government officer, who is based in Whyalla and who undertakes both small and heavy vehicle testing in that region. That officer moves around and makes appointments in relevant places in order to conduct those tests.

I would like to see members of the private sector being given the opportunity to become accredited so that they can provide that service on the Eyre Peninsula if at all possible, because that would provide greater choice and more opportunity for people to have testing that is convenient and timely and according to their needs. I think the Department of Road Transport is seeking applications from people who may be interested in taking up that opportunity. Until we are able to find private sector operators who can be involved in this process, the Government officer will continue to go to Kimba and other locations regularly to make appointments and conduct testing.

The whole point of the introduction of the new scheme which accredits private sector operators is to provide a much more comprehensive service to as many locations in the State as possible. We are certainly not in a position to employ Government officers in every town to undertake licence testing. The unique scheme that we have established, which accredits people in the private sector, has been designed to spread the load and to increase the number of locations at which testing and training is available so that it is a much more convenient exercise for as many people as possible.

As I have indicated, this system has been in progress for only a few months. We have been able to attract a large number of private sector operators, many of whom are accredited for light vehicle testing and licensing while others are accredited for heavy vehicle testing and licensing. We will continue to add to the number of people as and when we are able to locate suitable individuals. As I indicated earlier, the complaints that have come from a couple of locations in South Australia since the introduction of this service have had as much to do with the local conditions and individuals who have previously been involved in the matter as it has with the introduction of the new service. I hope that, over time, people will accept that things have changed, that a new system is in operation, that the Police Commissioner does not want his police officers to be involved any longer in this testing function, except in areas that are very remote and where there is no other choice, and that this new system is here to stay.

We must try to make it work. It is working in almost every area of the State, as I indicated. In fact, it is working in the area where the honourable member herself is located. However, I recognise that there is more resistance by some people to accept the system than there has been in other places, and there is the added problem of not having a private sector operator in the near vicinity who is able to test for heavy vehicle licences. I hope we can overcome that problem in the near future and that that will make the service in that part of the Eyre Peninsula even more successful than it has been thus far.

STATE BANK

In reply to **Hon. J.F. STEFANI** (12 August).

The Hon. C.J. SUMNER: The Treasurer has provided the following response:

1. The travel policy is always enforced. However, the board and the Managing Director retain the discretionary power to waive the policy in unusual situations such as when travel is essential and no other seats are available.
2. The Managing Director or the board may waive the policy.
3. An officer of Group Asset Management Division travelled first class on flight AN97 on 5 August 1993. The officer was upgraded by the airline, at no additional charge.

WORKCOVER

In reply to **Hon. BERNICE PFITZNER** (7 September).

The Hon. C.J. SUMNER: The Minister of Labour Relations and Occupational Health and Safety has provided the following response:

1. Under the Workers Rehabilitation and Compensation Act, WorkCover has divided all industries into various classes and has established a levy rate for each industry class based on:

- the expected number and full cost of claims from each class of industry;
- that expectation being derived from the past claims experience of each industry class, with most weighting being given to the most recent years experience;
- a component of the levy being to cover the administrative costs of the Corporation; and
- 2.9 per cent of levies under 7.5 per cent (the maximum dictated by the legislation) being a contribution to the costs of industries with a levy rate which would be higher than 7.5 per cent if it were not for the legislative restriction.

Industry levy rates are reviewed annually.

The Industry levy rate applicable to each employer location is adjusted by a remission of levy or a supplementary levy under the provisions of a bonus and penalty scheme implemented as provided for by the legislation.

2. Some vegetable growers and some flower growers in this State also grow herbs. In assigning herb-growers to a class of industry, WorkCover was initially guided by the Australian Standard Industrial Classification (ASIC)—a classification system of the Australian Bureau of Statistics which includes the growing of herbs within the Vegetable Growing class of industry.

Following employer requests, WorkCover has investigated this activity on several occasions over the past three years, including site visits, which revealed the operation of mechanical ploughing machines, bending and lifting whilst harvesting herbs and packing—which closely resemble the activities of workers engaged in vegetable growing.

At the time of the investigation there were only three employers in the State who were predominantly engaged in herb growing, which is not sufficient to justify an industry class for this activity alone. This matter has also been the subject of an investigation by the Ombudsman, who appears to be satisfied with WorkCover's decision.

3. Where an employer is classified to a class of industry with a levy rate based on a claims cost for the industry that is greater than that of the employer, the bonus and penalty scheme is designed to provide remissions of levy (discounts) to reflect the lower claims cost of the employer. The herb-grower's levy was reduced from 6.7 per cent to 4.53 per cent from 1 July 1993.

4. WorkCover does not classify a 'smoked-fish business' to the abattoir class of industry, but rather to a classification for processors of seafood.

5. WorkCover has not received any evidence that would constitute a basis of a re-classification of a smoked-fish business to anything other than the classification for processed seafood. In classifying activities of employers and establishing appropriate levy rates, consideration cannot be given to factors such as whether the business is new and whether it exports its products overseas.

POLICE AIR WING

In reply to **Hon. PETER DUNN** (25 August).

The Hon. C.J. SUMNER: The Minister of Emergency Services has provided the following response:

1. In 1991 the Government Agency Review Group conducted an investigation into the operations of the Government's fixed wing assets. Its subsequent recommendations included the following:

'The Police Department [should] operate the Police Airwing as a business unit. . . . . .with the clear objective of improving productivity and asset utilisation and off-setting operating costs by charging for services where possible.'

The operations of the Police Airwing will continue to be primarily concentrated on responding to Departmental demands.

Cost recovery is envisaged, however, on those limited occasions when a public sector employee may take the opportunity to join a previously scheduled flight, organised for Police Department purposes, but not fully loaded. In the past these people have been traditionally carried at no cost.

To give effect to this strategy of cost recovery where appropriate, Civil Aviation Authority regulations demanded that the Police Airwing 'Air Operators Certificate' be amended to include the words 'charter operations'.

The operation of the Police Airwing and the Westpac State Rescue Helicopter Service are completely separate. The issue of a charter licence to the Police Airwing has no relevance to the management of the rotary wing service or the fact that the helicopters used in that service are provided by the private sector.

2. The issue of a charter licence to the Police Airwing was not designed to position it to enter the general aviation market on a competitive basis. Such a move has not been, and is not currently being contemplated.

3. The Police Air Wing does not conduct specific charter operations.

In reply to **Hon. PETER DUNN** (19 August).

The Hon. C.J. SUMNER: The Minister of Environment and Land Management has provided the following response:

1. One of the Government Agency Review Groups, (GARG) recommendations to Cabinet in September 1992, relative to the aerial survey aircraft was that:

'. . . consideration should be given to transferring the asset (VH-DLK) to the Police Department to form a consolidate Government Air Wing'.

The Department of Environment and Land Management (DELM) and the Police Department have been closely liaising on this issue. At this stage the feasibility of consolidation of their total operations has not been determined.

The agencies have identified a piloting arrangement which is determined to be financially beneficial to the Government and will improve the day-to-day operations of the DELM aerial survey function.

The Police Airwing, by judicious rostering of its pilot resource, is able to provide the required pilotage to the DELM aircraft without having to add to the resource.

2. It is estimated that the cost for the pilotage by the Police for 1993-94 to DELM will be approximately $50 000, based on the known flying program.

3. As no police pilots were previously trained and endorsed in the operation of turbo-prop aircraft, a once-off training and endorsement program was implemented. The cost of training the police pilots to endorsement level on VH-DLK was $13 000, which included instructor charges, pilots' time, and operating costs of the aircraft. The training and endorsement program, conforming to Civil Aviation Authority regulatory requirements, has now been completed, and the Aerial Survey Unit is in a fully operational mode under Police Airwing pilotage.

This service can be provided in a standard operational year for an estimated $45-50 000 per annum, compared to the $67 000 previously charged by AFTS for a similar extent of service. Since the DELM payments to the Police Department will be within the Government funding system, the ongoing savings to Government will be amount that would have been paid to an external contractor (i.e. $65 000 to $70 000) as the arrangement is being undertaken with existing staff levels. This arrangement commenced on 1 July. In the first year of the current arrangement, this figure is reduced by the cost of the training component, i.e. $13 000.

STATE BANK

In reply to **Hon. J.F. STEFANI** (11 February).

The Hon. C.J. SUMNER: The Treasurer has provided the following response:

1. The attached schedule provides details of the year of purchase, artist, title and purchase price for works purchased by the State Bank since 1983, and Beneficial Finance since 1972.

This listing does not provide a current value or location. To provide this information would result in significant extra cost being incurred.

2. The State Bank has a wine collection with a total value of approximately $80 000. The wine is properly cellared to protect it from deterioration as well as being securely housed. The bank has bought no more wine for cellaring for at least two years.

No useful purpose would be served by providing a detailed inventory of the collection.

GUERIN, Mr BRUCE

In reply to **Hon R.I. LUCAS** (26 August).

The Hon. C.J. SUMNER: The Premier has provided the following response:

1. Mr Guerin has ongoing employment rights with the South Australian Public Service in accordance with the transitional arrangements with the Government Management and Employment Act, 1985. Mr Guerin is not retiring from the SA Public Service but is being made available to Flinders University of South Australia to set up a Public Sector Management Centre at the University. The South Australian Government will continue to pay the salary to which he is entitled for a period of five years to assist with the establishment of the centre.

2. The South Australian Government has provided in addition to the guarantee of Mr Guerin's salary for a five year period a one off establishment grant of $100 000. This is provided for in the Department of Premier and Cabinet's budget for 1993-94.

SAGASCO HOLDINGS

In reply to **Hon. L. H. DAVIS** (9 September).

The Hon. C.J. SUMNER: The Treasurer has provided the following response:

1. At no stage did Boral Ltd give any indication to the State Government that, should it acquire from the State Government a 19.9 per cent parcel of SAGASCO Holdings Ltd shares, it would proceed with a full takeover offer for SAGASCO.

Nevertheless, the share market would generally predict that when one company purchases up to 19.9 per cent shares in another, then a takeover offer might eventuate at some time in the future. A takeover offer by Boral for SAGASCO was not, therefore, unexpected.

2. On 31 August 1993, the day before the announcement of the takeover offer by Boral, the close of business market price for SAGASCO was $3.34 per share based on sales of relatively small volumes. This is the price at which the market had valued SAGASCO in view of its strategic position and earnings outlook and before the market price of SAGASCO shares was influenced by the takeover offer. There was, however, no evidence to suggest that the Government could have achieved this market price on a sale of its large holding in SAGASCO.

Two days prior to the sale to Boral a broker had put to the Government a firm underwritten sale proposal which would only have netted $3.072 per share. Sale on a widely distributed basis at this price would not have maximised the return to the taxpayer for the Government holding and would not have prevented a takeover offer from arising in the future.

STATE BANK

In reply to **Hon. J. F. STEFANI** (26 August).

The Hon. C.J. SUMNER: The Treasurer has provided the following comments:

I am advised that this matter was dealt with in evidence provided to the Royal Commission. In a minute dated 4 September 1990 to the Treasurer, the Under Treasurer supported the appointment of the Auditor-General as one of the bank's auditors. This minute, which now forms part of the Royal Commission's set of documents, was prepared as a briefing for a meeting between the Treasurer and the chairman of the bank. I refer the honourable member to document 650.

It is clear from that document, that there were discussions at the time between the Auditor-General and the Under Treasurer. The document also notes that, under the bank's legislation, the Auditor-General, if appointed, would not have been able to report to Parliament on the bank's operations in the absence of specific authority under the bank's legislation.

BENNETT AND FISHER

In reply to **Hon. L.H. DAVIS** (10 August).

The Hon. C.J. SUMNER: The Treasurer has provided the following response to the honourable member's question;

I am advised that SGIC held an option over the property in question for a short time but has no record of any offer to purchase the property. It would appear therefore that SGIC was not the developer referred to in the Price Waterhouse report.

If the honourable member has evidence to the contrary I would be happy to pursue the matter further.

POLLUTION OF WATERS BY OIL AND NOXIOUS SUBSTANCES (CONSISTENCY WITH COMMONWEALTH) AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Transport Development) obtained leave and introduced a Bill for an Act to amend the Pollution of Waters by Oil and Noxious Substances Act 1987. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

The Pollution of Waters by Oil and Noxious Substances Act 1987 incorporates into State legislation annexes I and II of the International Maritime Organisation's International Convention for the Prevention of Pollution from Ships (commonly referred to as MARPOL 73/78). The Act mirrors similar Commonwealth legislation and applies to the territorial seas adjacent to the State and waters within the limits of the State. Similar amendments to the Commonwealth Protection of the Sea (Prevention of Pollution from Ships) Act 1983 were brought into operation on 6 July 1993.

The Bill has four objectives: first, to remove the definition of and references to 'harbor master' in sections 3, 6 and 35

of the Act. The title of 'Port Manager' is now used throughout the State and, if appropriate, delegations may be made to those persons by the Minister under section 6 of the Act. Secondly, this Bill reduces the allowable instantaneous rate of discharge from cargo spaces of oil tankers from 60 litres per nautical mile to 30 litres per nautical mile when oil tankers comply with certain requirements and are not within a special area, and are more than 50 miles from the nearest land.

The oil content of effluent from machinery spaces of ships will be reduced from 100 parts per million to 15 parts per million, even if the discharge is made more than 12 miles from the coast. Ships are to be fitted with 15 parts per million filtering equipment instead of 100 parts per million oily water separators presently required. Filtering equipment on ships of 10 000 gross tons and above is to be provided with alarm arrangements and automatic stopping devices when the oil content exceeds 15 parts per million instead of the recording device presently required. Ships delivered before July 1993 have until July 1998 to comply with these provisions.

The third objective of this Bill is to require Australian ships of 400 gross tons or more and Australian tankers with a gross tonnage of less than 400 but not less than 150 to keep on board a shipboard oil pollution emergency plan. The shipboard emergency plan must be in the prescribed form and will include procedures to be followed in notifying a prescribed incident, a list of authorities or persons to be notified, a detailed description of the action to be taken to reduce or control any discharge from the ship, and the procedures to be followed for coordinating with the authorities that have been contacted any action taken in combating the pollution and the person on board the ship through whom all communications are to be made. The master of the ship and the owner of the ship are both guilty of an offence if a ship to which this section applies does not have on board a shipboard oil pollution emergency plan. The maximum penalty is $50 000.

The final objective of this Bill is to expand existing requirements for the evidence of an analyst and clarify the details to be included on an analyst's certificate for it to be admissible as evidence in any proceeding for an offence against a provision of the Act. The required notice which must be given to a prosecutor when an analyst is required to be called is also stated. I commend the Bill to the house. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 3—Interpretation

The definition of 'harbor master' is deleted. Powers that were given to the harbor master are left to the Minister subject to the Minister's power of delegation.

The inclusion of the harbor master as an inspector is also deleted. The Minister may appoint persons to be inspectors.

Clause 4: Amendment of s. 6—Delegation

The power of delegation of the harbor master is deleted.

Clause 5: Amendment of s. 8—Prohibition of discharge of oil or oily mixtures into State waters

The exemption given in section 8(4)(a) to certain oil tankers more than 50 nautical miles from land with an instantaneous rate of discharge of oil content from cargo spaces of not more than 60 litres per nautical mile is limited to such tankers with a discharge of not more than 30 litres per nautical mile.

The exemption given in section 8(4)(b) to certain ships other than oil tankers more than 12 nautical miles from land discharging oil or oily mixture with an oil content less than 100 parts per million is limited to ships with a discharge with an oil content of 15 parts per million and is applied to ships within 12 nautical miles of land. Such ships are required to carry equipment as specified in certain regulations. The nature of the equipment that can be required to be carried is currently limited to an oil discharge monitoring and control system, oily water separating equipment, oil filtering equipment or other installation. This limitation is removed.

Ships delivered before 6 July 1993 have until 6 July 1998 to comply with these more stringent requirements.

Clause 6: Insertion of s. 10A—Shipboard oil pollution emergency plan

The new section requires Australian ships of 400 tonnes or more and Australian oil tankers of 150 tonnes or more to keep on board a shipboard oil pollution emergency plan in the form required by the regulations.

Clause 7: Amendment of s. 35—Transfer of oil at night

A reference to a harbor master giving permission for the transfer of oil at night is removed. The matter is left to the Minister or to any person to whom the Minister delegates power.

Clause 8: Amendment of s. 39—Evidence of analyst

Section 39 is an evidentiary provision relating to evidence of analysts appointed by the Minister. The amendment expands the matters that may be certified by an analyst. The amendment also requires 5 days notice to the prosecution if the defence requires the personal attendance of an analyst at court.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

ENVIRONMENT PROTECTION BILL

Consideration in Committee of the House of Assembly's amendments:

Schedule of the amendments made by the Legislative Council to which the House of Assembly had disagreed

No. 13. Page 27, line 23 (clause 30)—After 'modification' insert 'the whole or part of a national environment protection measure or'.

No. 18. Page 32, line 27 (clause 38)—After 'part' insert 'but only as provided by the regulations'.

Schedule of the amendments made by the House of Assembly to amendment No. 38 of the Legislative Council

No. 38. Page 113 (schedule 2)—Before line 23 insert new clause as follows:

Amendment of the Development Act

3A. The Development Act 1993 is amended—

(a) by inserting after the definition of 'document' in section 4(1) the following definition:

'Environment Protection Authority' means the Environment Protection Authority established under the Environment Protection Act 1993;;

(b) by inserting after section 36 the following section:

Reference of certain applications to Environment Protection Authority

36A.(1) Where—

(a) an application for a consent or approval of a proposed development is to be assessed by a relevant authority; and

(b) the development involves, or is for the purposes of, a prescribed activity of environmental significance as defined by the Environment Protection Act 1993,

the relevant authority—

(c) must refer the application, together with a copy of any relevant information provided by the applicant, to the Environment Protection Authority; and

(d) must not make its decision until it has received a response from the Environment Protection Authority (but if a response is not received from the authority within a period prescribed by the regulations, it will be presumed, unless the authority notifies the relevant authority within that period that it requires an extension of time because of subsection (4) (being an extension equal to that period of time that the applicant takes to comply with a request under subsection (3)), that the authority does not desire to make a response, or concurs (as the case requires)).

Amendment No. 13:

The Hon. ANNE LEVY: When it left this Council the Environment Protection Bill had been amended in numerous respects from the way in which it entered this Chamber. It has now been considered by the other place, which has agreed with all but three of our amendments. It disagreed with two of our amendments and reinserted the original clause that was in the Bill as it left the House of Assembly. In the third case, it rejected our amendment but proposed another amendment in its place, which differs from that which was inserted in this place. It is probably best if we consider these three amendments one at a time. I suggest that we first consider No. 13 where our amendment has been rejected by the other House.

I move:

That the Council do not insist on its amendment.

This related to clause 30 of the original Bill and relates to obligations under schedule 4 of the inter-governmental agreement on the environment which was entered into last year by the Commonwealth and all the State and Territory Governments. That agreement provided for national environment protection measures directed at achieving greater consistency in environmental standards across Australia. It does contain a number of safeguards for States. Each State can have a more stringent environmental standard, either maintained or introduced, where special circumstances in the State warranted it. Having entered into the inter-governmental agreement the Government took the view that it was important to specify in this Bill how the Government's obligation under the agreement would be met once the complementary Commonwealth and State legislation to establish the national environment protection scheme is passed. The South Australian legislation is expected to be ready for consideration by this Parliament early next year.

Clause 29 of the Bill provided that future national environment protection measures would be implemented through the mechanism of State environment protection policies. I would certainly like to emphasise the strong support of the Conservation Council of South Australia and the Australian Conservation Foundation for the mechanism which the Government proposed for implementing national environment protection measures which were in clause 29. In fact, in its recent submissions on this Bill it described this clause as crucial to the future operation of the national environment protection scheme, not only in South Australia, but nationally. It points out that if one State declines to accept automatic operation of national environment protection measures the whole scheme will collapse. The Government certainly regrets the fact that the Opposition and the Democrats were not prepared, at this stage, to support clause 29 because they want to defer the matter of South Australian implementation of national environment protection measures.

What the Council did was to amend clause 30 to enable the whole or part of a national environment protection measure to be adopted and implemented in South Australia at the discretion of the Government of the day. Such an approach to national environment protection measures would seriously undermine the national scheme which relies on all Governments being committed to national implementation. The Government feels very strongly that it would be in breach of its obligations, which it has entered into under the inter-governmental agreement on the environment, if it agreed to that amendment.

For those reasons, the Government opposes the amendment inserted by this Council, preferring to delete any reference to national environment protection measures. The matter can be considered again when the South Australian legislation for the national scheme comes to this Parliament.

The Hon. DIANA LAIDLAW: Clause 30(1) provides:

Where the Minister is satisfied that a draft environment protection policy refers to or incorporates without substantial modification the whole or part of a standard or other document prepared by a body prescribed for the purposes of this section—

Can the Minister give an undertaking that in relation to 'body prescribed for the purposes' the Government will not be prescribing the inter-governmental group that is framing the national environment protection measures?

The Hon. ANNE LEVY: I can certainly give an undertaking that nothing at all will be done until the legislation arising from the inter-governmental agreement has been implemented at Commonwealth and State level. I will certainly give the undertaking to which the honourable member refers.

The Hon. DIANA LAIDLAW: I thank the Minister for that advice and on that basis I am certainly prepared, on behalf of the Liberal Party, to no longer insist on the amendment that I had earlier moved and the Democrats had supported.

The Hon. M.J. ELLIOTT: What bodies are envisaged to be prescribed for the purposes of this section?

The Hon. ANNE LEVY: The Australian Standards Association is a body which provides technical standards which, it might be felt, were desirable to be picked up for the purposes of this clause, in which case that body would be prescribed.

The Hon. M.J. ELLIOTT: I am not quite sure if the Hon. Ms Laidlaw is listening at present.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: She does not have to, but it is a debate and most people participate in them. The effect of clause 30(1) is such that a Minister can prescribe some body—the Australian Standards Association is one example given—and having prescribed that body it can come up with some policy later on which the State Government can then decide to adopt without any further reference to anybody. You do not have to go through the normal procedures for making environment protection policies; you just go straight to the Governor. To me that seems to be rather contrary to anything the Liberal Party has been on about in the past.

The Hon. ANNE LEVY: I point out that anything which is prescribed can be disallowed by Parliament and there is no suggestion that that would be altered.

The Hon. M.J. Elliott interjecting:

The Hon. ANNE LEVY: Yes.

The Hon. M.J. ELLIOTT: Mr Chairman, I draw your attention to the state of the Committee.

A quorum having been formed:

The Hon. M.J. ELLIOTT: The point I was making is that as clause 30(1) is constructed, regardless of whether or not the amendment stays in, the regulations will prescribe a body as being an acceptable body to draft policies. The Minister gave as one example the Australian Standards Association, but it could be any other body.

The Hon. Anne Levy interjecting:

The Hon. M.J. ELLIOTT: Yes, it could be any of those. But having prescribed that body, the Minister can go to any one of those and adopt one of those policies without any reference to what are otherwise proper procedures. It is probably true that there are many policies held by many bodies that in themselves are quite reputable. However, the fact is that there will be no need to refer them to the normal

procedures; in fact, they could bypass the Parliament and all the other various protections that would otherwise be available.

Motion negatived.

Amendment No. 18:

The Hon. ANNE LEVY: This amendment refers to exemptions. The original Bill was amended in this place and that amendment was rejected by the other place. The Hon. Ms Laidlaw has on file an alternative amendment, which is supported by the Government, but perhaps the honourable member would like to move it and speak to it.

The Hon. DIANA LAIDLAW: I move:

That the Council do not insist on its amendment but make the following amendment in lieu thereof:

Page 32, line 27 (clause 38)—

After 'Subject to this Part' insert 'and the regulations'.

When the Bill was debated previously in this place there was a number of matters that the Liberal Party wanted more time to consider. Clause 38 was one such provision, as it related to exemptions. In fact, since the Bill was in this place I have argued with a number of people that 'exemptions' is probably an inappropriate word to use for the style of negotiation that the EPA has been conducting since it was set up and which it conducted previously under the separate bodies that this Bill will replace.

As I understand it, a sawmill at Wirrabara was cited (as one of a number of cases) where, in response to neighbours of the sawmill who were aggrieved by the noise and dust, the EPA organised an arrangement whereby, over a period of time, the sawmill will address those issues; it will need to institute a number of measures that will make it much more tolerable for nearby residents. That is a one-off instance. It is also not complete exemption from all the standards we would require in terms of noise, dust, smoke, fumes, odour or heat. Yet, total exemption is implied in this clause.

It has been difficult, if not impossible, to come up with another term to explain this graduated set of circumstances where there is not a complete exemption from an area on any of the grounds defined in the Bill although there is a package of measures that are quite positive in terms of addressing the problems that neighbours will be experiencing. That package of measures would be very difficult to define in regulations, and that is what we would be requiring if we were to insist on the original amendment to which the House of Assembly has disagreed.

I do not think that anyone in this place actually wanted to see a situation where that sawmill at Wirrabara was closed down because we were seeking to require the Government to put into regulations and to provide as much advice as possible as to how this measure would be implemented in reality. As I understand it, there may be a situation where, if a regulation did not provide for this sawmill example, the Government would need to go through the process of striking such a regulation.

That could take five months, and we could be delaying work on that sawmill. In fact, we could be delaying our addressing the environmental problems of the nearby residents for five months while that regulation went through all the processes, and the regulations may well still then be disallowed. So, I have been persuaded, as have my colleagues, that there is a need for broad regulations outlining issues such as a time and a number of other general matters and the criteria under which regulations will be made for these exemptions. It is important to couple that with other provisions in clause 48 of this Bill.

However, we do not want to see a situation where we would be thwarting developments in this State. We would also potentially be thwarting and frustrating some measures that could be taken to tidy up matters of pollution that are causing disturbance to neighbours and to the community generally. That is the reason why I, on behalf of the Liberal Party, do not believe we should continue to insist on this amendment.

The Hon. M.J. ELLIOTT: I do not disagree at all with the Hon. Ms Laidlaw and the example she gave about a mill at Wirrabara. Before I take my comments further I want to ask one question: what is the significance in difference of the wording using 'and the regulations' rather than 'but only as provided by the regulations'? What is the significance of the difference?

The Hon. DIANA LAIDLAW: I did not appreciate this fully—as the member knows, I have supported him earlier—but the difficulty with the amendment that we moved some time ago was with the words 'but only', because they are so confining and do not allow any exemptions other than those which are very well defined in the regulations.

The Hon. Anne Levy: In advance.

The Hon. DIANA LAIDLAW: In advance, yes. So, if we do not define in advance we have a situation, for instance, such as the saw mill, which may not fit into those circumstances outlined in the regulations, and therefore we must go through the process of developing another regulation. That could take three or four months, whereas in fact the board could be dealing with it within a month and the problems would be addressed with a very positive program for dealing with the environmental problems related to that development.

The Hon. Anne Levy: It would still be subject to the Part and the regulations. They couldn't go against the regulations, and they don't have to have a specific regulation.

The Hon. DIANA LAIDLAW: Would the Minister like to speak to that formally? That is as I understand it. In response to the honourable member, the amendments which he moved with the best of intentions, and which I supported, are too confining for the range of circumstances, because we are dealing with individual business places in different environments with people and other businesses in different proximities from that development. So every case has to be looked at on an individual basis, and in that sense it is almost impossible in advance to prepare regulations that cater for every single one of those circumstances.

The Hon. M.J. ELLIOTT: I am glad the regulations have stayed there. I did not think there was a problem with what was there initially. It seems to me that you could have provided for a Wirrabara type example. It depends on what regulations you first drafted. If you had drafted regulations which put some criteria around the exemptions—for instance, an exemption will be granted for no longer than a certain period without renewal—a number of other things like that could have been put within it. It may not have been highly prescriptive. I do not know what on earth some people had in mind when they read it, but it seemed to me that the regulations might not have been necessarily all that highly prescriptive but would have put some series of protections in relation to how exemptions were granted and for how long, under what circumstances and those sorts of things. That would have all been consistent with the wording that was originally there.

I am not sure whether or not by using the words 'and the regulations' we actually create some loophole, and I have not picked up quite the subtlety and the difference of meaning.

It seemed to me that what we were trying to achieve was quite achievable with the words that were already there. Obviously, somebody said this other one is more flexible, but sometimes flexibility means more holes. I thought that in many ways this was flexible enough to cope with all the situations I could think of. I would hate to think, for instance, that you could bring in a regulation which could lead to somebody being granted an exemption to put in something new, and what legal difficulties might be created under that circumstance, because Parliament did not have a chance to review it because it was not sitting at the time.

It is a bit like Craigburn Farm: an SDP comes in and the next day developers put in their application. Even if the SDP had been knocked out, it was all too late. A Government that decides to abuse powers—as Governments do too regularly—would be in a position, as I see it, if it has after-the-event type regulations, to cause all sorts of problems. I am not sure whether using 'and the regulations' has created perhaps some possible loopholes. I am not convinced either way but, as I said, I thought that what was there could have coped with all the situations that I could imagine.

The Hon. DIANA LAIDLAW: I agree with the honourable member. The only trouble is that you and I do not write the regulations and we are not in charge of the process. I never intended this situation, as the honourable member did not intend it, but all exemptions and all circumstances should be specifically put in regulations. However, that is how the Government has sought to interpret it. Whether it is right or wrong and whether it is deliberately obstructive or not, I do not know.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: And maybe legal advice, too, but it was not my intention that every instance where an exemption might be sought would have to be minutely defined in regulations. But that is how the Government, upon advice, is intending to implement the regulations and, if that is the case, we would be unwittingly frustrating the development process and unwittingly frustrating measures to deal with environmental problems that could easily be cleaned up within a much shorter time.

So, it is because we are on the outside of the process, in a sense, that I am now moving this more general provision. The Government is alert to the fact that we will be taking a keen interest in these regulations, and I hope very much that there will not be the loopholes and areas for abuse about which the Hon. Mr Elliott has some concern.

Amendment No. 18 not insisted on; the Hon. Ms Laidlaw's amendment to amendment No. 18 carried.

Amendment No. 38:

The Hon. ANNE LEVY: I move:

That the Council agree to the House of Assembly's amendment.

The remaining amendment relates to clause 38, which is detailed on the schedule before us. It is a lengthy clause. The House of Assembly has made amendments to our amendment which are set out on page 4 of the sheet before us. There are six of them, but I think they make a whole package.

As a result of this amended amendment, the Development Act would achieve the interrelationship with the environment protection measure intended by the Government. The Government undertakes to ensure that the development regulations provide for referral of development applications to the Environment Protection Authority where such applications relate to prescribed activities of environmental significance under the Environment Protection Bill. The EPA will have the power to direct the development approval authority and any appeals arising will cover Environment Protection Bill considerations, that is, the objects, the general environmental duty and any relevant environment protection policy.

The amendment moved previously in this Chamber ensured that development applications relating to prescribed activities of environmental significance under this Bill must be category 2 or 3 matters under the Development Act, which must consequently be the subject of public notification or public notification and potential third party appeals. The amendment to our amendment, which has been moved in another place, relates to developments for which an environmental impact statement is required. It provides for referral to the EPA of all developments undergoing an EIS where the development relates to a prescribed activity of environmental significance under this Bill. The EIS and the Governor's decisions on all EIS's under section 48 of the Development Act would take into account the Environment Protection Bill considerations, and the EPA will have input into the guidelines for the EIS and the assessment report.

The Government supports the alternative amendment which has been put to us by the other place as what I hope is an acceptable compromise between the two original positions which had been taken by the two Houses.

The Hon. DIANA LAIDLAW: On behalf of the Liberal Party, I accept the compromise. It was a matter that was actually discussed during the original debate in this place. I recall the Minister's raising some doubt about the breadth of measures that we would be requiring the Environment Protection Authority to consider. It was a measure which at that time I was very pleased to accept when moved by the Hon. Mr Elliott. I believe that, rather than having rejected the amendment at that time, we have in fact achieved a situation where all parties can be comfortable that we have the best provision in the circumstances. So, I am pleased that I did support the amendment of the Hon. Mr Elliott. I hope that he would now be satisfied also, because it is important that all these prescribed activities as listed under the Environment Protection Bill be considered by the Environment Protection Authority after reference to the development plan. I think we have the best of all worlds with this amendment.

I suspect that this will be the last time I speak in this debate. I would indicate that the debate has been very healthy in both places, and that as a whole we have achieved a great deal in the Legislative Council. The debate has been conducted very amicably and with good will on the part of all concerned, and the result is a Bill that will serve South Australia well from an environmental and development perspective. It is worth putting on the record that, after debate in this place a couple of weeks ago, this Council passed about 38 amendments. When the Bill was referred to the other House—

The Hon. Anne Levy: Ten of them came from me!

The Hon. DIANA LAIDLAW: But the House of Assembly accepted 35 of those. I think that is a credit to the debate in this place and the quality of thought that goes into the review of legislation.

The Hon. M.J. ELLIOTT: I never got the chance I hoped I would get to analyse the consequences of the amendments to this Legislative Council amendment. Contained within the original Legislative Council amendment were some of the most important things I was trying to achieve in relation to what is still a very poor Environment Protection Bill.

In particular, I was trying to address the environmental impact assessment process and tackle questions of appeal.I still have not picked up all the variations that have occurred because most members in this Council were caught up in debates until midnight last night and then involved in committee meetings this morning. Something is wrong with the so-called democratic process where a Bill leaves one House, goes to the other one, secret negotiations go on for quite some days, the Bill with amendments lobs back in this Chamber and the Government—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: Just a moment—and the Government at the time demands that the Bill be dealt with immediately. At least it backed down on that demand, but there still has not been adequate time to properly address the amendments, and even if the Government felt that the amendments were all stitched up something is wrong with the democratic process if time is not given for proper analysis. Frankly, I never got that time, and I am bitterly disappointed about that. However, it says something about the contempt which Government and bureaucrats hold for Parliaments, and it is something about which we should all be saddened greatly, regardless of the particular outcomes of what passes and fails in legislation.

In the whole handling of this Bill both inside and outside this Parliament for quite some time particular games have been played and members of the public know what they are. If the Government wants to understand why its votes are plummeting there is a simple explanation, and why it has not cottoned on to it yet is beyond me.

I do not intend to protract this matter further. However, I can see that a number of important protections that I believe should have been incorporated in the Bill in an attempt to beef up the role of the EPA have been lost. It is a grave disappointment to those who genuinely care about the environment, and that does not mean being anti-development. We have at this stage a Government that is driven by a particular mentality which is non-constructive.

I find it interesting that I now have some of the leading developers in this State talking with me about what we are going to do about the legislation to make it work, and they are not talking about the sort of stuff that the Government has been putting through this place. The genuine developers realise that something different must happen, but the Government keeps tangling with the 'Mickey Mouse' developers (and there is an endless list of those around the place) who are driven by an agenda which is not for the good of the State either in terms, ultimately, of jobs or in terms of a healthy environment. I can count the numbers: I can see that this amendment is lost, and I express my grave disappointment about that.

The Hon. ANNE LEVY: As everyone else seems to be making a valedictory speech on the Bill perhaps I could add a few words at this stage. I think that, considering the scope, length and most comprehensive nature of the Bill, the fact that only 38 amendments were required is an indication of the care that went into its original construction. I shall put on record the key features of the environment protection reforms being made in this Bill which make it one of the best in the country.

Apart from establishing the EPA the Bill is creating a much more complete, coherent and integrated scheme to protect the environment from pollution and waste. Important features include the fact that general offences distinguish between various degrees of environmental harm thereby avoiding the usual absurdity of extremely open-ended offences.

Also, offences with the most significant penalties have an associated mental element so that there is an effective hierarchy of offences and a parallel hierarchy of penalties which will apply. There will be a more complete and effective way of dealing with corporate liability for environmental offences and appropriate defences.

Most importantly, a system for State environment protection policies is set up with guaranteed community involvement which can cater for current and future issues to be addressed and, combined with environment protection orders, gives a system which will provide a flexible and comprehensive scheme for environment protection in this State.

Also, a single integrated licensing system will cut through unnecessary red tape and, at the same time, positively encourage industry and others progressively to improve environmental performance. I point out some of these important advances which are being made in this major legislative reform measure because of some adverse comparisons that some people have made with interstate legislation during debate on the Bill.

Certainly, adverse comparison with New South Wales legislation is entirely inappropriate, because that State has certainly not achieved integrated environment protection legislation and the single licensing system that our Bill provides. It still has separate legislation and licensing systems for air, water, waste and so on—a dog's breakfast of a mess. In conclusion, we are confident that the environment protection scheme that this Bill provides will serve the South Australian community most effectively long into the future.

The Hon. DIANA LAIDLAW: I had not planned to speak again but, whenever the Hon. Mr Elliott, with whom we have all worked cooperatively on the Bill, finds that he does not get his way, he accuses others of doing secret deals.

The Hon. Anne Levy interjecting:

The Hon. DIANA LAIDLAW: Yes. I like the Minister's sense of humour. I do not attribute it to his gender, but it is unfortunate. There have been no secret deals: I had an understanding of what was involved in the measures that came from the House of Assembly because my colleague the member for Heysen informed me of the debate there. There was no secret deal: it was just a matter of contact between two colleagues and, when the Hon. Mr Elliott indicated that he did not wish to debate the Bill yesterday, both the Liberal Party and the Government happily accommodated his request, and it was a most reasonable request.

Motion carried.

CONSENT TO MEDICAL TREATMENT AND PALLIATIVE CARE BILL

In Committee.

(Continued from 13 October. Page 564.)

Clause 10—'Emergency medical treatment.'

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

Page 4, lines 31 to 33—Leave out subclause (3) and insert—

(3) If—

(a) the patient has appointed a medical agent; and

(b) the medical practitioner proposing to administer the treatment is aware of the appointment and of the conditions and directions contained in the medical power of attorney; and

(c) the medical agent is reasonably available to decide whether the medical treatment should be administered,

the medical treatment may not be administered without the agent's consent.

Clause 10 deals with emergency medical treatment. Some concern has been expressed about medical agents having an involvement in this area. That is not the issue that I want to address in the context of my amendment although, of course, the issue of the involvement of a medical agent is nevertheless pertinent to the operation of a clause. At present, subclause (3) provides:

If a medical agent has been appointed and is reasonably available to decide whether the medical treatment should be administered, the medical treatment may not be administered without the agent's consent.

I think there ought to be a few more safeguards. My paragraph (a) is the same as that in the current subclause (3). However, my paragraph (b) is different, because I seek to ensure that the medical practitioner proposing to administer the emergency treatment is aware of the appointment and of the conditions and directions contained in the medical power of attorney. That is the new ingredient. It is probably implicit in the current subclause (3), but I think it ought to be put beyond doubt. I also want to ensure that the medical agent is reasonably available to decide whether the medical treatment should be administered. Again, that is consistent with what is in the Bill.

So paragraph (b) is new. I seek to put beyond doubt that the medical practitioner who is proposing to administer the treatment is aware of the appointment, conditions and directions contained in the medical power of Attorney. I move the amendment.

The Hon. BARBARA WIESE: I indicate support for this amendment.

Amendment carried; clause as amended passed.

New clause 10A—'Register.'

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

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

DIVISION 5—REGISTER

10A.(1) The Minister must establish a register of—

(a) directions under section 6A of this Act ('treatment directions'); and

(b) medical powers of attorney.

(2) A suitable person (referred to below as the 'Registrar') must be assigned under the Government Management and Employment Act 1985 to administer the register.

(3) A person who has given a treatment direction, or granted a medical power of attorney, may, on application to the Registrar accompanied by a fee prescribed by regulation, have the direction or power of attorney registered in the register.

(4) The Registrar must, at the request of a medical practitioner responsible for the treatment of a person by whom a registered direction or power of attorney was given, or any other person with a proper interest in a registered direction or power of attorney, produce the direction or power of attorney for inspection by that medical practitioner or other person.

(5) The Registrar must, on application by a person who gave a registered treatment direction or granted a registered power of attorney, register the revocation of the direction or power of attorney and remove it from the register.

I referred earlier in the debate to what I saw as the need to have a register in relation to directions under section 6A of this Act and also to medical powers of Attorney. The sorts of difficulties I could foresee happening include a person granting several powers of Attorney and the authorities would not know who held them, in what sequence they were given out or if a later one had been granted. While at this stage my amendment does not make it compulsory that people use the register, at least it is a place where a doctor, for instance, could check to see if there was a medical power of Attorney in relation to a particular patient and also if it had been revoked—a person might be carrying a written statement which had been revoked—or even if a later power of Attorney had been granted which was of higher status.

They are examples of some of the things which I think the register could be used for. It is also possible that, having established a register, periodically, perhaps every five years or so, people could be notified by the registry system along the lines of, 'You have had this for five years; do you wish to change it in any way?' That would start to address another concern that the Hon. Mr Griffin raised, that technology changes and people's views change. I think the register could have quite a number of uses and tackle a number of issues that have been raised in debate. As I noted before, my proposal at this stage is that the register be a voluntary one. It is not voluntary that the Government set it up but it is voluntary that people actually use it, and I would foresee that there would be some charge against it. My guess is that, having established a register, the way that it is used would evolve over time and it would seek to make further changes over and above the proposal as I now put it.

The Hon. BARBARA WIESE: In the time that has been available to us, I understand that the Minister has examined this proposal and he does not support it. He points out that currently there is no register of wills and documents of that sort but—

The Hon. K.T. Griffin interjecting:

The Hon. BARBARA WIESE: The Hon. Mr Griffin indicates that one can deposit a will at the Probate Office before one dies. I suppose there are ways in which one could also lodge such a document with a body of that sort as well. The point I want to come to is that the Minister envisages a number of logistical problems with this proposal put forward by the Hon. Mr Elliott.

First, to be useful, it would be necessary that such a register be accessible 24 hours a day. It would need to be kept completely up to date, that is, people would need to remember to lodge their wishes or revoke their wishes and lodge a new form should they change their mind. The fact that the honourable member is suggesting that it should be a voluntary scheme on the part of the grantor of a power of attorney also adds its own problems, because it means that some people may choose to lodge a form and others may not, so a complete picture is not likely to be available. Therefore, it is not likely to solve the problems that have been outlined during the course of debate on this issue. Furthermore, it is establishing another area of bureaucracy.

The Minister would not rule out the establishment of some sort of register in the future but feels that it needs further consideration as to what might be the most appropriate way of achieving that. Also, he feels that, if that is so, it does not have to be included in legislation: it can be done by way of an administrative Act. For example, it is possible that a non-government organisation of some sort might be willing to establish and run a register. In the past 24 hours, there has been some informal discussion with people in the palliative care area who have indicated that they believe there may be scope for a non-Government organisation to take responsibility for something such as this.

Essentially the Minister is saying that he believes that some time ought to be available to discuss with people who

are operating in this area what options are feasible. Of course, in the short term the plasticised wallet cards that I have already talked about will be promoted as part of the education program that will accompany this legislation, and that will emphasise the importance of making people aware of the existence of directions and medical powers of attorney.

On balance, the Minister feels that, first, this should not be included in legislation, that it needs further careful thought—although he is not ruling out the possibility that something such as this should happen. He feels there may be some merit in it, but how to do it is the issue. From my perspective, I cannot see much point in a voluntary register. If we are really serious about people's wishes being adhered to, I expect that something such as this would be a compulsory thing, and I am not quite sure how that would work. On balance, I will oppose this amendment.

The Hon. K.T. GRIFFIN: I support the amendment. I agree with the concept, but some matters certainly need to be addressed. However, rather than letting it go and addressing it later when the Bill is recommitted, I prefer to have this at least in the Bill so it is before us when the matter is recommitted. I do not agree with the Minister's comment about the desirability of such a register being compulsory. It is a facility which is proposed to be available for the registration of directions or medical powers of attorney. Many people may well wish to have something registered. They may feel that, for example, if they left it in the drawer at home, whilst the agent may know about it, no-one else may. It may get lost.

The Hon. T.G. Roberts: It could be on top of the fridge.

The Hon. K.T. GRIFFIN: It could be anywhere, but at least this provides a facility for the deposit of these directions or powers of attorney. For those who feel that they need a safe repository that is available or accessible to their medical practitioner, they may even indicate to their medical practitioner that they have done that, as they may indicate it to the medical agent; and even if they give a copy to the medical agent it may be that the medical agent misplaces it, particularly if a long period of time elapses between the making of the power of attorney or giving the directions. There are some desirable features. It is certainly not perfect, but at least it provides a facility.

It may be, of course, that one may prefer to deposit it at the general registry office and that is a facility which is available for the deposit of papers and documents. The problem with that is that it becomes publicly accessible. It is not compulsory to lodge many documents with the general registry office. They are deposited there as a permanent record which is accessible in those circumstances to members of the public. This is not for the purpose of providing a permanent record, but at least it is the basis for establishing the availability of an appointment as an attorney.

Several issues need to be addressed. It is probably clear from other provisions of the Bill that if someone lodges a subsequent power of attorney it becomes obvious that that revokes an earlier one because it would evince an intention to revoke or vary, but it may be necessary to incorporate something about that. The other question is whether, after a period of time has elapsed since deposit, the agent should be required to give a certificate if the agent is acting upon it that, so far as he or she is aware, the appointment is valid and has not been revoked. I only make that suggestion because, in the Lands Title Office for example, when a power of attorney is being acted upon to execute Real Property Act documents after a period of time has elapsed—and I must confess I cannot tell you what the time period is—the Registrar-General of Deeds does require a notation from the attorney that, to the best of his or her knowledge, the power of attorney has not been revoked and remains valid. That provides only an additional safeguard, but it would also provide some evidence if, subsequently, it was discovered that it had been revoked and there was evidence that the medical agent had in fact known that it had been revoked but had made a false certificate. It is still useful for something like that to be included.

The other point I make is that under subclause (4) there is a reference to any other person with a proper interest having access to the register. I suggest that that will be difficult to interpret, but it may, nevertheless, be the only way we can express it. I would like us to give further consideration to that up to and during the time that the Bill is recommitted. I support the amendment.

The Hon. CAROLINE SCHAEFER: I also support this amendment at this stage. I have some reservations about the practical implementation of it as it now stands, but I think at least it acknowledges the desirability of a register. It is desirable for it to be both the grantor of the power of attorney and the agent. I think that, in practical terms, carrying around little plastic cards is questionable. For instance, I as an eldest child might be the agent for my two parents and my three children. Where do I keep all these plastic cards? Are they at home, with me or tied around my neck? This is a method of someone proving their agency without having to produce those plastic cards at the time and, as such, I think that it is quite a practical suggestion and I will support it.

The Hon. BERNICE PFITZNER: Initially, I thought that perhaps it would be a good idea to deposit our advance directions in some safe place, such as this register. I have read the clause and thought it through—although we have had a very short time to consider it—and I have some concerns about whether it should be voluntary or compulsory and, if it is voluntary, what happens to the rest of the advance directions?

The Hon. Caroline Schaefer interjecting:

The Hon. BERNICE PFITZNER: I have no problem with plastic cards: I carry a driver's licence, an RAA card and a Medicare card. That is part of the society in which we live. The other issue of concern to me is that it might lead to abuse in that it is open for inspection by a medical practitioner or other person. We would need some very strong safeguard for identification, and I am not quite sure how that would work.

The other issue of concern to me is that the advance directive might be superseded by a more recent advance directive and that the patient may not have remembered that he or she had deposited an original some two or three years previously; that when we look for an advance directive we might look only at the register and perhaps may not consider looking on the top of the fridge, in between the books or somewhere else for the latest directive. Although I support this in principle, I have difficulties with its implementation and at this stage do not support the amendment.

The Hon. CAROLYN PICKLES: Originally, I was attracted to the idea of a register because I believe that that has been one of the deficiencies in terms of lack of information and access in the Natural Death Act. However, I am not particularly attracted—

The Hon. R.I. Lucas interjecting:

The Hon. CAROLYN PICKLES: I know; I realise that. I am not particularly attracted to the wording of this—

The Hon. K.T. Griffin interjecting:

The Hon. CAROLYN PICKLES: Can I just finish! I am not particularly attracted to the wording of this. I think it has some difficulties in implementation. However, I understand that we will recommit the whole of this Bill and that we will go through it for another couple of days. So, at this stage I will probably support this measure, although I have some reservations about it.

The Committee divided on the new clause:

AYES (12)

Burdett, J. C.	Davis, L. H.
Dunn, H. P. K.	Elliott, M. J. (teller)
Gilfillan, I.	Griffin, K .T.
Irwin, J. C.	Laidlaw, D. V.
Lucas, R. I.	Pickles, C. A.
Schaefer, C. V.	Stefani, J. F.

NOES (9)

Crothers, T.	Feleppa, M. S.
Levy, J. A. W.	Pfitzner, B. S. L.
Roberts, R. R.	Roberts, T. G.
Sumner, C. J.	Weatherill, G.
Wiese, B. J. (teller)	

Majority of 3 for the Ayes.

New clause thus inserted.

Clause 11 passed.

Clause 12—'Protection for medical practitioners, etc.'

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

Page 6, line 21—Leave out paragraph (d) and insert:

(d) in the best interests of the patient.

This clause deals with protection for medical practitioners. A number of criteria have to be satisfied. A medical practitioner incurs no civil or criminal liability for an act or omission done or made with the consent of the patient or a medical agent if there is an authority for the agent to so consent in good faith and without negligence in accordance with proper professional standards of medical practice. I have no problem with any of that, although some members of the legal profession have raised the question of what 'without negligence' means in the context of this clause. The last paragraph, containing the passage 'in order to preserve or improve the quality of life' does raise some important issues.

They are to some extent related to the debate we had yesterday in relation to the best interests of the patient, but I do not think the debate is on all fours. It is acknowledged that improving the quality of life is a subjective assessment, and so is an assessment of what is in the best interests of the patient. However, it seems to me that if one is to give a medical practitioner appropriate immunity it is not so much a question of improving the quality of life but of the medical practitioner acting in the best interests of the patient, because the medical practitioner has an ethical responsibility to that patient. It is not just to adhere to the instructions of the medical agent and in a sense to act as an automaton but also to act in what the medical practitioner believes are the best interests of the patient.

There may be a conflict, but if the medical practitioner is to gain immunity I hold the view that there ought to be a higher standard imposed on the medical practitioner than merely some improving of the quality of life, for example. I have no difficulty with the words 'in order to preserve or improve the quality of life', although I suppose my own amendment takes the focus away from the preservation of life and focuses it upon the best interests of the patient, and that may be not to continue the particular treatment. So, to that extent, the preservation of life is not then the immediate priority.

I was provided with some ratings of quality of life from the report of the task force on ethical and legal issues concerning disabled and extremely low weight new born infants, and that was a report to the Health Commission in March 1991. It is rather fascinating to see the ratings, in that context, that this task force put upon certain areas: perfect health is a 1; life with menopausal symptoms is .99; side effects of hypertension treatment .95 through to .99; mild angina .9; kidney transplant .84; mechanical equipment to walk .79; moderate angina .7; some physical limitation with occasional pain .67; home renal dialysis .54 through to .64; severe angina .5; anxious, depressed and lonely .45; blind or deaf or dumb .39; mechanical aids to walk .31; dead, zero; confined to bed with severe pain, less than zero; unconscious, less than zero.

So, if the medical practitioner decides that to improve the quality of life of a person who is confined to bed with severe pain is one of the criteria which must be taken into consideration in determining whether or not the medical practitioner incurs civil or criminal liability, an improvement from 'confined to bed with severe pain' (which is less than zero) up to 'dead' is an improvement in the quality of life. That is a bizarre notion, but it is taken from a task force report to the Health Commission on ethical and legal issues.

So, if that is one analysis of what is the quality of life and how you rate it, it disturbs me that in this clause of the Bill improving the quality of life—which is a subjective assessment, I acknowledge, as is what is in the best interests of the patient—nevertheless is vague but has connotations of the bizarre.

I have concerns about that. What is in the best interests of the patient is a decision which the medical practitioner will make in accordance with professional standards of medical practice in good faith and without negligence. It is a more appropriate criterion to use in determining this issue of whether or not a medical practitioner is civilly or criminally liable.

The Hon. BARBARA WIESE: I am opposing this amendment. The debate that we had on the honourable member's proposed amendment to clause 7(b) is also applicable in this context, and essentially that debate concerned whether we should have that standard to which the honourable member was referring in relation to the best interests of the patient or the wishes of the patient. In the debate on clause 7, the point that I made then was that the thrust of this Bill is to make provisions that give effect to the wishes of the grantor of a power of attorney. That is the sort of emphasis required in this legislation.

What we are trying to achieve here is a situation which gives maximum power to individuals to have their wishes carried out. That more objective test of what is in the best interests of the patient as suggested by the Hon. Mr Griffin is a different concept. It is opposed here as it was then. I might indicate for the information of members that the wording which has been arrived at in clause 12(d) was not chosen lightly. It was arrived at, I am advised, after very careful consideration and very much discussion with a wide range of people. Members may be interested to know that among the people who were consulted on this matter were the heads of churches. It is understood that this wording is also acceptable to them.

The Hon. K.T. GRIFFIN: It is my understanding that it is certainly not acceptable to all members of the heads of

churches. I make the point in relation to clause 7 of the Bill that we were talking about the exercise by the medical power of attorney of the powers conferred on the medical power of attorney. What is in the Bill is an obligation upon the medical power of attorney to exercise them in accordance with any lawful directions contained in the medical power of attorney. What this clause is doing is looking at the liability of the medical practitioner.

Already, the directions to the medical power of attorney are qualified by other criteria. The medical practitioner has to act in good faith and without negligence, in accordance with proper professional standards of medical practice—and one would presume that is not just the quality of the medical treatment, that is, the technical medical treatment but also the emotional and caring aspects of medical practice—and in order to preserve or improve the quality of life. So, it is not a matter of the instructions or directions of the medical attorney having to be implemented. The fact is they may not necessarily be implemented completely as the directions have been given because they will be qualified by paragraphs (b), (c) and (d) in any event.

I think that is quite proper; otherwise, the medical practitioner becomes a mere cipher, a technical instrument by which the medical agent's instructions are carried out, and there are no ethical or legal constraints within which the medical practitioner must then act. I am putting to the Minister that we are dealing with a quite different area from that in clause 7. Clause 7 is the way the agent exercises the powers: in this clause it is an immunity from civil or criminal liability, that is, immunity from allegations and action for professional negligence, actions under criminal law maybe for manslaughter or murder or actions relating to conspiracy.

I would suggest that all that is a much more serious issue than the way in which the medical agent exercises his or her powers. I take the view that the reference to the quality of life is a more vague concept than what is in the best interests of the patient. Quality of life is a judgment that only an individual can make about himself or herself. On the other hand, a medical practitioner can make judgments about the best interests of the patient in the context of his or her medical treatment and the context in which it is being administered. So, I have a very strong view that one should not confuse clauses 12 and 7. One should look at what clause 12 actually seeks to do, and that is to provide immunity from civil or criminal liability.

The Hon. BARBARA WIESE: The point is that, notwithstanding what the honourable member has said, it still comes back to a decision about who will make the judgment on what is in the best interests of the patient and what is the quality of life that the patient is looking for. Whilst I acknowledge that clause 7 was dealing with the powers of an agent and this clause is dealing with the responsibilities of a medical practitioner, at the heart of all this is still the question about who is making the judgment about what they want at this time of their lives and who is setting the standard by which these things will be measured. I continue to argue that the words the honourable member wishes to insert diminish the principle that is really at the heart of this legislation.

The Hon. K.T. GRIFFIN: My amendment puts the patient first. The patient is first, and that is where the focus has to be, in my view.

The Hon. Barbara Wiese: Someone is deciding what is in the best interests of the patient, and it is not necessarily the patient who is making that decision. That is the issue.

The Hon. K.T. GRIFFIN: To attract immunity from liability the medical practitioner has to make a professional judgment, and already the immunity is qualified by other criteria. I am saying that 'the best interests of the patient' really does put the focus upon what is best for that patient.

The Hon. Barbara Wiese: In whose view?

The Hon. K.T. GRIFFIN: One has to understand that it is in terms of the immunity that is being granted to the medical practitioner. It is not a question—

The Hon. R.I. Lucas: You only get the immunity if you act in this way.

The Hon. K.T. GRIFFIN: That is right. It is not a question of the medical agent making the decision because already the medical agent's directions may be modified, varied or not carried out by the medical practitioner who wishes to gain the protection of this clause and says, 'Well, look, in good faith, I cannot do that,' or 'If I do that I will be negligent,' or 'If I do that, that is not in accordance with the proper professional standards of medical practice.'

Already, the medical agent's directions are being compromised but, if you ask who is going to make the decision, in the context of this clause it has to be the medical practitioner because it is the practitioner who attracts the civil or criminal liability. It is not the medical agent who is out there free and ready to roam. The medical agent only has to say, 'These are my instructions.' The medical practitioner then has to implement them and it is the implementation of those instructions that exposes the medical practitioner to civil or criminal liability.

Therefore, it is in that context that it is my view that professionally as well as legally the medical practitioner, whilst acknowledging the instructions given by the medical agent, must have the best interests of the patient as a central focus. That is what I am saying. One can make all sorts of judgments about quality of life. Hitler made judgments about the quality of life and selection of individuals: 'You are entitled to live and you are not. You are not entitled because you are not an Aryan, you are a Jew.' That all goes partly to the issue of quality of life. I think you introduce some dangerous concepts if you start to focus on quality of life.

The Hon. M.J. ELLIOTT: In using the words 'in the best interests of the patient', you are implying that it is in the doctor's view—

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: If that is the case, if you happen to have a doctor who thinks the best interests of the patient are served by them dying and that happens to be their view, then you set that up as a defence. You are making it sound like the doctor will make decisions against what the agent is saying.

The Hon. K.T. Griffin: He may do.

The Hon. M.J. ELLIOTT: The doctor may make decisions in the other direction and be giving strong advice in another direction as well.

The Hon. K.T. Griffin: I acknowledged that right at the beginning.

The Hon. M.J. ELLIOTT: I cannot see that we are gaining anything by it. After all, in paragraph (c) the doctor is being asked to act in accordance with proper professional standards of medical practice. In this case it is not just a doctor giving their view about what should happen. It is a question of what does a doctor believe that a doctor properly should do faced with this illness and the prognosis that the illness carries with it. That is proper professional standards of medical practice and it seems to me that that addresses the

sorts of things that the Hon. Mr Griffin is talking about. The suggestion that they should start making judgments about the best interests beyond what is proper professional standards and imposing a personal viewpoint has then got the doctor doing his or her own thing, which I do not think is at all acceptable. They have to be either complying with proper professional standards and/or complying with the wishes of the patient. Their wishes and beliefs do not play any role in this, I do not think.

The Hon. BERNICE PFITZNER: It is true that both terms 'quality of life' and 'best interests of the patient' are subjective, but I think 'quality of life' is less so because one can address the types of quality as far as physical quality, mental quality, social quality and psychological quality. The medical practitioner can take those things into account when assessing quality.

When assessing best interests, there must be interaction between the practitioner and the patient, if possible. When that happens, it is most likely that the patient may not be able to express what is in his or her best interests, because as the Hon. Mr Griffin said the patient could be comatose or aphasic. To interpret best interests one would have to have interaction with the patient, whereas quality of life could perhaps be assessed more objectively.

I have trouble with the table that was referred to earlier, because I do not think quality of life can be measured in absolute terms. Quality of life must be measured in relative terms in respect of each and every individual in each and every environment. With all due respect I think the table is a bit of rubbish. Paragraph (d) is one of the most important statements that we are making in the whole Bill, which seeks to preserve and improve the quality of life, but dare I say it goes against what we perceive to be the sanctity of life. I strongly support what is contained in paragraph (d) in the Bill.

The Committee divided on the amendment:

AYES (8)

Burdett, J. C.	Davis, L. H.
Dunn, H. P. K.	Griffin, K .T. (teller)
Irwin, J. C.	Lucas, R. I.
Schaefer, C. V.	Stefani, J. F.

NOES (13)

Crothers, T.	Elliott, M. J.
Feleppa, M. S.	Gilfillan, I.
Laidlaw, D. V.	Levy, J. A. W.
Pfitzner, B. S. L.	Pickles, C. A.
Roberts, R. R.	Roberts, T. G.
Sumner, C. J.	Weatherill, G.
Wiese, B. J. (teller)	

Majority of 5 for the Noes.

Amendment thus negatived; clause passed.

Clause 13—'The care of the dying.'

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

Page 6, line 32—Leave out 'even though an incidental effect of the treatment is to hasten the death of the patient'.

This clause deals with the care of the dying. It is a difficult issue, I recognise, but a medical practitioner incurs no civil or criminal liability with the intention of relieving pain or distress in the terminal phase of a terminal illness, with the consent of the patient or a person empowered to consent to medical treatment, and in good faith and without negligence and in accordance with proper professional standards of palliative care. I have no difficulty with that, although I have a continuing concern about the terminal phase of a terminal illness in the same context as my colleague the Hon. Mr Lucas has expressed it on a number of occasions during the debate.

What we have here is a provision that, even though the treatment may have an incidental effect of hastening the death of a patient, the medical practitioner does incur no civil or criminal liability in the circumstances identified in clause 13(1). It is because of the problem with the description of 'terminal phase of a terminal illness' that I have the view that one should remove the last line of that subclause. I do not believe that in those circumstances the medical practitioner should have immunity, because what it does allow, in the context of the definitions, is for someone who has been comatose for some period of time, again in the circumstances referred to by the Hon. Robert Lucas, to receive treatment which may have the effect of hastening the death of the patient, even though all good sense may dictate that that may not necessarily be in the best interests of the patient. It may be, of course, that to some extent that is overcome when we get back to recommitting the Bill but in the present context I believe that the last line should be deleted.

The Hon. BARBARA WIESE: I oppose this amendment. The line in question has been included in the Bill as drafted to cover circumstances which I am advised are very rare occurrences but which, nevertheless, happen. I understand that the select committee heard expert opinion from specialists in the palliative care area on what was called the principle of double effect. Perhaps the best way to explain that principle and the reason for the provision as included in the Bill is to quote from the evidence of one of those expert specialist witnesses, who said: Here there is administration of medication aimed at maintaining comfort for the patient but having also the potential to cause death earlier than if it had not been used. This is sometimes discussed as the principle of double effect. A patient may have severe pain and restlessness which is able to be controlled only through large doses of narcotics and sedatives which cloud consciousness and impair other body functions to such an extent that the onset of death is accelerated. Such an occurrence is not often necessary. Usually, the modern techniques of pain management available to experienced palliative care teams are able to control pain without significantly impairing other body functions. But when it occurs, palliative care doctors risk being charged with the administration of a drug which caused death and in circumstances where the maintenance of life was judged to be less important and secondary to concern for the comfort of the patient and the assessed quality of that patient's life.

So, the Bill seeks to cover those circumstances, and it covers those circumstances in a case where the patient is in a terminal phase of a terminal illness. To my mind, this again goes to the heart of what this legislation is about: it is about providing the opportunity to die with dignity and for those people who are dying to be as comfortable as they can be, without providing any risk that medical practitioners who assist in that process are found guilty of some offence. So, I strongly support the Bill as it stands and oppose this amendment.

The Hon. BERNICE PFITZNER: This measure is one of the most important concepts in the Bill because it involves people in pain to whom we have to give morphia, and we must increase the morphia each and every time the pain increases. The intent is to alleviate pain. The incidental effect of the treatment is to hasten the death of the patient. It is not the aim of it, as some people might like to interpret. If this clause is taken out, this whole Bill is without meaning. I strongly support it.

The Hon. CAROLINE SCHAEFER: I oppose the amendment because it goes too far. As I have indicated each

time I have spoken, I believe that the palliative care section is the most important section of the Bill, and it breaks new ground. It acknowledges the fact that medical technology has passed what would normally have been a natural access to death.

I have consulted people more learned than I and they agree that in law and in theology intent is everything. If the intent of the administration of a drug is to relieve someone from pain and allow them to die with dignity, I believe that is acceptable. If the intent of the administration of a drug is to kill that person, it is unacceptable.

As I have said, this is the most important part of the Bill. It provides legal protection for those who are engaged in the service of those who are dying and, as such, I believe it deserves our support. Those who may be concerned that this is the thin edge of a wedge for a euthanasia Bill will, I believe, support my final amendment, which acknowledges that this is not a euthanasia Bill. I believe that the Hon. Trevor Griffin's amendment negates the intent of this part of the Bill and, as such, I cannot support it.

The Hon. R.I. LUCAS: This is another difficult part of the Bill. It is not my intention to support the amendment, for similar reasons to those advanced by the Hon. Caroline Schaefer. I do not intend to repeat her very cogent arguments, but I should like to make one point. It has been argued in this place and in the corridors that some of the examples have been hypothetical, that they would be rare, and that we should not legislate for rare or hypothetical examples.

I understand that what we are seeking to do here is largely hypothetical. No-one has been able to indicate examples of medical practitioners who have been taken to court for administering morphine with the intention of relieving pain or distress. I should be interested to hear from the Minister whether there have been such cases in South Australia. However, the information provided to me is that there have not been any such cases. Whilst the notion of the double effect, or whatever the correct phrase is, might be theoretically possible, we have had no examples. Nevertheless, I make that point because we have to cater for all possibilities, and I concede that this may well be a possibility. I do not accept the argument that, because it might be a rare or isolated case, we cannot legislate for it. Indeed, the argument about hypothetical or isolated examples has been put to me by a member from another place during the past 48 hours. For the reasons advanced by the Hon. Caroline Schaefer, I intend to oppose the amendment.

The Hon. K.T. GRIFFIN: I have no intention of emasculating the whole Bill, and I take exception to any suggestion that that is my intention. I said that my major concern was with the terminal phase of a terminal illness, which we have discussed at some length.

Although this comes in a division which is entitled 'the care of the dying' the fact of the matter is that under the Acts Interpretation Act the headings mean nothing; the marginal notes mean nothing and must be disregarded in interpreting the provision. There is nothing which focuses this solely on the dying. That was the point the Attorney-General was making earlier in the debate. He said that he thought the intent of the Bill was to deal with the issue of dying and it may be, of course, that that is something that we will address when the Bill is recommitted, but the fact of the matter is that even though there is a heading 'the care of the dying' you disregard that when you are interpreting the provisions of the Bill.

The difficulty with this is that it applies in those circumstances where a patient is in the terminal phase of a terminal illness. It may be that the Hon. Caroline Schaefer's last amendment is the appropriate way to try to indicate an intention in respect of the way in which the Bill will be interpreted when it becomes an Act of Parliament. My amendment is designed to deal with the drafting as it is. If there is a better way of dealing with it I am certainly happy to consider it. I can, however, see that I am not likely to have the numbers on this amendment.

Amendment negatived.

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

Page 7, line 6—Leave out 'the effect of doing so would be merely to prolong life in a moribund state without any real prospect of recovery' and insert—

(a) the effect of doing so would, in the opinion of the medical practitioner, be merely to prolong life in a vegetative state without any reasonable prospect of recovery; and

(b) two other medical practitioners who have both personally examined the patient have certified in writing that they concur in that opinion.

A medical practitioner responsible for the treatment of a patient in the terminal phase of a terminal illness is, in the absence of an express direction by the patient, under no duty to use or to continue to use extraordinary measures if the effect of doing so would be merely to prolong life in a moribund state without any real prospect of recovery.

We have debated at length the definition of 'extraordinary measures' and I have endeavoured to move that but without success, particularly focusing on part of the definition of 'extraordinary measures' in relation to a person who may be suffering from what is described as a terminal illness, that is, an illness or a condition that is likely to result in death. 'Extraordinary measures' in those circumstances means medical treatment that supplants or maintains the operation of vital bodily functions that are temporarily or permanently incapable of independent operation. The word 'temporarily' causes me concern.

The Hon. C.J. Sumner: What is the argument for 'temporarily' being there?

The Hon. K.T. GRIFFIN: I do not know; I tried to knock it out but that was before you got involved. I would have been pleased to have had the opportunity to discuss it across the Chamber but it seems to me—

The Hon. C.J. Sumner: I was listening out there.

The Hon. K.T. GRIFFIN: I am not being difficult about it. It seems to me that, in the context of that definition, 'extraordinary measures' became a rather fragile definition, because if the operation of vital bodily functions temporarily are incapable of independent operation—maybe that is dialysis, and probably many other events would satisfy that description—then that brings into play a number of the provisions of the Bill. I expressed concern about that being in here because, as I say, it introduced a fragility to the definition which brought us much closer to what I am concerned about—that this Bill can be used as an excuse for assisting persons to die more quickly than otherwise they may have done.

The definition goes on to provide 'and is not significantly intrusive or burdensome', and I have sought to delete that, without any success. If we take the matter further, clause 13(2) provides that a medical practitioner is under no duty to use or continue to use extraordinary measures in treating the patient if the effect of so doing would be merely to prolong life in a moribund state without any real prospect of recovery. That picks up the debate we have had from the Hon. Mr Lucas about the terminal phase of a terminal illness, no real

prospect of recovery and the person being comatose for a number of years. There are some cases where the person has subsequently revived and gone on to live a very valuable and practical life.

I seek to leave out the words 'the effect of doing so would be merely to prolong life in a moribund state without any real prospect of recovery' and define it differently, so I wish to insert a provision that the effect of doing so would in the opinion of the medical practitioner be merely to prolong life in a vegetative state without any reasonable prospect of recovery and also to require two other medical practitioners who have examined the patient to give a certificate that they concur in that opinion. That is as important as paragraph (a), because it introduces at least second opinions which are then necessary prerequisites to the medical practitioner enjoying immunity from liability. There may be arguments about how many medical practitioners' opinions might be more appropriate, and that is a matter we can usefully debate, but it is the principle that I want to establish in the context of the consideration of this Bill.

The Hon. BARBARA WIESE: I oppose this amendment. The effect of proposed new paragraph (a) would be to narrow the scope of the clause in a way that would not reflect the body of evidence that was put to the select committee, and it is therefore unacceptable.

The Hon. R.I. Lucas interjecting:

The Hon. BARBARA WIESE: That goes back to the argument that we had in the past day or so about vegetative state—

The Hon. K.T. Griffin: If death is imminent.

The Hon. BARBARA WIESE: —and how you measure the imminence of death.

The Hon. R.I. Lucas: What is the difference between vegetative state and moribund state?

The Hon. BARBARA WIESE: The medical advice that we have received (and it is a pity that the Hon. Dr Pfitzner is not here, because she put the case very well when we debated this on the last occasion) is that 'vegetative state' is a narrower description than 'moribund state'.

The Hon. R.I. Lucas: This medical opinion came from the Health Commissioner?

The Hon. BARBARA WIESE: No, the advice on this matter came from Dr Michael Ashby who is from the Eastern and Central Adelaide Palliative Care Service and who has been very helpful in providing his best professional advice in drafting the legislation and also comment on various amendments that have been moved by various members.

Members might recall that, in relation to the Hon. Mr Griffin's amendment, which was moved a couple of days ago and which sought to remove the words 'temporarily or' with respect to treatment—and this comes back to a debate that arose again with respect to this—I quoted from advice from a specialist in the palliative care area. At that stage I did not wish to provide the name of that individual, because I had not checked with him that he was happy for me to use his name. I have since checked that with him and he is quite happy for me to quote him as the source of the information that I was providing at that time.

Essentially, if I can repeat that argument, he was saying that, first, using that terminology is to carry on with terminology that is currently included in the Natural Death Act. So, it is not a new concept: we have been working with it since the Natural Death Act came into being. He was suggesting that it may be that the people who want to remove that reference to 'temporarily' consider that all interventions that supplant or maintain the operation of vital bodily functions in relation to a person suffering from a terminal illness must, by definition, mean that they are permanently incapable of independent operation. He says that this is not clinically the case, and it is quite conceivable to have potentially reversible components of a terminal illness. It may not be appropriate to obstruct the dying process by reversing the problem.

The whole point of both the Natural Death Act and the Bill is not to supplant or maintain the operation of vital bodily functions that are failing as part of a natural dying process. That is why the words are included. Further, in terms of paragraph (b) of the Hon. Mr Griffin's current amendment, it would actually seek to impose a committee style decision making process on a medical practitioner, which is also considered to be unacceptable. In fact, Dr Ashby described this particular part of the amendment as excessively procedural and as a disaster for palliative care practice. I would be guided by the advice of someone like Dr Ashby, who is working in this area and having to face these decisions every day.

The Hon. K.T. GRIFFIN: You read out something in relation to paragraph (b), but you have not read anything other than giving a general response about paragraph (a). It was more specific in relation to paragraph (b) than it was in relation to paragraph (a); we had a disaster in paragraph (b) according to—

The Hon. C.J. SUMNER: I am not sure that I know much more about this than anyone else, but someone prepared some notes for me that might explain the position as I understand it. Reference to a 'vegetative state' is a narrower position than reference to being in a 'moribund state'.

So the change from moribund to vegetative, which is probably what the Hon. Mr Griffin is aiming to do, is limiting in the circumstances where a medical practitioner may decide not to treat or continue with treatment. 'Moribund', according to the *Oxford Dictionary*, means 'at the point of the death or in a dying state', whereas 'vegetative' is characterised by 'the exercise or activity of the physical functions only'.

I am advised that 'vegetative state' is not used where this issue has come up in the cases overseas, principally. 'Persistent vegetative state' is the phrase used in the cases and the literature to describe those patients with irreversible brain damage who, on recovery from a deep coma, pass into a state of seeming wakefulness and reflex responsiveness but do not return to a cognitive, sapient state.

The amendments by the Hon. Mr Griffin in effect are removing from medical practitioners the discretion to allow a patient in a vegetative state to die if the patient can be revived or if the patient's life could be prolonged by any conventional treatment of an illness.

As I understand the position, the Hon. Mr Griffin's amendment would seriously limit the circumstances in which a decision could be made not to use extraordinary measures and whereby the medical practitioner would not incur any liability. So I think that the term 'persistent vegetative state' has some meaning and describes—it is a pity Dr Pfitzner is not here—that medical position where someone has come from a deep coma into a state of wakefulness but not into a cognitive, sapient state.

But this Bill is trying to cover situations that are much broader than that, 'moribund', in the broader sense, being people in the process of dying (in this case in a terminal phase of a terminal illness). So, I think that, first, if the Hon. Mr Griffin's amendment were to be accepted, it would be

very limiting; and, secondly, it would be somewhat illogical, because you are referring to a patient in the terminal phase of a terminal illness and then you are referring to someone being in a vegetative state (which is the state that I have just described), whereas 'moribund' is a broader term where the person who is in the moribund state is in the state of dying.

So, the problem with the Hon. Mr Griffin's amendment, in my view, is that it narrows the circumstances in which extraordinary measures need not be used and, I would think, undermines what I understand to be the philosophy of at least a majority of the Parliament with respect to this Bill.

The Hon. R.R. ROBERTS: I am a little reluctant to stop the free flow of the debate about this particular point, but I have a question on the whole of this clause which I seek to place on the record, so that it is very clear when determining some of these things. This clause provides:

> A medical practitioner responsible for the treatment or care of a patient in the terminal phase of a terminal illness, or person participating in the treatment or care of a patient under the medical practitioner's supervision. . . in the absence of an express direction by the patient or the patient's representative to the contrary is under no duty to use, or continue to use, extraordinary measures in treating the patient. . .

When we refer to 'patient's representative', does that mean a nominated representative by the guarantor for the vesting of someone to act; or does it mean that the parent or guardian has the right to say, 'Yes, I want you to do that', although there is nothing in writing?

The Hon. BARBARA WIESE: I refer the honourable member to subclause (5), which provides a definition of 'patient's representative'.

Amendment negatived; clause passed.

New clause 13A—'Saving provision.'

The Hon. CAROLINE SCHAEFER: I move:

> After clause 13—Insert—
>
> 13A (1) This Act does not authorise the administration of medical treatment for the purpose of causing the death of the person to whom the treatment is administered.
>
> (2) This Act does not authorise a person to assist the suicide of another.

I am very sorry that more members have not been able to be in this Chamber and listen to this debate, because I fear that, even though it involves a conscience vote, many will not have kept up with the subtleties of the arguments in this Bill. I hope that they at some stage catch up with this and vote according to their conscience rather than someone else's. My amendment seeks to make absolutely clear the purpose of this Bill. During the second reading debate in this place, and when the Bill was debated in another place, one thing seemed to be agreed by all: this is emphatically not a euthanasia measure.

The Hon. Anne Levy and the Hon. Diana Laidlaw both expressed their disappointment that it does not go far enough in that direction. On the other side of the argument, the Hon. John Burdett and the Hon. Bob Ritson both indicated that, with certain amendments, they may in the end be able to support this Bill because it is not a euthanasia Bill. The Minister of Health (Hon. Martyn Evans) also assured me that this is so, that it is not a euthanasia Bill. There is, however, fear within the wider community that this is in fact the thin end of the wedge and the beginning of euthanasia legislation. I seek to formalise the reassurance that I have been given. It has been suggested to me that this clause is covered in clause 13 of the Criminal Law Consolidation Act. However, I have sought legal advice and this is not so. My new clause simply says, 'does not authorise'. It does not therefore contravene legal convention and, in fact, there is a similar clause in the Natural Death Act.

My amendment carefully avoids any reference to hastening death, because I am well aware of the subtleties in this Bill as expressed in Part 3, Division 2—The Care of the Dying, and I wish to protect that provision. There is, I believe, a vast difference between someone 'allowing to die' in as much comfort as possible and 'causing to die' by, for instance, the administration of a lethal dose. This clause should be acceptable to everyone, even those in favour of euthanasia.

It clearly states what the Bill does not authorise and perhaps opens the way for another Bill to be introduced at some later time if these people truly believe that there is a public demand for mercy killing. I believe there is no such demand. In fact, people want the right for their terminally ill loved ones to be allowed to die as comfortably as possible without undue and unnecessary interference. This is now allowed under the palliative care section of this Bill which we have just passed. My amendment clarifies the Bill. If you like, it states the obvious. It will put my mind and the minds of many others at ease if this clause is passed. It in no way impinges on the rights and duties of a medical agent or on the palliative care section of this Act and I urge its support.

The Hon. BARBARA WIESE: I oppose this amendment but not because I disagree with the sentiments that the honourable member has expressed. This Bill clearly does not authorise the administration of medical treatment for the purpose of causing death and it does not authorise a person to assist the suicide of another, but that does not persuade me that we ought to add clauses to the Bill which provide for those things. My concern with moving down the path of including clauses which outline what a Bill does not do is that we are saying that it does not do some things, but it clearly does not do a whole lot of other things, either. If we include some things that it is not doing and do not include other things that it is not doing, does it not raise more doubt about what it does do?

It is not common practice to include in Bills clauses that say what the legislation is not designed to achieve. The purpose of legislation is to outline what it is designed to achieve, and other pieces of legislation are there to deal with matters that are outside the terms of the particular legislation. Therefore, as a matter of principle I oppose the inclusion of these two subclauses, and I would suggest that, by trying to add these things, in the minds of some people it may actually raise more questions than it satisfies.

The Hon. CAROLINE SCHAEFER: Why is there a similar clause in the Natural Death Act now?

The Hon. BARBARA WIESE: I do not actually recall the detail of the debate on the Natural Death Act but I would suggest that it is in there because a private member moved an amendment similar to yours at that time and it was endorsed by the Council. I doubt whether it would have been an amendment in the original drafting.

The Hon. J.C. BURDETT: I support the amendment. Some persons who have promulgated and supported this Bill have run around outside this Chamber saying that it is a duplication to introduce this amendment because it is already in the Criminal Law Consolidation Act, it is contrary to convention or something of that kind. That is unmitigated rubbish. There are provisions in the Criminal Law Consolidation Act about murder and about assisting suicide, and they remain, and this amendment says nothing about that.

This amendment provides details of what this Bill does not authorise. There is nothing unusual about that. As the Hon. Caroline Schaefer has said, that provision certainly was in the Natural Death Act and, because the Minister has raised the question as to what the Natural Death Act said, I will read it:

> Nothing in this Act authorises an act that causes or accelerates death as distinct from an act that permits the dying process to take its natural course.

There is a reason for this. Both the Natural Death Act and this Bill are more recent legislation than the Criminal Law Consolidation Act. This Bill, if it passes, could be taken to some extent to amend the Criminal Law Consolidation Act and this amendment is simply to make sure that that does not occur, that this legislation does not authorise killing and that this Bill, which becomes an Act if it passes, does not authorise killing or assisted suicide. So, there is a real purpose for it and there is nothing strange or unusual about making it clear that it does not to any extent repeal a previous Act.

The Hon. Caroline Schaefer has said, and I think this is the fact, that everyone who has spoken in this debate and who has adverted to this issue has said this is not a euthanasia Bill, and that is certainly my view. Why not say so? It does no harm to make it clear because some people in the community generally have suggested that it is or that it could in some circumstances authorise at least voluntary euthanasia. If everyone agrees that it is not a euthanasia Bill, why not make it clear that it does not authorise the acceleration of death and does not authorise assisted suicide? For those reasons I support the amendment.

The Hon. K.T. GRIFFIN: I strongly support the amendment. I want to address a few remarks made by the Minister who said it is not common practice to have something like this in a Bill. I do not think it matters whether or not it is common practice. Parliament can do what it likes. I have been trying quickly to find an Act where something like this may have been included and perhaps, over the dinner break, if I feel enthusiastic enough about it, I may be able to find something, but it is important in an Act of Parliament to identify clearly the scope of the Act. If it means that, to put an issue beyond doubt, the Parliament is of the view that there should be a statement that a certain Act does not cover a particular area of activity, that ought to be included. Of course, if one looks at this Bill there are a number of areas where the Bill states 'For the purpose of the law of the State. . . ' For example clause 13(3) provides:

> For the purposes of the law of the State-
>
> (a) the administration of medical treatment for the relief of pain or distress in accordance with subsection (1) does not constitute a cause of death.

The Bill is saying that certain behaviour does not, for the purposes of the law, constitute a cause of death. What is the difference between that concept and what is in the proposed amendment?

The Hon. Barbara Wiese interjecting:

The Hon. K.T. GRIFFIN: I am reading out what is already in the present Bill.

The Hon. Barbara Wiese: Yes, I know that a sentiment is in the present Bill. What I am saying is that, because it was done before, does not mean it was right.

The Hon. K.T. GRIFFIN: What it does means is that if it will cause no difficulty by being in the legislation, then no-one can use it as an argument against it. No-one can say that is wrong to put it in there, and no-one can argue that it is right.

The Hon. Barbara Wiese: You stand up every day of the week in Parliament and tell us why we should not do things: because it is not traditional, it is not the way in which things have been done in the past or it has not been done in previous legislation.

The Hon. K.T. GRIFFIN: If the Minister is going to start accusing me of that, let her quote some examples. She may think that is what I said, but she ought to look at the *Hansard* carefully. We must focus on what the Bill is designed to achieve. We may need to include a provision which limits the operation of the Bill and puts it beyond doubt. There is no problem with that. The Minister has said that it may raise more questions than it addresses. What question would it raise if we merely said that the Act does not authorise the administration of medical treatment for the purpose of causing the death of the person to whom the treatment is administered? What problems will be created by that statement? None at all. If it is passed, it is a clear expression of the Parliament's intention: that one cannot administer medical treatment for the purpose of causing death. What mischief would be created by saying that this Act does not authorise a person to assist the suicide of another? None at all. It does not raise more questions than it addresses. The issue ought to be put beyond doubt. If it is not included one could then suspect that perhaps there is some other purpose designed to be served by the Bill.

The Hon. C.J. SUMNER: The Act clearly provides neither of the things that are being suggested in the amendment. Therefore, there is no need for the amendment. That is the only basis on which I oppose it.

The Hon. R.I. LUCAS: The Natural Death Act is the predecessor to the legislation we are discussing. The Attorney and the Minister argue that there is no need to include this amendment. The 1983 debate on the Bill that was introduced by the Hon. Frank Blevins contains nothing of any substance at all. That Bill went through the Committee stage rather more quickly than this one.

Members interjecting:

The Hon. R.I. LUCAS: I am intrigued. On my reading of the debate, the Hon. Jennifer Adamson actually opposed the Bill in 1983. It would be of interest to look at the debate in both Houses, but I will not go through it. I found that there was no Committee debate in the House of Assembly and one question was asked by the Hon. Legh Davis in the Committee stage in this place, but no amendment was made in respect of this provision. So, this matter was part of the Bill that was introduced by the Hon. Frank Blevins, which was supported by the Hon. Barbara Wiese and the Hon. Chris Sumner and all other Labor members present in the Chamber at that time without any opposition at all. The same arguments which the Hon. Barbara Wiese and the Hon. Chris Sumner would have used in 1983 to support this provision in the Natural Death Act and which they therefore chose to—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: Not exactly the same words but it achieves exactly the same thing. The Hon. Caroline Schaefer has moved this amendment in relation to this Bill for exactly the same reasons as the two members to whom I have just referred would have made the judgment that they could support that provision in the Natural Death Bill, which they did not oppose and which passed through this Chamber. The 1983 argument in relation to this amendment, which was inserted by the Hon. Frank Blevins and supported by the Hon. Barbara Wiese and the Hon. Chris Sumner, is the same as the 1993 argument.

[Sitting suspended from 6.1 to 7.45 p.m.]

The Hon. R.I. LUCAS: Rightly or wrongly there is some concern in the community amongst some individuals and some groups about the intentions of some of the people who have been proponents of the legislation and the effects of the legislation. We can all have differing views about the correctness of those views or otherwise, but most people would concede that in the community there is at least some concern amongst some people and some groups about the intentions and the effects of the legislation that we are discussing this evening. Therefore, the amendment from the Hon. Caroline Schaefer is a sensible set of words which will calm and allay any fears that those individuals or groups might have about the effects of the legislation. In exactly the same way, the Hon. Frank Blevins, when he introduced his Natural Death Act in 1983, put virtually the same provisions in that Act. Those provisions were supported by the Hons Barbara Wiese, Chris Sumner and Anne Levy—and the others who were here in 1983. I will not test my memory as to who was here then, but at least the three frontbenchers, the three leaders of the Labor Party Caucus in the Legislative Council.

Members interjecting:

The Hon. R.I. LUCAS: Whether or not they are your leaders on this particular matter, at least those three members supported that provision. It was a sensible provision, which went through with no discussion at all in the Committee stage and no-one, in either House of Parliament, raised the issue at all at that time. It was seen by most people as a sensible provision. Therefore, for the same reasons that it was incorporated in 1983 in the Natural Death Act I would urge members to similarly incorporate it in this legislation.

The Hon. J.C. IRWIN: I shall speak briefly to support this amendment as strongly as I can, if only to say that I have not heard anything from any other speaker that convinces me that this clause should not pass. The Minister (the Hon. Barbara Wiese) spoke about this principle being in the Natural Death Act and said that, because it is in that Act, something similar does not need to be in this. That is not good enough; in fact, it is one reason why it should be there, however it was put in. It seems fairly clear that the measure was not just slipped in by a private member as an amendment: it was all part of the legislation and the Bill that was before this Council in 1983.

My friend and colleague the Hon. John Burdett has counselled me on the difference between this amendment and the Hon. Mr Griffin's earlier amendment, which was lost. As a layman, I really cannot see a great deal of difference between the two amendments. Clause 13(c), which remains in the Bill, provides:

> . . . in accordance with proper professional standards of palliative care, even though an incidental effect of the treatment is to hasten the death of the patient.

I understand the emphasis on the word 'incidental' which is left in the Bill. The current amendment provides:

> This Act does not authorise the administration of medical treatment for the purpose of causing death.

There is a fine line between what is still in—

Members interjecting:

The Hon. J.C. IRWIN: No, I am relating this amendment to the other amendment, because I did not speak on the Hon. Mr Griffin's amendment to take out 'even though an incidental effect.' But it was clear that that would be lost. The principle is that what is left in clause 13(c) is legally condoning death by the hand of a doctor, whichever way you look at it. No-one has convinced me that it is not. The principle of the Bill takes away the odium of some of the final decisions that have to be made by a doctor and gives them to an agent; that is what it is all about. We have not been very good at tidying up that problem (which is why we need to recommit the Bill). I hope we do so when the Bill is recommitted and some clauses are discussed again.

Clause 13(c), as it stands, condones the doctor who, by chance (or not) of giving too much morphine, might hasten the death of a patient. There is a very fine line between the pain and agony a patient might be going through and the fact that too much morphine can hasten death. As I said, my colleague the Hon. John Burdett counselled me on the difference in the wording, namely, that one is not by design and one may be by design. I strongly support this amendment, and I want someone on the other side to convince me why I should not support it—not just with arguments about its not having to be in this Act because it was in the Natural Death Act.

Almost all the way through, the Minister has said that certain measures are in the Natural Death Act so we can use them quite safely here. That has been the argument all the way through but, conveniently, now it is not. It is not used, so it is not needed. I do not agree with that.

In my opinion, there has to be a bottom line or discipline in this legislation. I see nothing wrong with the Hon. Caroline Schaefer's amendment providing that discipline. If anyone can convince me with a good argument that it should go, I will certainly listen to it. I support the amendment.

The Hon. R.R. ROBERTS: I think anybody can argue the intent behind this amendment. Nobody wants an act which will hasten death. We all agree that the administration of pain-killers to relieve pain and suffering may, in the natural course of events, bring the point of death closer, but the intention is not to cause death: it is to relieve the pain and suffering so that the patient can die with some dignity, and I agree with that.

The paradox is that this clause does not authorise the administration of medical treatment; the act of shooting somebody or running over a person with a train, and so on; and a whole lot of things which can cause death. Technically, it should be any act. This legislation does not authorise any act which contributes to death or suicide. I suppose the essential question for those who support the content of the Bill is: does the clause not allow all those things to take place? If it still allows all the things that we want to take place and it clarifies only the euthanasia argument, I think there will be general agreement. People to whom I have spoken claim that this is not a euthanasia Bill.

If we are in a deadlock, it comes down to the question: what does it take away from the acts that can take place? Does it inhibit them from taking place—I do not see that it does—and does it merely confirm that medical treatment or assisted suicide cannot be used, the definition of which is not as broad as it should be? If it provides for the systems to operate within the Bill which everybody intends to occur, and it does not impede people from doing that, it does not matter whether or not we put this in. If it provides comfort for people who hold this fear, I suppose it does no harm. Therefore, I am of the opinion that it does not matter whether or not it goes in.

My only concern is that, if it detracts from the objects of the rest of the Bill, we should look more closely at it. If it

does not, I am happy for it to go in. If someone can convince me that it will stop us from doing all the things that we have generally agreed ought to happen, I think that we have to look at it very closely. That argument has not been advanced, so I see no reason not to support something extra which does no harm to the objects of the Bill but which satisfies the genuine concerns of a significant part of the community. I do not think that we are doing anybody any harm. I support the amendment.

New clause inserted.

New clause 14—'Regulations.'

The Hon. BARBARA WIESE: I move:

Page 7—After line 17, insert new Part as follows:

Part 4

Regulations

14. The Governor may, by regulation, prescribe forms for the purposes of this Act.

This new clause simply provides the power for the Governor to prescribe forms for the purposes of the Act. It is just an enabling provision.

New clause inserted.

Schedule 1.

The Hon. BARBARA WIESE: I move:

Page 8, lines 3 and 4—Leave out clause 1 and insert:

1.I, [here insert name, address and occupation] appoint the following person(s) to be my medical agent(s):

[Here set out name, address and occupation of the agent. If two or more agents are appointed, the order of appointment must be indicated by placing the numbers 1, 2, 3. . . beside each name. This indicates that, if the first is not available, the second is to be consulted, if the first and second are not available, the third is to be consulted and so on. It should be noted that a medical power of attorney cannot provide for the joint exercise of the power. (See section 7(5) of the Consent to Medical Treatment and Palliative Care Act 1993.)]

This amendment requires that where two or more agents are appointed, an order of appointment is assigned, and that is in accordance with previous decisions that we have taken during the course of the debate.

Schedule as amended passed.

New schedule 1A.

The Hon. BARBARA WIESE: I move:

Page 8, after Schedule 1—Insert new schedule as follows:

Schedule 1A

Direction under section 6A of the Consent to Medical Treatment and Palliative Care Act 1993

1.I, [here insert name, address and occupation], direct that if, at some future time, I am—

(a) in the terminal phase of a terminal illness, or in a vegetative state that is likely to be permanent; and

(b) incapable of making decisions about my own medical treatment,

effect is to be given to the following expressions of my wishes:

[The person by whom the direction is given must include here a statement of his or her wishes. The statement should clearly set out the kinds of medical treatment that the person wants, or the kinds of medical treatment that the person does not want, or both. If the consent, or refusal of consent, is to operate only in certain circumstances, or on certain conditions, the statement should define those circumstances or conditions.]

2. I make this direction under section 6A of the Consent to Medical Treatment and Palliative Care Act 1993.

. . . . . .

[signature]

Witness's certificate

I, [here set out name and address of the witness and the qualification by virtue of which the witness is an authorised witness under the Consent to Medical treatment and Palliative Care Act 1993] certify that the person whose signature appears above:

(a) signed this direction in my presence; and

(b) appeared to understand the nature and effect of the direction.

. . . . . .

[signature]

This amendment inserts an advance directive. As indicated earlier, it is intended that the advance basic directive form will be refined after the passage of the legislation and after consultation with various parties, and any new form to replace it will be prescribed by regulation.

The Hon. R.R. ROBERTS: I am not doing this to be pedantic, but this schedule has no reference to dates when these declarations are to be made, and I just think it needs to be put on the record very clearly. In the case of a dispute before the Guardianship Board as to when the declaration is made, it could well become important and I think it needs to be inserted there. The provision states, 'I make this direction under section 8A of the Consent to Medical Treatment and Palliative Care Act 1993.'

I think it is important that the dates when the declarations were made are clear within that *pro forma*, because a dispute as to who has been given the power of authority and whether that power of authority was legal at the time it was given may cause problems. We will recommit some of these matters, and we will talk about 16 year olds and 18 year olds.

The Hon. BARBARA WIESE: It has become clear during the debate that it would be desirable for a date provision to be included with the forms when they are eventually drafted in their final form. I am sure that the Minister of Health, Family and Community Services will take note of the views of the members of the Council that it is desirable that a date provision exist, and I will certainly draw it to his attention.

New schedule inserted.

Schedule 2.

The Hon. BARBARA WIESE: I move:

Page 9, line 2—Leave out 'Provision' and insert 'Provisions and consequential amendments'.

This and my next amendment to schedule 2 essentially seek to dovetail the provisions of this Bill with those of the Guardianship and Administration Act 1993 and the Mental Health Act 1993. Members may recall that those two pieces of legislation were passed during the last stages of the last session. They came into this place in a form which included that dovetailing in anticipation that all three pieces of legislation would move through together. When it was evident on the last day of the session that this would not be the case, members will recall that amendments were moved to split the provisions so that now we must seek to re-establish the linkages between the three pieces of legislation.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 9, after line 15—Insert new clauses as follows:

Amendment of Guardianship and Administration Act 1993

3. The Guardianship and Administration Act 1993 is amended—

(a) by inserting in section 3(1) after the definition of 'the Health Commission; the following definition:

'medical agent' means a person appointed under a medical power of attorney under the Consent to Medical Treatment and Palliative Care Act 1993 to be the medical agent of another:;

(b) by striking out section 58 and substituting the following section:

Application of this Part

58. This Part applies in relation to a person—

(a) who, by reason of his or her mental incapacity, is incapable of giving effective consent, whether or not he or she is a protected person; and

(b) who does not have a medical agent who is reasonably available and willing to make a decision as to the giving of consent to the medical or dental treatment of the person.;

(c) by striking out from section 61(1) 'prescribed circumstances exist for the purposes of section 62' and substituting 'circumstances exist for the giving of emergency medical treatment under the Consent to Medical Treatment and Palliative Care Act 1993, but otherwise notwithstanding that Act';

(d) by striking out section 62.

Amendment of Mental Health Act 1993

4. The Mental Health Act 1993 is amended—

(a) by inserting in section 3 after the definition of 'director' the following definition:

'medical agent' means a person appointed under a medical power of attorney under the Consent to Medical Treatment and Palliative Care Act 1993 to be the medical agent of another:;

(b) by inserting in section 13(4)(e) 'or medical agent' after 'a guardian';

(c) by striking out from section 20(2) 'or relative' and substituting ', relative or medical agent';

(d) by striking out from section 21(2)(d) 'relative or guardian' and substituting 'guardian, relative or medical agent';

(e) by striking out subsubparagraph (C) from section 22(1)(b)(ii) and substituting the following subsubparagraph:

(C) where the patient is incapable of giving effective consent and is of or over 16 years of age—

· if the patient has a medical agent who is reasonably available and is willing to make a decision as to consent—of the medical agent;

· in any other case—of the Board,;

(f) by inserting in section 26(1) after paragraph (b) the following paragraph:

(ba) a guardian, relative or medical agent of the patient;;

(g) by striking out clause 5 from Division 2 of the Schedule.

I seek leave to amend this amendment. Clause 4(e)(C) refers to '16 years of age'; in the interests of consistency, that should be amended to '18 years of age'.

Leave granted; amendment amended.

The Hon. K.T. GRIFFIN: I must confess that I did not think to look at the Mental Health Act. What is clause 5 of division II of the schedule referred to on the second page, paragraph (g)?

The Hon. BARBARA WIESE: Clause 5 of the Mental Health Act refers to the Consent to Medical and Dental Procedures Act 1985, which will be repealed by this legislation. Therefore, we are striking it out.

The Hon. K.T. GRIFFIN: That is all it says.

The Hon. BARBARA WIESE: It states:

The Consent to Medical and Dental Procedures Act 1985 is amended by—

(a) striking out from the long title 'procedures' and substituting 'treatment';

(b) striking out section (1) and substituting the following section:

Then there are numerous amendments to the short title.

The Hon. K.T. GRIFFIN: It has all been superseded anyway, because that has been implemented.

The Hon. BARBARA WIESE: Yes, that has been superseded by the new legislation.

New clause inserted; schedule as amended passed.

Long title.

The Hon. BARBARA WIESE: I move:

Page 1, line 8—Delete '1984' and insert '1985'.

In essence, this is a correction: the Consent to Medical and Dental Procedures Act is an Act of 1985, not 1984.

Amendment carried; long title as amended passed.

Progress reported; Committee to sit again.

FISHERIES (RESEARCH AND DEVELOPMENT FUND) AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. BARBARA WIESE: I move:

Page 1, line 10—Leave out '(Research and Development Fund)' and insert '(R&D Fund and other)'.

A Bill was passed in May of this year which related to the Commonwealth Fisheries Management Act and the joint arrangements that the State can arrive at with the Commonwealth. Prior to the passage of that legislation it was the understanding of the Government that the Commonwealth intended that the provisions it had passed in its own legislation would take effect from 1 January 1994. The State Government therefore issued a proclamation for the South Australian legislation to come into effect on the same day.

We have now been advised by the Commonwealth that its legislation will be postponed for one year, which means that it will come into effect on 1 January 1995. Therefore, these amendments give effect to that change. The first of my two amendments alters the short title to introduce the subject matter, and the second amendment deals with the actual issue that I have just described.

The Hon. PETER DUNN: The Opposition agrees with this amendment. I think it is just a procedural matter. I notice that in the short title the Minister has reduced 'Research and development fund' to 'R&D fund and other'. I presume that means the same and that it cobbles in with the industry funds that are put in as well, or funds that are allocated by the Federal Government, which is half of a per cent of the total catch that is distributed throughout Australia.

The Hon. BARBARA WIESE: That is my understanding.

Amendment carried; clause as amended passed.

Clause 2—'Research and Development Fund.'

The Hon. PETER DUNN: I move:

Clause 2, page 1, line 28—Leave out paragraph (e) and insert:

(e) with the agreement of the Director and the fishery management committees—for any other purpose (including defraying the costs of administering and enforcing this Act).

This amendment is self-explanatory. In the old Bill it is rather brief, in that it says that the funds are gathered together for research and development, and it does not matter where they come from. Some comes from the Federal Government, some from the State Government and some from the industry itself. It says that it will be used 'in defraying the costs of administering and enforcing this Act'. Because of the new system of integrated management whereby the industry itself will administer its own industry, there should be some agreement as to how all those funds are allocated.

I can foresee that if the Minister has the sole right, as he does under the original Bill, he could take all those funds. I can give one example. The abalone industry this year will put almost $1.4 million into the fund, and that is a lot of money. I have always been one to agree that he who pays has some say, at least. Under the original Bill, they need not have much say. All the money that the industry is putting in could go to

running the Minister's department. I do not think that is right, but that is an extreme case that I cite.

All I am suggesting is that the legislation provide for the agreement of the Director, the fishery management committees and for any other purposes, including the defraying of costs of administration in enforcing this Act: in other words, they just get together and agree on it. Surely that can happen. There is no point in having integrated management committees, that is, committees which include all those people, unless they come to agreement. If they do not come to agreement, they will not work. Likewise, with the funds allocated to Government for research and development, if the industry cannot agree with the Director, or in other words the Minister, as to how those funds will be used for research and development, what is the point? What will happen, in effect, is that the industry will pull out and the Government will have to pick up all the research and development activities.

I would have thought that my amendment is sensible. All it seeks is that, when they all agree, they go ahead if they want to put resources into research. In the case of the abalone industry, it might be research into propagating spat so that they can seed some of the floor of the ocean; or it might be for enforcement or a certain amount for administration. Enforcement is one of the things for which a lot of money is required in the abalone industry, on the basis that because it is a very high priced product, over $100 per kilo, there are always people taking abalone without a licence and selling it on the black market. There is a requirement for some enforcement in that case. My amendment is quite simple: it just says 'with the agreement'. If the Minister's representative does not agree, then they go back and talk about it again. I am simply asking for agreement.

The Hon. BARBARA WIESE: The Government opposes this amendment, and the Minister feels very strongly about it. The principal amendment provides the department with the flexibility to expend money from the research and development fund in defraying the costs of administration and enforcement. There is absolutely no question that the management committees will be involved in the decision making about major areas of expenditure, but it would be unnecessary for them to become involved in areas of minor expenditure or in the payment of commitments for superannuation, WorkCover, telephone accounts, etc.

The amendment moved by the Hon. Mr Dunn makes it clear that any expenditure would require prior agreement between the Director of Fisheries and the fishery management committees. This would necessitate getting the management committee's agreement to the purchase of a new chair or to the storage or retrieval of material from the archives, photocopying expenses and other items involving minor amounts of expenditure. The Minister clearly believes that this would be a totally unsatisfactory arrangement.

Furthermore, it has the potential to become unworkable because the amendment provides the power of veto for the management committees over the departmental operational funding requirements. So, the Minister feels that is totally undesirable, and he will not accept this amendment under any circumstances. I therefore indicate the Government's opposition.

The Hon. M.J. ELLIOTT: I support the amendment.

The Hon. PETER DUNN: I find that logic very difficult to understand. If I was running my business as these people will be, for the day-to-day running I would have a petty cash tin in which I put a certain amount of money for the department's use. It would be very easy to do that at the beginning of the year.

The Hon. Barbara Wiese interjecting:

The Hon. PETER DUNN: I have the department's budget in relation to recoverable costs, and so on. The industry would say that there is a requirement for $372 000 for the running of that department and would give them that amount. The industry is not going to worry about how that is spent within it. It will worry about the total sum but it will not worry about the Mickey Mouse pens, pencils and rubbers that you are going to need. When it comes to research and development the industry wants to have input as to where those funds go, and the Minister can have an equal say. You are saying that the Minister can have power of veto but the industry cannot. That is not fair, particularly as it is putting in more money than the Minister is. If the industry invests more money than the Minister, it should be able to have some input.

Amendment carried; clause as amended passed.

Clause 3 passed.

New clause 4—'Commencement of certain provisions of Statutes Amendment (Fisheries) Act 1993.'

The Hon. BARBARA WIESE: I move:

Page 2, after line 3—Insert new clause as follows:

4. Notwithstanding section 2 of the Statutes Amendment (Fisheries) Act 1993 and the proclamation made for the purposes of that section on 27 May 1993 (see Gazette 27 May 1993 p.1754), sections 5(b), 5(c), 5(f), 5(g) and 6 to 13 (inclusive) of that Act will come into operation on a day to be fixed by subsequent proclamation.

This amendment is connected to the one I moved earlier and relates to the need to revise the proclamation for this legislation to come into effect. I explained earlier that we had arranged for a proclamation date to coincide with the Commonwealth's proclamation date. The Commonwealth has now advised that it will proclaim 12 months later than that, and therefore we need this provision to enable the State Government to alter its own proclamation.

New clause inserted.

Title passed.

Bill read a third time and passed.

APPROPRIATION BILL

Adjourned debate on second reading.

(Continued from 12 October. Page 492.)

The Hon. R.I. LUCAS (Leader of the Opposition): I support the second reading of the Appropriation Bill and, in doing so, I hope that this might be the last Appropriation Bill debate for maybe a few years that I support at least from this side of the Chamber.

The Hon. G. Weatherill: Don't count on it.

The Hon. R.I. LUCAS: I never count on anything. I said, 'I hope'. Having spent 12 years in Opposition, we know that the Liberal Party has demonstrated its capacity on occasions to lose elections it should have won; so we are never overconfident but, nevertheless, we are hopeful. We are nearing D-day and the countdown for the impending State election, the announcement of which may well be within the next week or so. As you know, Mr President, the election should be held by the end of November, which is the end of the four-year period from when this Government was first elected although, through a technicality in the Constitution, the Government can extend its term through to February or March next year.

I want to address some general comments about the financial situation, the economic circumstances of South Australia as we lead into this critical twilight zone before the actual campaign period begins. I refer to research that has been conducted recently and released by the Employers Federation of South Australia in relation to 400 South Australian businesses, which was—

The Hon. T.G. Roberts: A totally unbiased group!

The Hon. R.I. LUCAS: The survey group is an unbiased group. I would have thought that the Employers Federation has a well-known view about the need to get South Australia off its economic knees and for there to be a change in economic direction. I am sure the federation would welcome that change in economic direction whether it came from a Labor Government or a Liberal Government. I am sure it would not be partisan about that and would just like a change of economic direction and, sadly, it has not seen one for the past 12 years.

This research was conducted amongst 400 South Australian businesses in the first week of September 1993, so it is very recent research. The report is headed 'Survey of South Australian Business attitudes towards the potential to target interstate and overseas markets', a report by the respected local market research group, Sexton Marketing Group. I do not intend to go through the detail of the research report but I do want to read into *Hansard* the conclusion by Sexton Marketing Group, having conducted the research among 400 South Australian businesses, as follows:

> South Australian businesses believe that they have the collective potential to target interstate and overseas markets successfully and to generate an average of 10 000 new jobs for South Australians per year as a result of this activity over the next few years.

When we are looking at about 80 000 unemployed people here in South Australia, 80 000 people anxious to obtain work, their plight resulting from the economic policies of the Labor Government here in South Australia and in Canberra as well, clearly this sort of research result from South Australian businesses must give the South Australian community great heart if the necessary preconditions for that to occur can come about. The second conclusion is as follows: The level of business growth that could be directly attributed to these new marketing efforts is 5.5 per cent growth per year. This is significantly above the current Federal and State Governments' own economic forecasts.

> South Australian business is optimistic that it can achieve this result, thereby providing a significant and immediate boost to the local South Australian economy in the form of new jobs which are funded out of dollars obtained from interstate and overseas customers.
>
> 3. However, three-quarters of the businesses in the survey believe that the investment required to generate this growth will not commence until after the State election is held.

I repeat: this growth will not commence until after the State election is held. The survey continues:

> 4. On the basis of these findings it would appear that:
>
> (a) South Australian businesses believe they can create an economic recovery for the State, starting immediately.
>
> (b) The community benefit of this business growth will be up to 10 000 new jobs per year for South Australians, or an average of 200 new jobs per week.
>
> (c) The business sector will not seriously commence this recovery until after the State election is held.

That is an important set of research results for South Australia's economic future. This survey is telling this Parliament and the South Australian community that this twilight zone, this period which we have been in for the past few months and which seems to be dragging on for such an interminable time is harming the South Australian economy and South Australian business and preventing 80 000 South Australians from potentially being able to find work in an economy that might grow.

The business community is saying to those researchers and to the South Australian Parliament, 'Let's get the election over and done with.' If I can interpret that research finding as I am sure most businesses would wish, they are saying, 'Let's put behind us 12 years of destructive financial and economic policy that has been wreaked upon the South Australian economy by the State Labor Government'—and, of course, for much of that period by a Federal Labor Government also. Scorched earth economic policies have been inflicted upon our economy by Federal Labor Treasurers such as Dawkins and Keating and South Australian Labor Treasurers such as Blevins and Bannon without taking into account real world decisions that affect investment and job creation for South Australian businesses in South Australia.

Year after year, this South Australian Government, with the marginal exception of a pre-election year, has increased taxes and charges in South Australia by upwards of 20 per cent, as we saw in the first two budgets of the current parliamentary term. As we lead into the State election period after the four-year parliamentary term the Government makes meagre offerings, such as electricity tariff concessions which were made earlier this year, to businesses in South Australia. I am sure that as we lead into this election campaign the Government will offer a few more financial titbits to businesses to try to encourage them to invest and to create more jobs in the South Australian community.

This Labor Government does not understand how businesses go about creating jobs in the South Australian community; it does not understand that if you continue to increase taxes and charges on business in South Australia then you cannot expect them at the same time to be investing and creating jobs; this Labor Government, over its past 10 years in particular, has created a business tax regime in South Australia which is about the second highest of all States and Territories in Australia.

The debate about State taxes and charges is an interesting one. The Labor Government seeks to look at the average total level of State taxes and charges per *capita* and seeks to portray the fact that this is a low tax State. When one looks at the component parts of the overall levels of State taxes and charges and at the business taxes and charges, then the figures that have been produced in the past 12 months indicate that South Australia has approximately the second highest level of business taxes and charges of all States and Territories. It is no wonder that South Australian businesses struggle to prosper and struggle to create jobs in the economic environment that has been created by this State Labor Government.

Those businesses and that particular research report to which I have just referred are clear indicators as to why there ought to be a State election in the very near future, so that the hiatus in decision making, the paralysis we see in decision making at the moment, can be ended and a new Government, with a new vision for South Australia's future, can be given the responsibility over a four year period to set in train its policies and to try to set in train the economic recovery that South Australia so badly needs.

In recent months we have observed the performance of Minister Mayes, who is a perfect example of a Minister in policy paralysis; a Minister whose senior officers in his own departments cannot get to see him, cannot get decisions

made, because the Minister—and one can understand this—is wanting to spend every waking moment trying to woo and win the electors in the marginal electorate of Unley. If this drags on for another four or five months, through to February or March of next year, with Ministers such as the Hon. Mr Mayes continuing the policy paralysis, and continuing to fight for their marginal seats, it cannot be good for the South Australian economy and for the prospect of job creation in the South Australian economy. It will mean that the South Australian economy will stay in recession for much longer than all the other State and Territory economies throughout Australia.

They are the only comments I wanted to make on the overall economic and financial situation in my contribution to the Appropriation Bill. As I indicated, I hope that we are in the dying days of this Parliament and that soon the election campaign will commence. I want to place on the record, as I have done over recent years, a series of questions to the Minister in charge of the Appropriation Bill, to seek responses from the Minister of Education, Employment and Training and from the Minister for Multicultural and Ethnic Affairs, that I would otherwise put during the Committee stage of the debate. As has been the practice on some occasions, we are able to question officers from various departments during the Committee stage of the debate and put questions to them in the Committee stage of the Appropriation Bill. However, I think a more satisfactory process would be to put questions on notice during the second reading debate, to seek an urgent response from the Minister before we have to pass this Bill next Thursday.

Therefore, I will now read a series of questions, which I place on notice, some of which we intended to pursue during the Estimates Committee debates in another place, but because the time for questioning on the billion dollar education budget was limited to less than four hours this year because of the combination of portfolios that the Minister of Education, Employment and Training holds and because of the strategy adopted by the Minister and Labor members during the Estimates Committees—

The Hon. C.J. Sumner: What strategy was that?

The Hon. R.I. LUCAS: Our strategy was to ensure that we had only less than four hours to ask questions on the education sector of the—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: The Committee was dominated by three members and a Labor Chair, together with a Minister. When I did my sums, the three Liberal members were unable to outvote the three Labor members.

The Hon. C.J. Sumner: That's nonsense, you know.

The Hon. R.I. LUCAS: The honourable Attorney said, 'That's nonsense,' and I presume he is, therefore, saying that the attitude of the Minister of Education, Employment and Training is nonsense. I had discussions with the Minister's office in relation to the Opposition's wishes with regard to the timetable of questioning in the Estimates Committees. I indicated to the Minister that we wanted to finish the CSO lines at 12 o'clock and commence the schools section at 12 o'clock, which would have given us five hours. I had an agreement with the Minister's Executive Assistant, Mr Loveday.

However, when we stopped questioning at 12 o'clock, the Minister and her three backbench colleagues continued for another hour until the lunch break to ensure that the education budget questioning could not commence until after lunch, at 2 o'clock. That certainly was not the arrangement that I, as shadow Minister, had with the Minister's office. It was a deliberate strategy from the Minister of Education, Employment and Training and one that, should there be a change of Government, perhaps some Ministers might choose to remember. The Attorney talked about nonsense, and I just place on record the nature of the discussions I had with the Minister's office and the fact that the billion dollar budget within education was limited to less than four hours. My questions are:

1. As the education budget for 1993-94 makes no allowance for teacher salary increases yet the budget papers predict average wage increases throughout the year of some 3 to 3.5 per cent, does the Minister accept that salary increases will have to be paid for by cuts in the present education budget? Has the Minister undertaken any preliminary budget analysis of possible pay increases in 1993-94 and what cuts would need to be made to fund such increases?

2. How many secondary deputy principals were offered a targeted separation package at the end of term 3? How many expressed an interest in the TSP and how many have been or will be offered a targeted separation package? In asking that question, I refer to page 138 of the Estimates Committees debates, where the Minister said:

> In other words, the deputy principals who take the targeted separation packages will be replaced, and they will be replaced from positions within the system and, as the honourable member knows, there are some surplus positions already within the system because of the fact that we have people who have returned from the country areas and we have had a problem with placing everybody within the system. In fact, rather than reducing, we are not only maintaining our numbers. . .

Then the Minister goes to say a few more things. She then said:

> . . . we are not looking at reducing teachers. . .

If secondary school deputy principals take targeted separation packages and leave and they are replaced by what the Minister might describe as surplus teachers within the system, but teachers nevertheless, does she accept that the total number of teachers, within the definition of teachers and other officers that her department and the Auditor-General's Department uses, will be reduced as a result of that flow-on effect? It is obvious that, if there is a deputy principal and a teacher within the system and the deputy principal goes and is replaced by a teacher from within the system and no new teacher is employed, there must be a net reduction in the number of teachers and other officers within the Education Department as defined under the Education Act. I seek a response from the Minister to that series of questions.

3. Have any other targeted separation packages been offered to employees in the old Education Department as we knew it since the State budget was introduced this year? Has the Minister or the Chief Executive Officer been given any advice that a further round of targeted separation packages will have to be offered to teachers in 1993-94 to cut teacher numbers even further? I am asking not what the Government's decision might be but whether the Minister or the CEO has been given any advice that there will need to be a further round of targeted separation packages.

4. How many temporarily placed teachers were still unplaced within the Education Department at the start of term 4 this year?

5. How many employees in the education section of DEET(SA) have travelled overseas since 1 July this year on trade-related issues; for each such case will the Minister provide the name of the person so involved, the countries

visited, the purpose of the trip and the total cost to the Department of Employment, Education and Training?

6. Rental subsidy costs paid by the Education Department in 1992-93 were $4.4 million. What were the comparative figures for 1991-92 and what is the estimate for the financial year 1993-94?

7. I ask now about the languages other than English program. As you will know, Mr Acting President, your Government, since 1985-86, has been saying that by the year 1995 every student in a primary school will be able to study a language other than English. The former Minister informed me over a period of time that, with the addition of 20 salaries per year over those 10 years, the policy promise would be met by 1995. I have indicated publicly in the past 12 months that, if there were to be a change of Government, a new Government would not want to find that the Labor Government had not been keeping pace with its promise, leaving the new Government with a significant number of new salaries and programs having to be funded in a short period to meet that policy promise. Frankly, the financial and economic mess that will have been left to a new Government as a result of the State Bank disaster will mean that such resources would not be available in any 12-month period.

The Liberal Party has been informed that this year 60 to 70 new salaries and 130 new programs would be needed in this area and that next year a similar increase would be required to ensure that the promise was met by 1995. A question about this was asked in the Estimates Committee and the Minister did not respond to it.

I ask the Minister again and quite specifically: has she received any advice that these are the additional salaries that will have to be provided by this current Government or any new Government to meet the promise that by 1995 every child in a primary school will be able to study a language other than English? I ask that in particular as to whether or not for this financial year the 60 to 70 new salaries and the 130 new programs will be offered because, when I look at the budget lines for primary education and multicultural education, there are actually small reductions in those budget lines. I would have guessed that, if there were to be new offerings in the area of languages other than English, they would be covered in either the primary education lines or the multicultural education budget lines. If those lines are showing decreases in this financial year, it certainly does not seem as if the Government is providing 60 to 70 new salaries or 130 new programs in the languages other than English area.

I ask the Minister quite specifically that series of questions, because anyone who is interested in the area of languages other than English, as I know you are, Mr Acting President, will want to be assured that the Government is doing what it ought to be doing in relation to the provision of an appropriate level of resources to meet that 1995 policy commitment. In the Estimates Committee the Minister was asked another question in relation to how many teachers teaching languages other than English had not been specifically trained or had graduated in those particular languages. Mr Kevin Baudin, one of the Minister's advisers, said:

> I do not have that information in front of me but I will take it on notice and provide it later.

That information has not been provided. I must say that there is a series of other questions and commitments given by the Minister and her officers to provide responses which have still not been met as I speak to this Bill today. It is an entirely unsatisfactory position. I understand Ministers, together with their officers, are required to give a commitment to bring back replies by a certain date, and that date is well past. In a number of areas the Hon. Susan Lenehan has not met those promises and commitments made by her and her officers. I would urge her to do so. That is why a number of the questions that I am raising this evening are repeats of questions that were put to the Minister in the Estimates Committee debate.

In relation to untrained teachers in the area of languages other than English, advice to me from within the Education Department indicated that one estimate has it that almost half of our languages other than English teachers do not have the basic qualification of studying that relevant language to a third year level, the level which is deemed to be the appropriate level for language teachers in our schools. That is why the question was asked. If that is the situation then one can understand some of the problems that are currently being experienced in this important area of the teaching of languages other than English in primary schools.

The eighth area I want to refer to is in relation to the languages and multicultural unit at Newton. I have been advised that there is some $117 000 of Federal money from the Department of Employment, Education and Training which has been sitting in an account for over two years and has not been expended.

I do not know whether or not that is true. I ask the Minister to bring back a reply to indicate whether Federal money is sitting in an account at the Language and Multicultural Unit. If there is money, how much is sitting in the account and what is the reason why for over two years that money has not been expended? Finally, have all appropriate Federal DEET guidelines for the expenditure of that money been followed by the Minister and the State Education Department?

9. How many applications for advanced skill teacher level 1 positions were received by the department; how many of those applicants withdrew before going through the interview stage; how many went through the interview process; and, finally, how many were assessed successfully as having achieved a level appropriate for advanced skill teacher 1 positions?

10. As at the end of February 1993 and the end of September 1993, how many permanent against temporary teachers were there in the country and city schools?

11. For 1991-92, 1992-93 and estimated for 1993-94, what were the annual rental payments paid by the Education Department for Education Department officers at Murray Bridge, Noarlunga and Elizabeth?

12. Last year in the Estimates Committees the Minister of Education indicated that about 309 staff were on workers compensation in the Education Department. Can the Minister indicate what is the equivalent figure for 1993-94?

13. Will the Minister indicate, for the equivalent of the old senior executive positions of the Education Department, what are the names of persons holding those positions within the Education Department section of the new DEET (SA); whether or not those persons are acting in those positions and, if so, what their substantive positions are; the remuneration payable to each of those officers; their titles and brief job description for those positions; and, finally, their terms of employment, that is, whether or not they are contract positions or whether they are persons on tenure within the Education Department? I am referring particularly to what we would have known as the old senior executive positions of the Education Department—the directors, assistant directors and

the very senior officers who sat on the senior executive of the old Education Department—and I seek that information for those equivalent positions within the new administrative structure of that section of DEET(SA) that relates to education.

14. In relation to LOTEMAPP, will the Minister indicate whether there is a final document as a result of the languages other than English mapping and planning project (LOTEMAPP) and, if there is a final document, will the Minister provide a copy of that document to me?

15. This question was raised in the Estimates Committees. This year the Minister of Education, Employment and Training spent a good sum of money on a big, glossy document called the Attainment Levels document, which document and folder was sent to every teacher in South Australia.

So, potentially we are talking about 13 000 to 14 000 full-time equivalents but maybe up to 20 000 teachers. The Minister was asked how many of those folders were produced and what was the cost of producing them and sending them to schools. The senior officer (Ms Wallis) said, 'As I do not have the cost figures I shall be happy to provide them.' When asked how much it cost to develop the information that went into the attainment levels folders, the Minister said, 'We will provide that information.' I have received a response on that question from the Minister and she has refused to provide the information; she maintains that it would be too difficult to produce estimates.

Whilst I do not accept that, I can understand that it would take some time to work out the teacher hours involved in producing the material that went into the documents. However, there is no doubt that the actual production of the attainment levels folders would have been quite simply a commercial arrangement with a printer somewhere and that a figure exists within the Education Department showing how many of those folders were ordered and the cost of that production. In relation to those two areas, I ask the Minister specifically: what was the number of folders produced and what was the cost involved in the production of those attainment levels folders?

The answers to those questions will be interesting, because those folders will be of no use as a result of the decision the Minister is proceeding with in relation to the national curriculum statements and profiles. The Minister is currently organising with the Australian Curriculum Corporation the production of folders—that is, the national curriculum statements and profiles—for all teachers to replace the attainment levels documents that all teachers currently have. So, question 16 is: in relation to these national curriculum statements and profiles, what is the quoted cost for the production of these folders for all teachers in South Australian schools? What number of statements and profiles are to be produced? Has any contract yet been signed by the department or the Minister with the Curriculum Corporation? If not, when will a contract be signed and when will teachers be receiving the national curriculum statements and profiles?

Question 17: The Minister has indicated that the Department of Labour has decided not to use Crown Law to represent the Government in the teacher award negotiations with the Institute of Teachers, and she has advised me that senior counsel were consulted on this particular matter and not Crown Law. I ask the Minister—

The Hon. C.J. Sumner interjecting:

The Hon. R.I. LUCAS: That is what she said in the answer to me.

The Hon. C.J. Sumner: Who?

The Hon. R.I. LUCAS: Lenehan.

The Hon. C.J. Sumner: She said what?

The Hon. R.I. LUCAS: The Attorney has asked me what the Minister said. The Minister was asked whether or not the Education Department had briefed a senior QC to represent the department in discussions with the Institute of Teachers and in the case that is before the Industrial Commission at the moment. In her first response the Minister indicated that that was not the case, but the subsequent written response said that, unbeknownst to her, the Department of Labour had consulted, I think the phrase was, 'senior counsel', and that she had not been aware of that when she gave me her first answer. I presume we are not talking about Crown Law here.

The Hon. C.J. Sumner: The Crown Solicitor is the solicitor acting on behalf of the Department of Labour.

The Hon. R.I. LUCAS: Currently, but as I understand it, the Department of Labour consulted senior counsel—

The Hon. C.J. Sumner: They have briefed a Queen's Counsel.

The Hon. R.I. LUCAS: That was our question originally: whether or not they had briefed a Queen's counsel, and you are saying that they have.

The Hon. C.J. Sumner: That is what the Minister has now said.

The Hon. R.I. LUCAS: Yes, that is right.

The Hon. C.J. Sumner: The Minister was not aware of it.

The Hon. R.I. LUCAS: That was our question to the Minister during the Estimates and she denied that. She said, that, no there was—

The Hon. C.J. Sumner: She wasn't aware; she has corrected it in the letter that you now refer to.

The Hon. R.I. LUCAS: The Minister was not aware but we were. Anyhow, she has now corrected it. What I am asking the Minister is: what is the name of the Queen's Counsel who has been briefed?

The Hon. C.J. Sumner: Mr D.M. Quick, QC.

The Hon. R.I. LUCAS: What was the cost of briefing and employing, if Mr Quick was employed? Can the Attorney not answer that one?

The Hon. C.J. Sumner: I suppose it would probably be the going rate, $1 800 a day.

The Hon. R.I. LUCAS: And is Mr Quick still representing the department?

The Hon. C.J. Sumner: He is still briefed, I believe.

The Hon. R.I. LUCAS: That means he will still argue the case in the Industrial Commission.

The Hon. C.J. Sumner: Yes.

The Hon. R.I. LUCAS: I do not understand your legal terminology.

The Hon. C.J. Sumner: The Crown Solicitor is still the solicitor, and they brief senior counsel, but the junior counsel will be an officer from the Crown Solicitor's office.

The Hon. R.I. LUCAS: I would ask the Minister of Education, now that she has become aware of this information that a senior QC has been briefed to argue the case, whether she will indicate the reasons for employing senior counsel in relation to this particular matter and what are the costs involved in briefing senior counsel.

Question 18: Was all the money received by the Government for the sale of Education Department facilities in 1992-93 channelled back into Education Department facilities or was a proportion of that money channelled into general revenue?

Question 19: The Minister and one of her officers indicated that a survey of the new discipline policy was conducted last month, collecting information of the total number of suspensions, exclusions and expulsions under the new discipline policy for the 1993 school year. As the Minister now has that information, will she indicate what number of students in South Australian schools have been suspended, excluded or expelled under the new discipline policy of the State Labor Government?

Question 20: This question relates to the Open Access College. I have been provided with some information on the costs of operating the Open Access College. In 1990-91 the cost per student at the Open Access College was $6 792, with 941 students as at February 1992. Two years later, in 1992-93, the cost per student at the Open Access College had exploded to $9 931, an increase of almost $3 100 or approximately 40 per cent. Yet the number of students at the Open Access College had decreased from 940 to 840, or a decrease of some 100 students in that two-year period.

Is the Minister aware of that exploding cost per student of providing the services at the Open Access College and has she sought an explanation for that increase; and, if so, what is the reason for that large increase in costs?

By way of comparison—and I know it is only one particular school—at the Mitcham Girls High School the cost for the same period in 1990-91 was $4 282 per student and in 1992-93 it was $4 384. So there was a $100 increase per student in that two-year period for delivering the educational services of that particular school, whereas for the Open Access College the jump in the cost of delivering those particular services had been some $3 100.

Also in relation to the Open Access College I ask the Minister to provide the latest breakdown of the categories of students currently utilising the college's services. In particular, would the Minister indicate the criteria for acceptance of students into two of those categories, that is, religious and special? Religious may be obvious, but I ask the Minister how that is interpreted. What categories of students are included in special? On the information I have seen, I cannot see a category that caters for those students who might have been excluded or expelled from a school as a result of a discipline problem. I therefore seek from the Minister information on the category in which those students are included at the Open Access College.

Further, will the Minister indicate the current criteria for the acceptance of students in that school? The final question relates to multicultural and ethnic affairs: will the Minister provide details of all overseas telephone calls and faxes made from all telephones and fax machines within the commission building situated at 24 Flinders Street, Adelaide, listing the individual overseas numbers, cost of each telephone call or fax from 1 January 1992 to 30 September 1993? As I understand it, if the commission's telephone bills are anything like mine, that will be in the little section at the bottom which lists ISD telephone calls, numbers and costs, and therefore should not involve any detailed extra collection of material or work on behalf of the commission. I leave those questions with the Minister and seek responses before the Appropriation Bill passes this Council, hopefully by the end of next week.

The Hon. PETER DUNN: I want to spend just a couple of minutes canvassing what has happened in respect of the West Beach marine laboratory. That laboratory , which was proposed back in 1989, was to be built in two stages. When Marineland collapsed, water that had been supplied to the smaller operation previously located at West Beach could no longer be supplied to the then existing marine laboratory, so it was decided to build a new laboratory and construct a new pipeline to supply seawater to that laboratory. Because there has been a decrease in the water quality on the coastline of South Australia, it was necessary to go out 1.5km from the shoreline to get clearer water, and this meant going out to the weed line.

The matter concerning pollution that has accrued in that area has been raised in this Council on a number of occasions, the source primarily being the effluent that is pumped out from north of Outer Harbor, and as well there is some industrial waste that I observe every now and again. I have not seen it recently, but up until about a year ago it was pumped out to sea some three or four kilometres in a direct line from Grand Junction Road. That has had the effect of destroying the seagrass and causing a decrease in the quality of the water along the coastline. The laboratory proposal was brought to the then Public Works Standing Committee for approval. Stage 1 was the building of the new pipeline to bring water from a distance of 1.5km out from the shore.

The proposal was brought to us in two stages and I can now see that, had it been brought to that committee in one stage, there would possibly have been closer scrutiny of the whole operation. The fact is that the laboratory should never have been located at West Beach. It should have gone somewhere else—anywhere else in the State where there is a coastline, preferably to Port Lincoln because that has the greatest amount of diversity in fishing, research and manufacture anywhere in the State.

Evidence was given to the committee by Mr Haldane from Port Lincoln, and one of the advantages he outlined was that there was an economical water supply. The proposed cost for putting the 1½ kilometres of pipeline in at West Beach at that stage was $3.8 million, whereas anywhere else in Australia 1½ kilometres of pipe, according to Mr Haldane's evidence, should have cost about $1.7 million. However, because of the uniqueness of the area, having to cut through the sandhills and go out so far because the pipeline had to be let into the ocean floor because of the use along the pipeline, the costs became quite high.

Had that marine laboratory gone to Port Lincoln the pipe would have been much shorter and it would have been possible to get fresher water from close to Port Lincoln. The advantages outlined by Mr Haldane to the committee in 1989 were that it was an economical water supply; it was centrally located to the State's marine resources; it had a large variety of marine habitats in close proximity; and it could be integrated with the State's major fishing industries such as tuna, prawns, scale fish, abalone, rock lobster, leather jackets, scallops, trawl, shark and dropline. Also, it had close involvement in the technology of mariculture such as tuna, abalone, snapper, scallops and oysters; it had an excellent lifestyle; and there was integration of the marine technologies (coal-face technology) away from metropolitan Adelaide; economical land was available for purchase on which the structures could be erected; there was an excellent transport system in the form of a number of aircraft flying in and out every day; and it had good marine technologies in fish capture, diving, gear manufacture and maintenance, boat building and electronic and computer maintenance.

Also, it had a varied fish processing sector where value-added technologies could be rapidly transferred, for example, the casting net; it had strong community support in relation

to siting the facilities in Port Lincoln; and the department would gain strong support from not only the fishing sector but also the community at large, giving researchers a firm political base.

So, you can see the advantages were very strong and they were put to that committee. I asked the researchers and the people presenting the case to the committee why they would not go to Port Lincoln. The only answer I received was the fact that the universities were in Adelaide and that was where the researchers were likely to be coming from, and that is where they would like to get a lot of their background information. I thought that was a fairly thin argument on the basis that you have about 12 planes a day going to Port Lincoln.

As it turned out, the cost escalated. The pipeline was put in and the cost escalated marginally. We were then presented with stage 2, which was to be a $6.3 million project. That brought the cost of the whole operation up to about $11 million. That was not too bad, although $11 million is a lot of money to put into a research unit. Fishing is important to this State, and it was deemed to be necessary. But, had it gone to Port Lincoln I think the cost would have been less. To begin with, we could have saved about $2 million on the pipe, and there would have been a saving in purchasing land, and so on.

As I expand on this shortly, I will demonstrate that in fact a subsidy of about $100 000 has been allocated for each fish researcher in this State because the facility has been built at West Beach.

About 30 or 40 people are doing research there and the overrun cost has been between $3 million and $4 million, and possibly up to $5 million, more than was necessary. In other words, there has been a subsidy of about $100 000 for each employee. For that cost we could have transported many researchers back and forwards to Port Lincoln many times for that cost, and I am sure that, having got there, the researchers would have wanted to stay there.

Stage 2 was developed and it grew and grew. It expanded to the point where the whole project has cost close to $18 million. The original plan was for $11 million but it has cost nearly $18 million and there is a reason for that. It was decided to build a two-storey building on the old Marineland site and that design was presented to the committee which agreed with it. However, the Federal Airports Corporation advised that the building was in the landing zone of runway 2/3 for Adelaide Airport and that a cone of height restriction applied at the end of runway 2/3, so it was necessary to lower the height of the building, which was achieved by excavation and the building was placed lower in the ground. A high cost was attached to that. A golf course was in the area and it had to be relocated further up the track and it cost about $500 000 to relocate the golf course, and so it went on. Because the West Beach Trust had some involvement in it, under its charter it was necessary to provide some public facility in the area and we now have not only a marine research laboratory but also a small theatre or theatrette, which had to be built to meet the trust's requirements under the West Beach Trust Act.

The Hon. R.I. Lucas interjecting:

The Hon. PETER DUNN: Yes. That is why the operation has blown out to $18 million. I am reliably informed that, at $18 million, the fishing industry has been asked to pick up the tab for the interest on the bill, and any fool could work out that on $18 million there will be $1.8 million a year interest. That is a cost the industry does not need. The industry is asking to have some of that money wiped off because it is a cost it does not want and, as I understand it, the industry was not even asked whether it wanted the project. The cost will be spread across individual fisheries, some of which will be able to afford to pay while others will not be able to afford to pay. Research will be undertaken there not just for the professional fishermen but for the amateur fishermen. Who will pick up that cost? I suppose it will be the Government. Under the plan I understand that the professional fishing industry has to pick up that interest bill.

I am also informed that there is no business plan for the laboratory operation and no corporate structure to run it. It is not an unfamiliar picture that has been painted about the present Government, and perhaps that is why people are getting sick of working and operating under it. The industry claims it does not know where it is going from here because it does not know whether it can afford to have this Rolls Royce of a marine research laboratory. The industry is happy to have the laboratory but it believes it has a cost attached of about $5 million more than it should have been, and the industry would be willing to pick up the cost if it was about $13 million.

That brings me to the crux of the operation: who has been checking on public works projects and who has been checking whether they are keeping within budget? Obviously, this project has not kept within budget. This project has exceeded by more than 10 per cent what would have been allowed under the Public Works Standing Committee Act, where there is a 10 per cent leeway.

This has run over that. Under normal circumstances that would have come back and would have been scrutinised by this Parliament. That has not happened because there is no longer a standing committee on public works. I believe there is an absolute necessity to have a committee to look at major public works that are carried out within this State to see they do not run over budget or in case the work is being shoddily done. I am of the opinion that the project at West Beach is beyond what we can afford. As a result, in the long term much of the research that might have been done in this State will be done in other States because they can offer cheaper facilities. In these days when people are looking for the best value for their dollar they will go where that research can be done cheaply. That research is likely to be done in some of the eastern States, particularly Queensland, and in Tasmania where it may not be influenced by the local factor, such as the Gulf St Vincent.

I am disturbed to think that a project such as this has got out of hand. The figures seem to have been smudged. The fishermen were not consulted about outside factors, which seem to have influenced the increase in cost. In the long run, it ran over budget so much that now the fishermen are saying that they cannot afford to pay for it. I highlight those facts. This could have been a superb research industry, which I believe would have been well suited to a place such as Victor Harbor, Kingscote, Beachport, Wallaroo, Port Lincoln or Ceduna. Port Lincoln is the biggest and most diverse fishing village in Australia, and I think it would have been a prime place for this research project to diversify and take people out of this city. I think it would have been a perfect spot for it. However, the Government chose not to do that, and as a result we tend to have a marble collar around our neck. It will take a lot of effort before we can fix the problem. In my opinion, we will have to write off the debt for that somewhere along the line before it will be used by the fishermen for the purpose for which it was originally designed.

The Hon. L.H. DAVIS: I rise to speak on the Appropriation Bill in the dying days of this Government.

The Hon. C.J. Sumner: You said that the last two times.

The Hon. L.H. DAVIS: Well, you are even deader now. In fact, a friend of mine, a relatively bipartisan political observer in the Eastern States, a director of a couple of publicly listed companies, said to me, 'The story going around about South Australia in the Eastern States is that they call it "South Australia BC".' I said, 'I've heard of Vancouver BC but I haven't heard of South Australia BC.' He said, 'It isn't like Vancouver, British Colombia; South Australia BC means South Australia basket case.' That is a sad reflection on the way in which this Government has presided over this economy for the past 11 years, an economy which by its very nature has always been fragile in a State which for many years was a claimant State, one which relied on handouts from a Commonwealth Government.

In the post-war years of Tom Playford South Australia was transformed from an economic basket case, which relied largely on exports from the land to a major industrial presence in the nation. In fact, during the period 1946 to 1954 the rate of migration into South Australia—

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: I am trying to expedite the business of the Council.

The Hon. L.H. DAVIS: The rate of migration into South Australia was double the national average. In fact, we had over 14 per cent of migrants coming from England and other countries into South Australia, although our population at that stage was only about 9 per cent of the nation's population. The Attorney-General, who cannot help himself on economic matters, has unwisely interjected yet again and said, 'Hiding behind high tariffs.'

The Hon. C.J. Sumner: Hang on. I did not say that.

The Hon. L.H. DAVIS: Now he is objecting to me responding to his interjection. He cannot have it all ways.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: Can I tell the Attorney-General that the Labor Party is very good at re-writing history. If the Attorney-General, economically illiterate though he may be, does his reading he will see that there was not one major economic power, whether we are talking about a western country or an eastern country in the 1940s or the 1950s, that practised free trade. It is about as fragile as the argument that the Labor Party and Prime Minister Keating uses with respect to the debate about the monarchy. They frame Menzies as the man who was the arch royalist, when, in fact, if one looks at the speeches of Ben Chifley, if one looks at the speeches of the great Labor leaders of the 1940s and the 1950s, one sees that they were not saying anything about a republic for Australia; they were not saying anything different from what Menzies was saying. So for the Attorney-General to lurch a full 50 years back into history is stretching a very long bow.

The Hon. C.J. Sumner: You were the one who started it. You were the one talking about Playford. I did not start talking about Playford, you did.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I was building the foundation for what is a very strong and unarguable case, the case that, under the longest running Government, under the longest serving Premier in the Commonwealth of Nations, Premier Tom Playford, South Australia had a strong economic base. But under Premier Dunstan, who certainly knew a lot about the arts and brought some focus and some strength to South Australia in culture and the arts, it could not be said that he was economically literate. In fact, if you had to have a debate, even in Labor circles, about who was the most economically literate leader amongst the Labor leaders of the 1970s, I would think that as the leaders were passing the post Don Dunstan and Gough Whitlam would have still been struggling to clear the hurdle about three furlongs out.

The Hon. C.J. Sumner: Very devastating!

The Hon. L.H. DAVIS: Therefore, under Dunstan we had no economic presence and after the past 11 years of Labor we have seen more hurdles knocked down than cleared. Premier Bannon had a record, in the early years at least, of being responsible, of being conservative, of being cautious in his economic and financial management. But, of course, the truth finally came out when we saw a string of economic failures; a string of financial disasters: the State Bank, $3.15 billion; SGIC, technically bankrupt had it not been for a bail-out from the South Australian Financing Authority and with losses, in effect, of over $500 million; and one cannot resist mentioning Scrimber, $60 million—a lazy $60 million written off to be paid for by the taxpayers of South Australia.

The Hon. T.G. Roberts interjecting:

The Hon. L.H. DAVIS: Perhaps for the benefit of the Hon. Terry Roberts, who is literate in timber matters if nothing else, how could one forget that if something had not gone wrong—and we still do not know what it was—South Australia may have been producing Government plywood cars in 1987—Africar.

As I have said before, I suspect the only thing that stopped that project was that they were not sure whether to put it in Murray Bridge or Mount Gambier. I do not think that I have told the Council this before, but when I went down to peruse the minutes of SATCO, on the last South Australian timber select committee which, under Terry Roberts' wise chairmanship reported in this Council in April 1989, Malcolm Curtis (who, for some extraordinary reason, is still employed as an accountant in the South Australian Timber Corporation) said, 'When you've finished that, come into my office and have a cup of coffee.'

I did, and I saw on the shelf a book entitled 'Africar'. I asked, 'Is that about the Africar project?' He said, 'It certainly is; would you like to borrow it for the weekend?' One of my great regrets is that I never borrowed it. Here was the chance for me to learn more about a plywood car.

The Hon. C.J. Sumner: It's the same speech you've given every year.

The Hon. L.H. DAVIS: No, it's not: I have never told you about the book before.

The Hon. C.J. Sumner: Yes, you have.

The Hon. L.H. DAVIS: No, I've never told you about the book before: this is new information.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: This is the car that could be dropped out of a plane into a desert and could be dropped into a steamy forest in Africa. It is the sort car that, if it had ever been produced, would have been driven by Harrison Ford in *Raiders of the Lost Ark*.

The Hon. C.J. Sumner: It couldn't have been dropped on a white ant nest, though.

The Hon. L.H. DAVIS: If you had shares in a white ant company (as I am sure John Klunder would surely have—that would be about the only thing he has got going for him) you would have done very well, because the project was good for white ants, and that is about all. To return to the present and to reality—the grim reality we have before us—

The Hon. C.J. Sumner: Why don't you just upgrade your speech from last year and speak for five instead of 25 minutes.

The Hon. L.H. DAVIS: The Attorney-General gets testy.

The Hon. C.J. Sumner: I'm not testy: I'm getting bored after having the speech every year.

The PRESIDENT: Order!

The Hon. L.H. DAVIS: I have been going for five minutes. We have had 15 hours on imminent death, and I am going for five minutes on a budget that is too horrible to contemplate and you do not want to hear me. Attorney, I can understand it: you must be writhing in your chair, listening to this truth, listening to the facts.

The Hon. C.J. Sumner: It's just that I don't want the same speech as last year.

The Hon. L.H. DAVIS: You're not getting the same speech: you're getting a different one. So stay tuned.

The PRESIDENT: Order! We seem to be getting the same interjections as last year, too. The Hon. Mr Davis has the floor.

The Hon. L.H. DAVIS: Let me just remind the Attorney-General of some of the things that his Government has done and, although he is only the Attorney-General and he does not apparently have much say on economic and financial affairs, he certainly can claim great credit for some of the things that have happened to the unfortunate people of South Australia. One of the little mention points in this string of debacles that has occurred over recent years is the fact that South Australia has undoubtedly become entrenched as the inflation capital of Australia. Back in 1989-90—

The Hon. C.J. Sumner: South Australia is the inflation capital?

The Hon. L.H. DAVIS: All right: Adelaide is the inflation capital, if you like, because we measure a bundle of prices of goods and services in capital cities. I should tell the Attorney-General that—

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: If we look at the situation since 1989-90 when the Australian Bureau of Statistics started a new index for the consumer price index with a base of 100, all capital cities, including the capital cities of the territories (Darwin and Canberra) started off at 100. In 1992-93—and that is the last available figure—Sydney was 108.4; Melbourne, 110.1; Brisbane, 109.7; Adelaide, 112.3; Perth, 106.8; Hobart, 109.4; Darwin, 110; Canberra, 110.3; the weighted average of those eight capital cities of Australia, 109.3.

Let me, for the benefit of the Attorney-General, distil that into the simplest possible summary. In Adelaide, on average the price for that basket of goods and services, in terms of the consumer price index, over four years has moved 12.3 per cent. That is almost double the rate of change in Perth, which has moved only 6.8 per cent, and 3 per cent in advance of the average of all capital cities. Sydney, which traditionally is seen as an expensive city, has increased to only 8.4 per cent, and Brisbane, which is under pressure as an expanding capital, has increased to only 9.7 per cent. The increase in Adelaide is by far the highest of any capital city.

That reflects a number of things. One of those issues has undoubtedly been Government charges, which have been an increasingly important component in the inflationary spiral in South Australia. I admit that inflation is not the monster that it was in the early part of the 1980s and particularly during the 1970s. In the past four years, wages and salaries have increased slowly, so increases in consumer prices, however small, will bite and reduce the disposable income that is available to the citizens of Adelaide and South Australia.

The Hon. T.G. Roberts: I have never heard that being used as a reason for a dollar of investment not coming to South Australia.

The Hon. L.H. DAVIS: The Hon. Terry Roberts makes the interesting comment that he has never heard of inflation being used as a reason for anything not coming to South Australia. If we think about inflation, we can see it immediately as a problem.

The Hon. T.G. Roberts: Have you heard of any projects not coming to South Australia?

The Hon. L.H. DAVIS: Certainly, and I will give an example. Inflation is a movement in prices. One of the reasons for price increase is an increase in costs. If costs are increasing here at a faster rate than in other States, South Australia will be less competitive than those other States. Therefore, there is a very good reason for people not to establish projects in South Australia.

I do not like returning to history, because I do not want to be savaged by the Attorney-General again, but I cannot resist the opportunity of reminding him that during the Playford era one of the great advantages that South Australia had was its 7 to 10 per cent cost advantage over other States. As we have had Federal awards and a greater national approach to matters, inevitably cost differentials between States have disappeared. However, it is alarming to me to see such a differential in those inflation figures over a four year period. Perth, which is arguably the strongest city economically after Brisbane at the present time, has had an inflation rate of little more than half of Adelaide's rate over the past four years.

The problem of cost spirals has been built into this budget by the traumatic loss of $3.15 billion by the State Bank. I will give an example relating to a Bill that we will be debating shortly dealing with land tax: for buildings valued at more than $1 million, a very savage increase in the land tax rates has been imposed by this Government in recent years. The land tax payable on buildings of $1 million plus is arguably more expensive than in any other capital city in Australia. It might shock the Attorney-General to hear—although after what has happened to him in the past few years I guess he is unshockable—that the rate of increase in land tax on buildings of $6 million or $10 million has been 90 per cent in just four years, even though the value of the buildings in some cases would have halved in that time and, more likely than not, the buildings will be partly or totally empty.

What sort of incentive is that to an investor looking at opportunities around Australia, as he surely would be, in real estate? Land tax is a major cost item. The Hon. Mr Roberts can see in that example how that increase in State taxation, feeding through into the consumer price index, is certainly a very good reason why investors will be thinking twice about coming to South Australia.

Let us look at one of the other implications of this extraordinary debacle, this triella of disasters as I have described them before: the State Bank, the SGIC and Scrimber. We have seen a savaging in capital works in South Australia. In an election year the Government has been forced to scrap around to make ends meet to try to make the budget look marginally responsible at the very best. We had proposed $1.24 billion of capital works spending in the 1992-92 financial year just past. Remembering that the consolidat-

ed account receipts bring in about $4 billion, we are seeing that capital works represents about 20 to 25 per cent of the total budget. Capital works is a valuable trigger because it does create jobs that are sometimes more lasting. It may sometimes have a better impact than recurrent spending under the current account.

It can create jobs, not only for people in that area, but for contractors who are selling goods and providing services in the private sector—perhaps more so than we get in other areas of Government. The Government having proposed $1.24 billion of capital works spending in a recessed economy, what happened? We had spending of only $1.06 billion. In other words, there was an underspending of $182 million on capital works. This represents nearly a 14 to 15 per cent underspending of what was budgeted for. In fact, in every functional area of Government there was an underspending. There was not one area of Government where the actual spending was up to the proposed budget for capital works. I think it would surprise the Attorney-General to hear that in 12 areas there was not one area where the actual budget spending equalled what was proposed.

We talk about business and regional development. This is surely an area crying out for spending. I refer to employment, education and training where $127 million was spent against a proposed $145 million. Emergency services went down the shute. Housing and urban development of $130 million was underspent on a budget of $201 million. It is absolutely extraordinary. The reasons for this are palpably weak and superficial. Progress on major road projects was slower than expected, mainly due to delays associated with bad weather. In the case of water resources, the main reasons for underexpenditure by the E&WS were delays in development of customer service information systems and delays in the installation and acceptance of equipment for the computer infrastructure project. We talked about that problem today. When they do make a decision they do not make the right one. We probably have a $20 million overrun on that capital project. Of course, if the Attorney-General had done his reading he would know that back in July a major review of Government utilities in Australia, State by State, showed that the major utilities—usually the monopoly utilities such as electricity, water, gas—made a specific reference to the problem of ageing of our assets in South Australia, in the area of water and sewerage.

Of course, this Government does not have room to move to provide for the growing problem in that area. So, in a recessed economy, conventional economics dictates that you pump up your capital works spending to try to offset the depressing influences of the recessed economy. The Government role traditionally has been to pump-prime through capital works spending.

The Hon. C.J. Sumner: You are a Keynesian.

The Hon. L.H. DAVIS: I think there is a lot of merit in Keynes. I will not put myself, in black and white terms, right in the Keynes corner.

The Hon. C.J. Sumner: No wonder you don't get on in the Liberal Party.

The Hon. L.H. DAVIS: There would be a lot of people on both sides who would not know who John Maynard Keynes was; they might think he played half-back for Port Adelaide. I am conventional enough to perhaps on this rare occasion agree with the Attorney and say as he does that there is merit in the Government's merit doing it. The Attorney, in making that rare admission, of course, has been hoist on his own petard, because a reading of the Capital Works Program shows that the Attorney's Government has failed to do just what he and I believe is commendable in recession times. Finally, I want refer to—

The Hon. C.J. Sumner: The State Bank.

The Hon. L.H. DAVIS: No, not the State Bank. It is very tempting, but I will not. It would be very easy and it could be very pungent, but I will not. I want to talk about Enterprise Investments, a subject that is little talked about; it is not big beer in the scheme of things in this State but it is a subject that merits some discussion and some answers. Like my colleague the Hon. Robert Lucas, I will not delay proceedings, but I will put on notice some questions to which I would like answers in Committee.

Let me just remind members of the history of Enterprise Investments. In the brave new world of 1982, when John Bannon as Leader of the Opposition had rejected Roxby Downs only to see Norm Foster resign from the Labor Party, cross the floor and make possible that wonderful project, which then was only a mirage in the desert, who would have thought that that then young Leader of the Opposition could a few weeks later trot out the slogan, 'We want South Australia to win' and get away with it? One of the planks of that campaign was, in this brave new world, 'We will have an enterprise fund, whereby Government will pump money into emerging businesses, strengthening the South Australian economy. Gee, it will be wonderful.' Notwithstanding the very sound three years of administration during which Roxby Downs had been built, the international airport had been brought on line and the Hilton Hotel had been built, the Liberal campaign in 1982 in a recessed economy did not quite sparkle.

Some of these very obvious flaws in the Labor proposal, such as the enterprise fund, were left untouched. I always thought the enterprise fund was a joke and that it would not work. Of course, once the Labor Party got into power it did the sums again and found that it would not work. So, it was structured very differently from what was originally conceived. It was floated off as a creature of the stock exchange, with Government interest in it, and it was moderately successful: it did not hit the high spots but it stayed out of trouble, and I recognise that.

But, then, in what can be described as going in the opposite direction from the rest of the Australia and, indeed, the rest of the western world, the Government nationalised the Enterprise Investments Trust. Instead of privatising it and selling off its interest in Enterprise Investments, what did it do? It went the other way. It was quite remarkable. On 1 July 1989 the Enterprise Investments Trust was established by the South Australian Government Financing Authority (SAFA) with an initial capital of $28 million, and that highlighted the Government's involvement in the venture capital industry.

In other words, the Government bid on the stock exchange for the remaining interests in Enterprise Investments. Enterprise Investments, under the provisions of the takeover, carried on the business of making equity in other investments in businesses in Australia but, of course, it was now wholly owned by the South Australian Government. The investment portfolio in emerging high technology companies and in more risky companies was taken over by Enterprise Investments. The management of Enterprise Investments remained largely unchanged.

Enterprise Investments has dropped out of the public limelight. It reports to Parliament: Enterprise Investments Trust financial statements for the year ended 30 June 1993 were tabled with the budget. However, there are some

pertinent questions about Enterprise Investments which I raise tonight and for which I would like answers next week.

In the financial statements for the financial year ended 30 June 1993, in the notes to and forming part of the accounts of Enterprise Investments, the point is made that total investments in the companies in which it has shares at the end of the financial year 1992-93 were $19.4 million, and the market value of listed investments—that is, shares listed on the stock exchange—is about $6.2 million. That information is set out. However, nowhere is there any mention of the companies in which Enterprise Investments has investments. That is most unusual in my experience of the investment companies that were established under the Fraser Government's Managed Investment Corporation Scheme (MIC), and there were quite a few of them.

Some were listed on the stock exchange; others were not. But invariably, in their reporting to their shareholders on an annual basis they list their interests and a bit about the companies; what is happening to them. But nowhere in these accounts is any reference made to what companies are held by Enterprise Investments.I should like—and it will not be difficult for the Government to provide this information—a full list of the companies held by Enterprise Investments Trust; detail of the percentage interests that it has in these companies; some details about the companies that are held—just a brief summary—and their performance; and how they are travelling.

I do not want any information that may be commercially confidential; I recognise that that might not be appropriate. On the other hand, I do not want the Government hiding behind that, as it does so often. I should also like to know whether any of the officers of Enterprise Investments Trust or its related companies have a direct or indirect interest, or have had a direct or indirect interest, in any of the companies in which Enterprise Investments Trust has an interest.

I also am fascinated to see that although this company, which is supposed to be investing in fairly high risk, hi-tech, leading edge companies, has $19.4 million invested in portfolio companies at trustee valuation, remarkably there is $15 million sitting in the balance sheet in cash. I find that quite remarkable: cash at the end of the year in fact was $15.6 million. So they have nearly got as much in cash as they have invested in companies. Now, does this mean that South Australia is travelling so badly that in fact Enterprise Investments cannot find anything in which to invest—not that it is limited to just South Australia? I find it remarkable that that is the case, and I would like some explanation as to why that is so.

The profit for Enterprise Investments trust is reported as being $2.1 million, but in fact $1.33 million of this comes from a re-evaluation of investments. So, the profit picture is perhaps not quite as good as one might have thought.

The normal fee given to the fund managers in a company such as Enterprise Investments is usually 2½ to 3 per cent of funds managed. That is normally the case. If we look at the total pool of money available in Enterprise Investments, we can see that we are talking about investments of about $19.4 million and cash of about $15.5 million, a total pool of about $35 million. But, of course, if $15.5 million is invested in cash, the Attorney-General or I could manage that. You do not have to be particularly smart to manage $15.5 million in cash.

The Hon. C.J. Sumner: What would you do with it?

The Hon. L.H. DAVIS: Of course, with $15.5 million in cash you and I would not be here, Attorney, but if we had it I am sure we would have plenty of professionals who would be able to help us invest it wisely. But the Enterprise Investments trust is managed by BCR Venture Management Pty Ltd under the terms of a management agreement with the trustee company Enterprise Investments Limited. The manager is responsible for managing and monitoring the investment portfolio and identifying and evaluating new investment proposals.

In addition, the manager provides all administrative services, employs all staff and incurs the costs related to these activities. That is set out in note 14 of the accounts. All fees paid by to the manager are reimbursed to the trustee company by the Enterprise Investments trust in accordance with the trustee. Fees amounting to $1.02 million were paid to BCR Venture Management Pty Ltd during the year, and BCR Venture Management, of course, manages Enterprise Investments trust.

BCR Venture Management paid to the trust a rent of $72 500 for the year in respect of office accommodation, and that was determined on non-commercial terms and conditions. In addition, I take it that from that fee of $1.02 million the manager provides all administrative services, employs staff and incurs the costs related to these activities. I understand that point.

In addition, BCR Financial Services received fees of $21 000 for the year for accounting services, and BCR Financial Services received directors' fees and consulting fees from investment companies totalling $35 510.

BCR Venture Management Pty Ltd and BCR Financial Services Pty Ltd are companies in which a director and the secretary of the trustee company, Dr R.C. Bassett and Mr D.J. Ciracovitch respectively, have a beneficial interest in each in excess of 10 per cent. I think it is valid to ask: What were the total fees received by BCR Venture Management Pty Ltd and BCR Financial Services Pty Ltd? Were any other vehicles owned by people who worked with or for Enterprise Investments Trust or any other associated companies linked with Enterprise Investments Trust? What amounts were paid out for administrative services, other staff and other costs, and what fees exactly were earned by Dr. Bassett, Mr Ciracovitch or any other of the senior officers of Enterprise Investments Trust as distinct from costs incurred?

I just find it curious to see so much invested in cash. I think it is appropriate to ask why was so much invested in cash, nearly 50 per cent of the total assets, in a company such as this. Has the Government had any plans to float this back off, to privatise it? What are the terms of the management agreement? There is no obvious detail of that given in any information that I have seen. How long does the agreement go for? That is an area which has not been canvassed, but I would welcome an opportunity to get that information on notice. Finally, I just want to restate to the Attorney-General that I have—

The Hon. C.J. Sumner: Why are you picking on me tonight?

The Hon. L.H. DAVIS: Well, you are the only one here—15 love, your serve!

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: Well, the Hon. Barbara Wiese has had a fairly busy day and I do not want to reflect on your other colleague, the Hon. Anne Levy. I wanted to raise with the Attorney-General the matter that I questioned him on earlier this week, namely, the fact that SGIC has some two months ago been asked by me to provide, through the Attorney, a full list of its interests in shares, convertible notes

and other business enterprises, together with the percentage or number of units held. The fact that it has failed to do that appals me, and I should tell the Attorney-General that in fact this was a requirement of the old SGIC Act. Somehow, when the new legislation went through, this provision was overlooked—

The Hon. C.J. Sumner: By you.

The Hon. L.H. DAVIS: —perhaps deliberately on the part of the Government, and I must say that it escaped my attention when it went through because there was so much detail associated with that new SGIC legislation.

The Hon. C.J. Sumner: You didn't do your job properly.

The Hon. L.H. DAVIS: But I am making amends for it now, Attorney-General, although SGIC seems reluctant to recognise that fact. I want that answer one way or another, through the budget committees, or in answer to a question.

Finally, there is another matter which is dear to my heart, on which I do not often raise questions because my wife has an involvement in this area, and that is tourism. Tourism has been seen, quite rightly, to be providing a great opportunity for employment of our young people in particular in this State.

The Hon. C.J. Sumner: Why were you going to jump in front of the bulldozer when we tried to get a development going in the Flinders Ranges?

The Hon. L.H. DAVIS: You have got the wrong person.

The Hon. C.J. Sumner: It wasn't you?

The Hon. L.H. DAVIS: No, you are on the wrong track. I think you had better kick elsewhere.

The Hon. C.J. Sumner: Who was it?

The Hon. L.H. DAVIS: I think it was a colleague of mine in another place.

The Hon. C.J. Sumner: A Liberal?

The Hon. L.H. DAVIS: It could have been a Liberal. I would never attribute Alzheimer's to you, Attorney-General. I think you remember very well who it was.

The Hon. C.J. Sumner: Ms Cashmore jumping in front of a bulldozer did not do much to help tourism, did it?

The Hon. L.H. DAVIS: I do not want to get—

Members interjecting:

The Hon. L.H. DAVIS: The Hon. Robert Lucas knows. I remember—

The Hon. C.J. Sumner: What about Mrs Cashmore jumping in front of a bulldozer?

The Hon. L.H. DAVIS: Well, she lived. I was not there when it happened, if it did happen.

The Hon. R.I. Lucas: How did the bulldozer go?

The Hon. L.H. DAVIS: You'd better get that down. Many people in the tourism industry believed that when the Hon. Mike Rann took over as Minister of Tourism it gave tourism in South Australia new hope because, if there was one thing that could be said about the previous Minister of Tourism, it is that she really did not understand the industry. It drifted badly under her leadership and the mediocrity of South Australia's tourist position was reflected quite accurately in the fact that not only did our international visitor levels fall but also our interstate and intrastate visitor numbers drifted off. In other words, in all three important areas of tourism we were losing ground, and I think that reflected very much on the leadership. One of the things that saddened me was that even when serious and factual arguments were raised they were treated with disdain. I remember full well going to Queensland last year and talking to some of the senior officers in the Queensland Tourism and Travel Corporation (QTTC) who are continually researching their market and who are very aware of what other States are doing. The Attorney might well remember that I came back and reported that a very detailed survey carried out by QTTC amongst affluent mature couples and also affluent young people reflected that South Australia was by far the most boring State of all States: it just did not rate. That was factual information.

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: That was the perception of holiday makers in the Eastern States who had all been on holiday in the past 12 months—people who had spent 50 per cent more than the average holiday maker and who were in the affluent group. What was the reaction to that? The then chief of Tourism South Australia said that I was on the wrong tram, that South Australia was not interested in the beach and booze set. That was a fabrication of the survey and was fairly typical of all the comments that we have received.

We look at North Terrace and see that in 10 years we have not been able to signpost it properly, and in that same time Sydney has put a tunnel under Sydney Harbor and has built Darling Harbor. Yet, we are still struggling with our signposts in 10 years. That really says it all for me. So, when the Hon. Mike Rann came in as Minister of Tourism, given that he has an international perspective, more so than most Ministers in the Bannon Government—

The Hon. C.J. Sumner: Except me.

The Hon. L.H. DAVIS: It is true that the Hon. Chris Sumner is a well-seasoned traveller, and he may well have some views on tourism. However, I have never heard him on the subject and I would—

The Hon. C.J. Sumner interjecting:

The Hon. L.H. DAVIS: I would welcome the opportunity of reading it one day. Perhaps you might give me a copy. Perhaps it is a shame that you were not made the Minister of Tourism. When it became a Tourism Commission everyone thought that it would really give the Minister a chance to beef up tourism operations, to get rid of some of the deadheads and to advertise for new staff. What happened? It seems that most people were just reappointed. All they did was change the name on the letterhead, which probably cost a lot of money but to no effect.

The Hon. C.J. Sumner: Is there a new boss?

The Hon. L.H. DAVIS: Mike Gleeson, who comes from Queensland. I am happy about that. It has taken a lot of time and there has been a lot of drift in 11 years. It has taken 11 years to get to a new boss from Queensland. As the Attorney knows, now that I have learnt that he has actually made powerful speeches on tourism, if you look at the top 20 tourism destinations favoured by international visitors in the last calendar year 1992, 10 of those top 20 destinations were in Queensland and only one was in South Australia, and of course that was Adelaide. That is the challenge ahead and I am delighted that Michael Gleeson has been appointed the new Chief of Tourism South Australia. Obviously, he recognises he has an enormous challenge ahead. I have one question on notice for answer in the Committee stage next week: how many graduates of tourism colleges or training institutions in South Australia are employed by Tourism South Australia at this time? With those remarks I support the second reading.

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

LAND TAX (RATES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 12 October. Page 524.)

The Hon. L.H. DAVIS: Here is an example of an embattled Government desperately trying to keep revenue flowing in and we see yet another increase in the scale of land tax rates in South Australia. Let me refresh the Attorney's memory about what has happened in land tax in South Australia in recent budgets. In 1991 the tax rate for buildings with a site value of more than $1 million was $11 270 plus 1.9 per cent thereafter. That marginal rate of land tax was increased from 1.9 per cent to 2.3 per cent in 1991-92. That was significant on all buildings with a site value of more than $1 million.

In last year's budget in 1992-93 we saw increases in two levels of land tax rates. For land ownership with a site value between $300 000 and $1 million the marginal rate was increased from 1.5 per cent to 1.65 per cent, with a base rate common figure of $770 plus that 1.65 per cent on all site values between $300 000 and $1 million. For site values in excess of $1 million the marginal rate was increased yet again from 2.3 per cent to 2.8 per cent and the base rate was raised from $11 270 to $12 320.

This year, for the third successive year, we have had an increase in the tax rate on site values in excess of $1 million, with the marginal tax rate having increased from 2.8 per cent to 3.7 per cent, again with a base rate of $12 320. I seek leave to have a table of a statistical nature, which relates to land tax rates for the years 1991-92, 1992-93 and 1993-94, inserted in *Hansard* without my reading it.

Leave granted.

LAND TAX PAYABLE IN SOUTH AUSTRALIA

YEAR	TAX RATE	SITE VALUE		
		$1m	$6m	$11m
1990-91	$11 270 + 1.9%	30 270	106 270	201 270
1991-92	$11 270 + 2.3%	34 270	126 270	241 270
1992-93	$12 320 + 2.8%	40 320	152 320	292 320
1993-94 (proposed)	$12 320 + 3.7%	49 320	197 320	382 320

The Hon. L.H. DAVIS: This table sets out the land tax rates on site values of $1 million, $6 million and $11 million for the years 1991-92, 1992-93 and 1993-94. It is extraordinary to see what has happened during that period. Let us take, for example, a building with a site value of $1 million. There are many buildings with a value of only $1 million as I will mention in a moment. In 1990-91 the annual land tax would have been just $30 270 on a building with a site value of $1 million. In 1993-94 under the proposal that we are debating tonight that value will have blown out to $49 320. So, from 1990-91 to 1993-94 (a period of four years) land tax has increased from just over $30 000 to over $49 000—a massive increase of $19 000 or 63 per cent.

At the same time, it must be noted that that building that might have been worth $1 million in 1991 could in reality be worth a little less today and is more likely to be empty. Of course, as the Attorney would know there is an extraordinary inconsistency in site values in Adelaide. Some site values have remained virtually steady, particularly if the buildings have been fully let, while others have fallen dramatically. The land tax payable in 1990-91 on a building site worth $6 million has ballooned from $106 270 to $197 320, an increase of 86 per cent in four years. We could make it worse if we wanted to. In respect of a building with a site value worth $11 million in 1990-91, land tax has increased from $201 270 to a massive $382 320, an increase of 90 per cent.

Those increases make a mockery of this Government's claims that it cares about small business because there would have been quite a few small businesses that might be leasing offices or floors in buildings worth more than $1 million. They are copping higher and higher land taxes, even though the value of the building may have diminished over a period of time and even though their business may have diminished. There are some 3 700 sites with a site value between $300 000 and $1 million. There are 651 out of 31 614 taxpayers with site values worth $1 million or more. The important point about that is that even though those sites represent only 2 per cent of all taxpayers they contribute 75 per cent of the land tax revenue. They contribute nearly $59 million of the $78 million estimate in this current budget for land tax.

Because the scale has been adjusted so dramatically the Government will increase its take, just from that hike in the land tax scale alone, by $12.5 million. That one stroke of the legislative pen, raising the marginal tax rate from 2.8 per cent to 3.7 per cent, will increase the take for land tax in this current financial year by $12.5 million. That is a monstrous impost; it is an inequitable impost on small businesses that happen to have their business in a building where the site value is more than $1 million. They are being discriminated against, whereas those with a site value of less than $1 million have not been fingered; have not been touched by this Government who, as we have seen over the past 11 years, has tried to finger everyone financially that they can lay their hands on.

If we look at where South Australia stands now in the national land tax table league we see that on the figures I have before me, for a building with a site value of $10 million, South Australia's land tax in 1993-94, if this legislation passes, will be $345 000. That is almost double what it would be in Queensland, where it is only $180 000; in Western Australia it is proposed to increase it to about $192 000; and it is far more than double in New South Wales where it is only $147 000. As far as I can see—and I would be interested in getting the Government's response to this—South Australia's annual land tax for a building of $10 million is approximately $345 000—almost $100 000 more than the next highest State. I would be very interested—

The Hon. T.G. Roberts: Haven't you got a home to go to?

The Hon. L.H. DAVIS: I find it extraordinary that such an important measure is regarded so flippantly by the Hon. Terry Roberts. We spent 15 hours, at least, debating another matter of some moment but here we are talking about a very important land tax measure affecting hundreds of small businesses in South Australia and many land and building owners and we still have Government members who are still unrecalcitrant for all the sins of omission and commission they have perpetrated over the past 11 years. Even at the eleventh hour of this Government they are still not penitent. There is no humility, there is no decency, there is no compassion in these wicked Government members opposite. I believe that this land tax measure is totally unsatisfactory. I certainly cannot support it.

The Hon. C.J. Sumner: It does not exist.

The Hon. L.H. DAVIS: I am sorry?

The Hon. C.J. Sumner: 'Unrecalcitrant', it does not exist.

The Hon. L.H. DAVIS: That would probably be the only thing the Attorney-General has won this year.

Members interjecting:

The Hon. L.H. DAVIS: Has he broken something? The Attorney-General, having just won something, has smashed something. We are used to that. The Labor Government is a wrecker and we have seen it in this Chamber tonight.

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

STATUTES AMENDMENT (ABOLITION OF COMPULSORY RETIREMENT) BILL

Returned from the House of Assembly without amendment.

FISHERIES (GULF ST VINCENT PRAWN FISHERY RATIONALISATION) (CHARGES ON LICENCES) AMENDMENT BILL

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

The Hon. C.J. SUMNER (Attorney-General): I move:

That this Bill be now read a second time.

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

Leave granted.

In October 1991 the House of Assembly Select Committee inquiry into the Gulf St. Vincent Prawn Fishery recommended that a number of changes be made to management arrangements relating to the fishery in South Australia. These recommendations were endorsed by the Government in November 1991.

The Select Committee recommended that a management committee be established to determine policy and its execution in the Gulf St. Vincent Prawn Fishery. This committee was to consist of—

- a representative of the licence holders;
- a public officer nominated annually by the Minister of Primary Industries;
- an independent chair selected by the Minister and appointed for two years.

The Crown Solicitor has advised that for a management committee to be anything more than an advisory committee, it must be given statutory recognition.

Amongst other things, the Select Committee recommended that the Management Committee be empowered to suspend fishing licences for up to 28 days following breaches of fishing strategy. For a fishing strategy to be enforceable, a breach of the strategy would have to constitute an offence against the Act. To give the Management Committee the power to suspend a licence would involve it in making a finding of guilt which would pre-empt the judgment of a court. In this regard the Parliamentary Counsel has expressed concern at allowing a non-judicial body to suspend a licence.

The Government has given careful consideration to this matter and decided that giving such powers to the Management Committee would be contrary to the existing provisions of the Fisheries Act which already has scope for licences to be suspended or cancelled. Accordingly, the Government has decided not to implement this element of the Select Committee recommendations.

The Select Committee also recommended a number of options relating to payment of licence fees and charges. One of the recommendations was that licence holders be encouraged to make larger payments to pay off their individual debt.

If individual licence holders are to be encouraged to make larger payments on their individual debt, the Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987 ('the Act') would need to be amended. This matter was clarified in a judicial review (judgment delivered May 1991) which determined that the Act provides for charges to be levied providing they are levied evenly on all licence holders. Under the current provisions, the Act does not provide for a variety of charges to be levied at the same time.

It is proposed that the Act be amended to provide, notwithstanding that all licence holders will incur the same base debt when the fishery reopens, for different charges to apply to different licences to enable this to occur if required.

This Bill also provides for an amendment to section 4 of the Act, which stipulates preconditions that must be met before a licence in respect of the fishery can be transferred. Specifically, the existing provisions require the transferor to pay accrued and prospective liabilities imposed by way of a surcharge on the licence before the Director of Fisheries can authorise the transfer of the licence. The accrued and prospective liabilities relate to money borrowed from the South Australian Government Financing Authority ('SAFA') by the Minister of Primary Industries in order to buy back (remove) six licences and boats from the combined Gulf St. Vincent/Investigator Strait Prawn Fishery. Repayment of borrowed money is to be made via a charge on each of the remaining ten licensees.

It is proposed to remove the charge repayment constraint on the transferor and allow the transferee (incoming licence holder) to assume liability for the prospective licence charge amounts until the debt is extinguished. The proposed variation provides a means for current licence holders who cannot service their licence charges to leave the fishery and the Government to recoup the debt from future licence holders.

At present, if a licensee were to surrender the licence or the licence was cancelled by the Minister for non-payment of any charge against the licence, there is no provision for recovery of the liability other than for the current licensing year. It is proposed that a provision be included in the Act that in the event of non-payment of any amount of the liability, the outstanding amount be recoverable as a debt to the Crown. This would provide the Government with a means of recovering a debt due attributable to a licence holder and help any remaining licence holders by not expecting them to pay for a debt incurred by a defaulter.

Furthermore, the loan from SAFA to the (then) Minister of Fisheries in respect of the Gulf St. Vincent Prawn Fishery was approved by the Treasurer on the basis that the loan would be 'secured' in order to minimise the possibility of a loss. SAFA had a prerequisite that the Minister give SAFA a guarantee to meet the debt servicing obligations associated with the loan.

The proposed amendments to the Act are consistent with the Government Financing Authority Act 1982, i.e., the Government is seeking to secure the loan. This is a straightforward business requirement similar to that which any bank or finance company would insist upon if it were to lend money to licence holders (or any other persons).

In essence, Gulf St. Vincent Prawn Fishery licence holders have an obligation to pay the debt incurred in restructuring their fishery, and it is therefore proposed that the existing deficiencies of the Act be rectified to provide for a more equitable system of meeting that obligation.

I commend the measures to the House.

Explanation of Clauses

Clause 1. Short title

This clause is formal.

Clause 2. Commencement

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

Clause 3. Amendment of preamble

This clause amends clause 5 of the preamble to the principal Act by striking out the word 'equally'.

Clause 4. Repeal of s. 4

This clause repeals section 4 of the principal Act which deals with the transfer of licences. Section 4 prohibited transfers of licences until 1 April 1990 and since that time a transfer of a licence has required the approval of the Director of Fisheries. The Director is required to consent to a transfer if the criteria prescribed by the regulations are satisfied and an amount is paid to the Director representing the aggregate of the licensee's accrued and prospective liabilities by way of surcharge under the Act, less any component of that prospective liability referrable to future interest and charges in respect of borrowing. The section also provides that where the registration of a boat is endorsed on a licence to be transferred, that registration may also be transferred.

The effect of repealing section 4 is that a licence in respect of the Fishery will be transferable in accordance with the scheme of management for the Fishery prescribed under the Fisheries Act 1982. The criteria prescribed by the Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Regulations 1990 are identical to, and thus duplicate, those prescribed by the Scheme of Management (Prawn Fisheries) Regulations

1991 under the Fisheries Act. The new section 8 substituted by clause 5 of this measure will provide that the licensee's liability under the Fisheries (Gulf St. Vincent Prawn Fishery Rationalisation) Act 1987 will, on transfer of the licence, pass to the transferee (the new licensee). Section 38(4) of the Fisheries Act already provides that where a licence is transferable, the registration of a boat effected by endorsement of the licence may be transferred.

Clause 5. Substitution of s. 8—Charges on licences

This clause repeals section 8 of the principal Act and substitutes a new provision.

Proposed subsection (1) requires the Minister, by notice in the *Gazette*, to quantify the net liabilities of the Fund under the Act as at the day fixed by the Minister in the notice ('the appointed day').

Proposed subsection (2) provides that, as from the appointed day, each licence is charged with a debt calculated by dividing the amount determined under subsection (1) by the number of licences in force on the appointed day.

Proposed subsection (3) provides that the debt will bear interest at a rate fixed by the Minister by notice in the *Gazette* and the liability to interest is a charge on the licence.

Proposed subsection (4) requires a licensee to pay the debt, together with interest, in quarterly instalments (which may be varied from time to time) fixed by the Minister by notice in the *Gazette* and payable on a date fixed by the Minister in the notice and thereafter at intervals of three months, or if there is an agreement between the Minister and the licensee as to payment, in accordance with the agreement.

Proposed subsection (5) provides that where a licence is transferred, the liability of the licensee passes to the transferee.

Proposed subsection (6) provides that any amount payable by a licensee under the Act may be recovered as a debt due to the Crown.

Proposed subsection (7) provides that if a licensee is in arrears for more than 60 days in the payment of an instalment, the Minister may, by notice in writing to the licensee, cancel the licence.

Proposed subsection (8) provides that where a licence is surrendered on or after the appointed day or is cancelled under subsection (7), no compensation is payable for loss of the licence and the total amount of the debt charged against the licence becomes due and payable by the person holding the licence at the time of the surrender or cancellation.

Proposed subsection (9) defines 'appointed day' and 'net liabilities of the Fund under this Act' for the purposes of the section.

The Hon. PETER DUNN secured the adjournment of the debate.

MOTOR VEHICLES (DRIVING WHILST DISQUALIFIED—PENALTIES) AMENDMENT BILL

Returned from the House of Assembly without amendment.

ENVIRONMENT PROTECTION (SEA DUMPING) (CONSISTENCY WITH COMMONWEALTH ACT) AMENDMENT BILL

Returned from the House of Assembly without amendment.

STATUTES REPEAL AND AMENDMENT (PLACES OF PUBLIC ENTERTAINMENT) BILL

Returned from the House of Assembly with amendments.

ENVIRONMENT PROTECTION BILL

The House of Assembly intimated that it had agreed to the Legislative Council's alternative amendment in lieu of its amendment No.18.

ADJOURNMENT

At 10.39 p.m. the Council adjourned until Tuesday 19 October at 2.15 p.m.