LEGISLATIVE COUNCIL

Thursday 30 March 2000

The PRESIDENT (Hon. J.C. Irwin) took the chair at 2.17 p.m. and read prayers.

PROSTITUTION

Petitions signed by 365 and 31 residents of South Australia respectively concerning prostitution, and praying that this Council will strengthen the present law and ban all prostitution-related advertising to enable police to suppress the prostitution trade more effectively, were presented by the Hons Caroline Schaefer and A.J. Redford.

Petitions received.

BATTERY HENS

A petition signed by 104 residents of South Australia concerning battery hen farms, and praying that this Council will, in support of the RSPCA, abolish battery hen farms, was presented by the Hon. J.S.L. Dawkins.

Petition received.

HOUSING TRUST, RENT

A petition signed by 76 residents of South Australia concerning Housing Trust rent increases, and praying that this Council will request that the Minister for Human Services instruct the South Australian Housing Trust to assess pensioner rent increases at a ceiling of 25 per cent of any one increase and that any compensation for the GST be excluded as income for the purpose of assessing rental, was presented by the Hon. R.R. Roberts.

Petition received.

HOUSING TRUST, VANDALISM

A petition signed by 155 residents of South Australia concerning violence, physical and verbal abuse and vandalism in South Australian Housing Trust complexes, and praying that this Council will direct the South Australian Housing Trust to enforce—

- the conditions of tenancy and ensure that the conditions of tenancy cover all tenants including those in flats leased to other organisations;
- the Difficult and Disruptive Tenants Policy;
- the relevant sections of the Residential Tenancies Act 1995; and
- the Private Parking Areas Act 1986

was presented by the Hon. Sandra Kanck.

Petition received.

OFFICE OF THE EMPLOYEE OMBUDSMAN'S REPORT

The PRESIDENT: I lay upon the table the report of the Office of the Employee Ombudsman for 1998-99.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Transport and Urban Planning (Hon. Diana Laidlaw)—

Reports, 1998-99—

Food Act 1985
Public and Environmental Health Council
Work of the South Australian Health Commission under the Public and Environmental Health Act 1987.

BROKEN HILL PTY LTD

The Hon. R.I. LUCAS (Treasurer): I seek leave to table a ministerial statement made by the Premier in another place today on the subject of the BHP indenture.

Leave granted.

QUESTION TIME

LIBRARY FUNDING

The Hon. CAROLYN PICKLES (Leader of the Opposition): I seek leave to make a brief explanation before asking the Minister for the Arts a question about library funding.

Leave granted.

The Hon. CAROLYN PICKLES: Yesterday all members of parliament received a letter from the President of the LGA, mayor Brian Hurn, regarding proposed state cuts to public library funding. I have also discussed this matter with representatives of my local council, Burnside, and members of the LGA. My questions are:

1. Will the minister confirm the accuracy of the $1.2 million cut in the grant and operating deficit of $2.3 million for public libraries for the 2000-01 Libraries Board budget circulated by ArtsSA?

2. Will the minister provide three to five year budget projections to allay local council fears that cuts will quickly lead to reductions in quality of service, opening hours, book stock, internet access and central services such as cassette books?

3. Will the minister confirm that the State Library redevelopment budget of $36 million announced by the minister in her media release of 16 October 1999 has gone over budget by more than $4 million?

The Hon. DIANA LAIDLAW: In terms of the State Library, it is not an issue of going over budget: it is a matter of accommodating GST and inflation since the $36 million allocation was provided by the state government some three years ago for this project. There is also earthquake remediation work that must be undertaken on the old Jervois Building, and I believe that the honourable member would wish that work to be undertaken as part of this major redevelopment and that she would support the government's making the funding allocation for that purpose. I also suspect she would be pleased that the government had met GST and inflation costs and not cut the project by some $3 million rather than find the extra funds for this purpose. So, it is not a matter of the project running over budget. Essentially, it is the same project, but we just had to take account of time issues.

In terms of the earlier questions, I absolutely categorically deny, as I have on earlier occasions, that there is any cut in public library funds from the state government. The agreement provides for some $13.1 million plus inflation. That agreement ran out in December, I think. We are now renegotiating, as agreed by the former president—at her request, I think—a one year agreement, while we take account of GST issues on library services and also a report

commissioned by the Local Government Association about on-line services and how public libraries can generate more income through such operations, how we can provide more on-line services through public libraries and how the state government may be able to get out of some of those tasks and pay libraries to undertake them. That is why we are going for a one year agreement. The State Library, which provides the funds to councils for public library purposes in this state, on Monday of last week approved the budget for libraries. I understand that it is $1.1 million more than was approved last year, and it includes extra funding from the state government.

Mr Hurn is taking exception to some background financial negotiations, and local councils will see no impact of those negotiations on their budgets. Next year they will receive the same, plus inflation, plus this extra amount. The background discussions relate to interest payments on funding arrangements and also some reserves. Those interest payments that he now believes are being cut have not been provided for local government and for public library purposes for at least three or five years, as I recall, because they have been used to upgrade PLAIN 2. It is beyond reason to argue that those funds have now been cut from the state government for public library purposes when councils have not received those funds—with their agreement—for some three to five years. On a more positive note, I can also highlight that I understand that the target date of tomorrow for the signing of the one year agreement will be met in terms of an understanding between Mr Hurn, the LGA, local councils and me, on behalf of the state government.

The Hon. CAROLYN PICKLES: As a supplementary question, following the signing of the one year agreement, will the minister indicate whether the government will revert back to a five year agreement, which has been the custom with local government?

The Hon. DIANA LAIDLAW: That is the intention. That has been stated by me in several letters to Mr Hurn. This is a one year breather, I suppose, or space to take account of the GST and make an assessment on the provision of public library services and technology upgrade and to take account of the LGA's commissioned report on on-line services. For that reason only this is a one year agreement, and that was the understanding on which I accepted a request from the past President of the LGA.

The Hon. T.G. ROBERTS: By way of further supplementary question, will the minister ensure that the maintenance of equity that exists in the costs to service provision between metropolitan and regional public library and on-line services continues?

The Hon. DIANA LAIDLAW: I do not make individual allocations to local government for public library services. Under the Libraries Act, the libraries board makes those allocations. I can give an undertaking that the funding situation will be respected and the state library will be responsible for distribution. The government does not intend to cut the budget. It has not done so, and it is not in our interests electorally, anyway, even if we wished to do such a thing in the future.

ELECTRICITY, PRIVATISATION

The Hon. P. HOLLOWAY: I seek leave to make a brief explanation before asking the Treasurer a question about ETSA dividends.

Leave granted.

The Hon. P. HOLLOWAY: In the Budget Statement Budget Paper 2 last May, prior to the passage of the ETSA lease legislation, the government indicated that ETSA Power would pay dividends and income tax equivalents of $62.1 million in 1999-2000—that was with the planned $100 million price increase. Following the subsequent removal of that price increase, this translates to a budgeted outcome of about $38 million loss to the budget from ETSA Power. In that same paper, ETSA Utilities was expected to pay $135.5 million in dividends and tax equivalent payments in 1999-2000, and that is a total for both ETSA companies of just under $100 million for 1999-2000. Prior to the 200 year lease for ETSA Utilities and ETSA Power on 28 January, were dividends and tax equivalent payments for the first seven months of the 1999-2000 financial year paid to the government by ETSA Utilities and ETSA Power and, if so, what amount was paid?

The Hon. R.I. LUCAS (Treasurer): I am happy to take the honourable member's question on notice and bring back a detailed response to the parts of the complicated transaction that was concluded on 28 January. I might note that the problems that South Australia experienced in the week after 28 January, which was the first week of February, as a result of the power strike caused by unionists in Victoria at the Yallourn power station, would probably have meant that ETSA Power or AGL would have lost significant sums of money. It is that sort of risk that the South Australian government believes the taxpayers of South Australia should not be exposed to.

It could well transpire that the magnitude of the losses suffered by retail companies in that week will become part of the public record at some stage. Whilst I am aware of the figures at this stage, I do not think it is appropriate for me to put them on the public record. All I would like to say is that, should they ever become part of the public record, it would be a supreme embarrassment to the Hon. Mr Holloway, Michael 'the Whinger' Rann, as he is referred to by some in the community, and Kevin Foley as the spokespersons on this matter for the Labor opposition in South Australia.

The retail business is extremely risky. Those extraordinary events of the first week of February are the purest example of the multi-million dollar risks the taxpayers faced as the owners and operators of a retail trading business in the national electricity market. Some events are good for generators and some events are good for retailers. All we are saying is that the generation and retail businesses, as we have said all along, are the riskiest parts of the electricity business. There is obviously some greater stability in distribution and transmission. However, as the distribution and transmission companies in the United Kingdom are experiencing a 23 per cent reduction in their earning capacity as a result of the regulator's decision to bring down electricity prices, even the so-called rolled gold 'there is no risk to their earnings' businesses that Mike Rann and Kevin Foley go on with and all their whingeing and wining about the electricity industry, it demonstrates the clear risk to earnings potential that even those supposedly risk free businesses do experience. In relation to the precise detail of dividend flows and tax equivalent payments at and around the time of financial close at the end of January, I am happy to take that question on notice and bring back a reply.

TUNA FEED LOTS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Attorney-General a question about the release of the Environment, Resources and Development Committee report into tuna feed lots at Louth Bay.

Leave granted.

The Hon. T.G. ROBERTS: Yesterday, a report into the controversial tuna feed lots in Louth Bay was tabled in this Council, and I am sure that the Attorney-General has read it from cover to cover. Once again, the ERD committee has found it necessary to criticise the government's conduct in relation to its lack of effective aquaculture policy, emphasising its great disappointment over the lack of uptake of its previous recommendations in the aquaculture inquiry that were tabled some months previously.

The committee is particularly scathing of the role PIRSA played in this saga, noting that the department was aware of the presence of the feed lots from April 1996. The committee noted that there was no developmental approval and said that serious concern must be raised as to why no action was taken. Among other things, the committee recommends a more strategic approach to the formulation of policy, the enactment of specific legislation to control sea-based aquaculture and the amendment of aquacultural regulations to ensure that they do not bypass the checks and balances needed for developments that have significant unmeasured environmental impacts. That is at page seven of the report.

It is not the opposition's position to try to drive the tuna industry out of the state—as we and the committee have been accused of doing. It is the intention of the Environment, Resources and Development Committee and the opposition to get some order in the process so that there is some certainty in the processing of development applications, the siting of the cages and other matters relating to the environmental aspects of this important section of the industry. My questions are:

1. Given the Minister's lack of response to the recommendations in the recent ERD report on the pilchard fishery and his subsequent decision to appoint a retired judge to head an investigating panel into the fishery—which, by the way, came to a conclusion that was similar to that of the ERD committee—does the minister intend to learn from past mistakes and take up the recommendations of this latest ERD committee report?

2. Will the Minister now accept what the opposition has consistently called for—a long-term, environmentally sustainable plan for South Australia's valuable aquaculture industry to replace the government's current ad hoc decision making, even though it is coming from what is advertised to the industry as a one stop shop for all matters concerning aquaculture?

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

COURT FACILITIES

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Attorney-General a question about court facilities.

Leave granted.

The Hon. J.S.L. DAWKINS: The feature headline and main front page story in today's edition of the *Advertiser* relates to government plans for the Snowtown murder trial. The story states unequivocally that a purpose built court complex and infrastructure costing about $15 million will be established for the purpose of the Snowtown trial. The report also states that the new courtroom, to be situated in the old Tram Barn in Angas street, is expected to be the most technologically advanced in Australia. Other media reports have subsequently questioned why the ordinary criminal courts cannot be used for this trial. My question to the Attorney-General is: has the government decided to spend $15 million on a stand-alone court complex and infrastructure?

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN (Attorney-General): There are two answers to this question: one is short and one is long. I will keep you in suspense for a bit longer, although I suspect the long answer will satisfy those who are anxious to know the short answer.

The first thing that needs to be said about the Snowtown murders case is that a great deal of caution has to be exercised by the media and the public in terms of the discussions that may occur in relation to it. The media have to be particularly careful because, quite obviously, if there is undue publicity given to the case which might suggest distortion or misrepresentation of the true picture, it is open to an accused person to assert that the prospect of a fair trial might have been compromised. In those circumstances, if the court so determines, the proceedings are stayed.

The last thing we want to see with this or any other criminal case is the prospect of a trial aborted as a result of undue publicity if in this instance the committal determines that the matter should go to trial. One accepts that there will always be publicity about these high profile cases but I urge caution on the part of not only the media but members of the public about the way in which they represent the case and reflect upon its conduct. I am sure there will be very close scrutiny, particularly as we get closer to committal proceedings and to trial, if they are committed for trial, of the way in which the issues are represented in the public forums of the state.

The Hon. R.I. Lucas: Not only caution; facts might help as well.

The Hon. K.T. GRIFFIN: Facts would help, and that is what I want to address. I read this headline and the detail of the story on the front page of the morning newspaper with some amazement: I wondered where my pot of gold had come from. I could feel the heat on the back of my neck as my colleagues read the newspaper and thought I should take the first opportunity to reassure honourable members that I do not have any magic conduit to the Treasurer. I think only the Minister for the Arts has that conduit.

The first paragraph of the *Advertiser* story was just plain wrong. There is no pot of gold to which I might be entitled or to which I might have access. For that matter, I doubt whether there is a pot of gold that other ministers have access to, either. The assertion that we will spend $15 million on a purpose-built court complex and infrastructure is just plain wrong. I had a press conference yesterday and that issue was not even raised and nor subsequently was it raised with a view to confirming or otherwise the accuracy of such a statement before it was published. I do not know where they got the idea that we would have some purpose-built structure. One of the possibilities, and it is only a possibility, is that the Tram Barn, if it is available, already set up as courts for

Magistrates Court purposes and now the Youth Court, is an option for the conduct of this trial. Ultimately though, the courts, whilst they may choose to consult with me, will make the decision as to where it might be best to conduct the trial.

This morning, some of the media commentators were saying, 'Why do you want to spend money on a stand-alone facility?', and even when I indicated that that statement was quite wrong, they persisted with, 'Why do you want to have some facility away from the mainstream criminal courts?' Well, quite obviously we do not necessarily want it and it may not occur. So far the issue has not been canvassed at any length, but in the context of a case as significant as this there will be the prosecution; there will be witnesses for the prosecution, including relatives of victims; there will be the defence counsel; perhaps there will be the victim support services; there will be media; and there will be the jurors. If there is going to be a long trial, the jurors need comfortable facilities in which to deliberate. All those sorts of issues need to be addressed, and it may be that, ultimately, this trial will be held in the Sir Samuel Way Building.

The consideration of the issue is at a very early stage. Some of the story in the article was true. I did indicate that the government had recognised the pressure upon police resources: in the early stages at any one time about 39 officers were involved in the investigation. The number is now back to about 18, and it is likely to continue at about 15 or 16 for the next 18 months. We were anxious to indicate publicly that we have not forgotten the need to provide additional resources to police. I indicated at the press conference that other resource issues might be raised over the next few months, but they are issues to which we will give consideration. We will be sensitive to the fact that this is a complex case and a case likely to attract considerable interest.

The Hon. T.G. Roberts: I heard that Stratco has put in a quote.

The Hon. K.T. GRIFFIN: That is over my head, and I suspect that, from the look on the face of the Hon. Terry Roberts, I probably should not embark upon answering or even trying to interpret the interjection.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: The other point is the reference to a high-tech or electronic courtroom. Again, no decision has been taken about that. It is true that there have been discussions about whether or not this may be a good way to facilitate the conduct of the case in light of the fact that there are so many depositions and exhibits, but with respect to whether or not high technology will be used extensively in the courtroom is a matter that has certainly not yet been resolved and, in any event, will largely be a decision for the court. It is important to put this in perspective. I recognise that there are issues of this nature that are newsworthy but the issues, if they are to be raised, particularly in the context of the sensitivity of a court case, should be balanced and appropriate.

BURROWS, MR D.

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Administrative and Information Services a question about the former State Supply Director, Mr David Burrows.

Leave granted.

The Hon. SANDRA KANCK: On 28 October 1999 I raised questions in this Council regarding the state procurement reform strategy, with particular reference to its stated intention of professional integrity and probity. At that time I was told that the State Supply Director, Mr David Burrows, was working off-line subject to a government investigation. I understand that a range of code of conduct issues were investigated, including departmental credit card abuse. Today I have received a reply to further communications I have initiated with the minister since that time in relation to this matter and I remain far from satisfied with the reply.

The minister's letter advises that Mr Burrows' contract was terminated with immediate effect on 3 December last. I had sought details of the termination package using the FOI Act, but the minister advises that he is prevented from advising me of any of the details of the package taken by Mr Burrows because Mr Burrows has not consented to it. The minister's letter states that, with regard to employing Mr Burrows, extensive background checks were undertaken, yet I have been informed by a source within the supply industry that only two telephone calls to previous employers would have precluded Mr Burrows from any employment within the procurement industry.

Although the minister's reply mentions that the type of contract under which Mr Burrows was employed ensures that Mr Burrows will have no 'substantive' employment in the South Australian Public Service, it has been suggested to me that he has since undertaken some contract work for the government. My questions to the minister are:

1. If Mr Burrows did not commit any unlawful act, why was his contract terminated?

2. Is it correct that departmental credit card abuse was amongst the matters investigated prior to the termination of his contract?

3. Did Mr Burrows sign the conditions of use statement required of all government employees whose job entitles them to a credit card? Will the minister state categorically that Mr Burrows used his corporate credit card in accordance with the conditions of use statement?

4. Did Mr Burrows use the credit cards of any other departmental employees? If so, how many credit cards, whose credit cards, what was purchased and to what value?

5. Did the holders of those credit cards knowingly give permission for Mr Burrows to use them? If so what action has been taken by the minister or the departmental head to deal with such a breach of conduct by them?

6. Whether or not Mr Burrows used the credit cards with the consent of the relevant employees, and even if the investigation reveals that any use was not strictly unlawful, was he in breach of the Public Sector Management Act 1995 by using them? If so, what disciplinary action was instituted by the CEO against him and when?

7. Is it correct that the CEO of State Supply became aware of these possible breach of conduct issues nine months before an investigation began? If not, when did she become aware of them?

8. At what point did the CEO inform the minister of the breach of conduct allegations?

9. Was the CEO in breach of the Public Sector Management Act 1995 by not conducting an inquiry as soon as she became aware of allegations of breaches of conduct?

10. What does the minister consider is substantive employment in the Public Service? Has—

Members interjecting:

The PRESIDENT: Order!

The Hon. SANDRA KANCK: —Mr Burrows been employed in any way, including the undertaking of any

contract work for the state government, since his departure from Supply SA? If so, for what department and how much was he paid?

11. What checks were made on Mr Burrows' previous employment record? To whom did the consultants speak regarding references for Mr Burrows and what consultancy firm was responsible for recruiting Mr Burrows?

The Hon. R.D. LAWSON (Minister for Disability Services): I do not have to hand details of the use, if any, of Mr Burrows' credit card, if indeed he had a credit card, or whether or not he used the credit cards of any other officers. I will certainly take those questions on notice and bring back an appropriate reply in due course. It is true that Mr Burrows' engagement as Executive Director of State Supply was terminated with effect from 3 December 1999. It was terminated by the Chief Executive of the Department of Administrative and Information Services—a matter that is entirely within the jurisdiction of the departmental chief executive.

I need hardly remind the honourable member that in March last year she moved a motion calling for an Auditor-General's inquiry into certain purchasing arrangements for health services in public hospitals. The motion was duly passed by this Council and the Auditor-General's inquiry has been set up and is under way. The department is cooperating with the Auditor-General in the completion of that report.

The honourable member asks whether I was aware that two telephone calls would have sufficed to prevent Mr Burrows from ever being appointed to the position of Director of Supply. I am not aware of that. If the honourable member had any information of that kind it was perfectly open to her to let me have it, either through the parliament or privately, and appropriate inquiries would have been made. However, the honourable member has been very keen to slur Mr Burrows. I am not here to defend him but, if she does have information rather than vague accusations, I again urge the honourable member to provide the material to me and appropriate inquiries can be made. As to the balance of the honourable member's long series of interrogatories, I will take those on notice and bring back a response in due course.

PRICE, Mr D.

The Hon. L.H. DAVIS: I seek leave to make an explanation before asking the Leader of the Government in the Council a question on the subject of Mr Danny Price.

Leave granted.

The Hon. L.H. DAVIS: Members will recollect that during 1998 and 1999 the proponents of the Riverlink option, which was to be owned by TransGrid, the New South Wales government trading enterprise, argued consistently that Riverlink could be established within a 12-month period. Foremost amongst those advocates was the Hon. Nick Xenophon and, in August last year, members might remember that the Hon. Mr Xenophon made a considered statement. In answer to a question on the matter of Riverlink, the Treasurer (Hon. Robert Lucas) said:

> I would think that it was significantly influenced, if not written, by Mr Danny Price from London Economics and/or Mr Mark Duffy, the paid New South Wales government lobbyist, who have been advising the Hon. Nick Xenophon on electricity matters for the past 18 months.

The Hon. Robert Lucas then put to rest the arguments that Riverlink could be built within 12 months by advising the Council (page 2011 of *Hansard)* that the New South Wales government advisers, that is, Sinclair Knight Merz, in consultation meetings around South Australia had said that they would not choose the route for Riverlink until the middle of 2000. Furthermore, the Treasurer advised the Council that Mr Jones, project manager for TransGrid's consultants Sinclair Knight Merz, said that the expectation for the completion of the project was the end of 2001, two years later than the time line originally projected by the paid New South Wales Labor government lobbyists such as Mr Danny Price.

Mr Danny Price's name was raised in this chamber yesterday and, since then, I have been advised that a national electricity conference was held earlier this week with a national audience of business people and electricity industry officers. At that conference, Mr Danny Price launched another sustained attack on the Premier of South Australia (Hon. John Olsen) and the South Australian government's approach to the issue of Riverlink. My questions are:

1. Is the Treasurer aware of the claims made by Mr Danny Price at the recent conference and will he advise the Council whether those claims are accurate?

2. I have noticed in a number of recent media reports that Mr Price continues to be referred to as working for London Economics. We know that he has also been an adviser to the New South Wales government, having formerly been an adviser to the South Australian government some time ago. Will the Treasurer advise the Council whether or not Mr Price still works for London Economics?

The Hon. R.I. LUCAS (Treasurer): I am aware of the national conference to which the honourable member referred and I have had some feedback in the past 24 hours about it. It was a conference on interconnection and, given the support that the South Australian government has shown for the whole notion of interconnecting South Australia with the Eastern States, the government decided to be a part sponsor of the interconnection conference. A number of speakers argued the various merits of regulated and unregulated interconnectors linking not only South Australia but also Tasmania and Queensland with the first two states to be connected, New South Wales and Victoria.

Information has come back to me from two or three delegates and observers who attended the conference that a number of them left Mr Price's contribution shaking their head. They told me that it was an embarrassing and rambling performance from Mr Price. He launched a sustained and vicious attack not only on the Premier but also on the South Australian government.

Members interjecting:

The Hon. R.I. LUCAS: I would be delighted if Mr Price—

The Hon. K.T. Griffin: He has advocates in here.

The Hon. R.I. LUCAS: Mr Price already has advocates in here. He does not need a right of reply: he just rings up the Hon. Mr Xenophon. He has had a right of reply for 18 months.

The Hon. T.G. Cameron: That means that you are referring to more than one.

The Hon. R.I. LUCAS: I should say 'advocate', that is true. I retract that remark and I apologise for slurring any other member in this chamber. There is only one advocate. Mr Price continued to make claims at that national conference that the South Australian government had stopped Riverlink, which is just not correct. As I again state, it was a decision of NEMMCO, an independent national authority, in June 1998. It decided not to give regulated asset status to Riverlink. I am waiting to get transcripts or summaries of the

precise detail of Mr Price's further claims, but he also claimed that the South Australian government continues to halt or impede further interconnection with South Australia. He claimed also that the government has an ulterior motive in relation to the sale value of its generation assets in South Australia. As one of the delegates reported to me, and I can only agree, it would appear that Mr Price's personal bitterness and obsession in relation to this issue has meant that he has lost all sense of balance when trying to comment in a rational way on this issue.

The second question relates to Mr Price's employment. It is only fair to London Economics, which continues as a firm, that I point out that Mr Price no longer works for that company. It is unfair to the professional reputation of London Economics that there have been some misreports in the media that Mr Price works with London Economics. Mr Price left the employment of London Economics in May 1999. There has obviously been some problem in relation to his leaving because I have been advised that London Economics launched legal proceedings against Mr Price in the Federal Court in June 1999.

The Hon. Diana Laidlaw: In the month after he left.

The Hon. R.I. LUCAS: Yes, in the month afterwards. In the reasons for judgment given by Judge Finkelstein, dated 30 June 1999, when London Economics sought some orders against Mr Price and others, the judge said:

> It seems sufficiently arguable on the evidence before me (albeit evidence which may one day be shown to be incorrect) that some person or persons have gone to a good deal of trouble to remove the property of London Economics and to make it as difficult as possible for that company to continue to carry on its business. Another reasonable inference open to me is that this 'sabotage' of the company's business was the work of former staff members. I note that through his solicitors Mr Price has said that many documents were destroyed and computer information deleted to protect client confidentiality and that this is what normally occurs. However, the removal of documents and the deletion of computer information seems to have occurred around 17 and 18 May 1999, and this rather suggests that what has occurred may not have been in the ordinary course of business.
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> Although London Economics has not said this directly, it suspects that Mr Price is the person who is principally involved in what appears to be quite serious wrongdoing. His obstruction of Mr Gibbs' efforts to acquire knowledge of the activities of the company, prima facie at least, stands as good evidence for this view. No doubt there is also suspicion that Mr Steinke was responsible for the corruption of the computer system. He may also have been involved in the removal of the backup tapes.

Further on in his reasons for judgment, Judge Finkelstein said:

> It is clear enough, in my opinion, that London Economics appears to have a good cause of action against certain of its former employees. For reasons which are no doubt apparent, those actions may lie against Mr Price and Mr Steinke as well as the company Frontier Economics. The possible causes of action would include a claim for breach of copyright if the allegedly stolen material has been reproduced. In this regard it is reasonable to infer that much of the material that 'has gone missing' is the subject of copyright and that the ownership of that copyright is with London Economics. The potential claims also include actions in detinue and breach of fiduciary duty against former employees.
>
> There are presently two difficulties in the path of bringing those claims. In the first place it is by no means clear against whom such actions are to be commenced. It may be, for the reasons I have stated, that an action could be commenced against Mr Price and perhaps Mr Steinke. However, if an action is commenced it would be speculative in the sense that London Economics is not presently able to identify which of them is the party to any wrongdoing. In a sense, the same is true of the potential claim against Frontier Economics. London Economics does have reasonable cause to believe that it has a cause of action against Frontier Economics, perhaps because it is in possession of allegedly stolen material and perhaps also because it has reproduced copyright material. However, in my view, and this is the second difficulty, London Economics does not have sufficient information to enable it to decide whether such a proceeding should be commenced.

In fairness, I wanted to read word for word those paragraphs by Judge Finkelstein. I did not want anyone to accuse me of selective quoting. Legal sources tell me that on the basis of those statements of Judge Finkelstein in the reasons for his judgment there was clearly a huge incentive for Mr Price to see this issue settled. I understand—and I am still seeking confirmation—that in recent days this issue may well have been settled between the parties.

My answer to the honourable member's question, therefore, is—again, in fairness to London Economics to ensure that there is accurate reporting—that Mr Price no longer works for London Economics; London Economics continues to operate as an economics consultancy; Mr Price has not worked for that company since May 1999 and I understand from information received in the last two or three weeks that he is currently working for Frontier Economics but that he is also employed by the ministerial implementation group, which is the high powered group working out of the New South Wales Labor Government Treasury offices in Sydney.

The Hon. P. HOLLOWAY: I rise on a point of order, Mr President. Under standing order 452 will the Treasurer table the document from which he has just quoted?

The Hon. R.I. LUCAS: I am not sure about the standing order, but I am happy to give a copy to the honourable member. This is a public document.

Members interjecting:

The PRESIDENT: Order!

SPEED CAMERAS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister for Police, a question about speed cameras.

Leave granted.

The Hon. T.G. CAMERON: The media recently reported that police are targeting the state's most dangerous rural roads at peak crash times in an attempt to curb the country road toll. This strategy is the result of an investigation into country crashes in South Australia which has also identified the most dangerous days for driving. Police are now using the information to change the way they enforce road safety laws. Speed cameras and other devices are now scheduled during peak crash-risk times. Deputy Police Commissioner Neil McKenzie stated in the *Advertiser* recently:

> . . . The starting point was to work out what roads displayed a bad crash profile. The State Highway Task Force then read the reports to understand the nature of crashes occurring and some of the features that had come through the reports. It was a comprehensive process and certainly the first time police have done this sort of road safety audit.

The road audits represent a good effort by the Traffic Operation Unit and they are to be commended. However, I note that similar measures have not as yet been introduced for metropolitan roads. My question is: will the police introduce a similar strategy for metropolitan roads and concentrate on those road black spots where people are being killed or seriously injured (I have been supplied by the minister previously with the top 20 locations), or will they continue to place speed cameras on main arterial roads where they raise the maximum amount of revenue?

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

AGED CARE FUNDING

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for the Ageing a question about new aged care places for South Australia.

Leave granted.

The Hon. A.J. REDFORD: Last Wednesday, federal Minister for Aged Care Bronwyn Bishop announced an additional $173 million in funding for an extra 14 777 aged care places nationally. I understand that the allocation was to be made to areas of greatest need, particularly rural and regional Australia and targeted groups. Members might recall that last year on a couple of occasions I raised some difficulties that occurred in one region of this state, in particular the South-East of South Australia, and I highlighted the difficulty that Mr Morrison of Tarpeena had faced in seeking nursing home care. In the light of that my questions are:

1. Is the minister aware of where these places are likely to be allocated and what share of the $173 million and the 14 777 places that South Australia will secure?

2. Is the minister aware that there has been some criticism by Sydney based journalists that this is a knee-jerk reaction as far as regional areas are concerned?

3. Will the minister confirm that there is a genuine need in the bush, particularly the South-East, for increased aged care and that this is more than mere window-dressing and politics?

The Hon. R.D. LAWSON (Minister for the Ageing): I thank the honourable member for his question and acknowledge his interest in matters pertaining to residential aged care facilities as evidenced by a number of discussions that he had with me last year about the situation in the South-East of South Australia. The allocation of nursing home places is the responsibility of the commonwealth government which funds those places. There is a formula by which places are allocated, and that is that for every 1 000 people over the age of 70 years 40 high care places, 50 low care places and 10 community care packages are allocated. These are packages of care that enable people to be supported in their own home rather than being admitted to residential aged care.

The commonwealth department publishes extensive statistics on the beds available in various regions. Although South Australia has slightly above the national average, some regions of this state are better provided for than others. The latest figures as at 15 November indicate that the South-East of South Australia, an area in which the honourable member shows a great deal of interest, has 58 beds for high care under the national standard and 49 beds for low care, although the region has 17 more than its allocation of community care packages. I suspect that that is the result of the allocation of a further 25 community care packages in last year's funding round to the South-East. There are several other South Australian regions which, to use the expression, are 'underbedded'. However, there are parts of metropolitan Adelaide which are substantially and significantly 'over-bedded'. Altering that situation will take a number of years to remedy.

I was delighted by the announcement by the federal minister and the federal government. It is good news for South Australia. A further 14 700 places nationally will yield an additional 1 380 beds in South Australia, 772 residential places and 608 additional community care packages. An additional 1 380 beds in this period should be compared with last year's additional allocation of 532 beds. So, the commonwealth government is addressing what has become a serious national problem, and it is addressing it with the largest ever allocation of places.

It is clear from the commonwealth announcement that it is intended to allocate additional places in regional and remote communities, and I would expect that, of the 1 380 places which are coming to this state, a substantial preponderance of those will go to rural and regional South Australia having regard to the fact that the metropolitan area already has a substantial number of places.

A number of details are still to be sorted out in relation to the new places, in particular the precise allocations to regions and the timing, and it does take quite some time for additional allocations to result in additional beds. Bearing in mind that at the moment the aged care sector is undergoing a process of accreditation where standards, both physical and environmental, and standards of care, are to be enhanced, I think that for the federal government to be allocating resources of this kind is an exciting development.

I am not aware of the commentary of Sydney journalists but, if it is being asserted that this is just a measure by the commonwealth government to address what might be seen as so-called problems in the bush, I think it is very clear from this substantial announcement that this will benefit not only the bush but the whole Australian community.

The Hon. A.J. REDFORD: As a supplementary question, will the minister write to the federal minister on behalf of all of us in this chamber and congratulate her on this announcement?

The Hon. R.D. LAWSON: I will certainly be communicating with the federal minister and congratulating her on this initiative, as well as seeking the additional details that are necessary.

The Hon. Carolyn Pickles interjecting:

The Hon. R.D. LAWSON: I propose to write on my own behalf and on behalf of the government, but the interjection of the Leader of the Opposition in this place suggests that the opposition does not want to be associated with any expression of congratulations, and I will communicate that to the minister as well.

The Hon. CARMEL ZOLLO: As a supplementary question, given the current crisis and neglect that has been highlighted and experienced in aged care interstate, can the minister advise whether he has had any discussions with his federal colleague, Minister Bishop, as regards South Australian facilities? Has he received any reports of similar low standards of care occurring in South Australia or of any facilities that have serious deficiencies?

The Hon. R.D. LAWSON: I have not received any reports of the kind referred to by the honourable member. My department and the commonwealth department are in fairly constant contact regarding matters of mutual interest. The Aged Care Standards and Accreditation Agency established in this state is proactive, and I would expect to receive reports of any instances of unsatisfactory care or failure to meet commonwealth standards.

MEMBERS, QUESTIONS

The Hon. IAN GILFILLAN: I seek leave to make a brief explanation before asking you, Mr President, a question about Question Time.

Leave granted.

The Hon. IAN GILFILLAN: It appears that this week not enough questions have been answered, and therefore I ask for your opinion, Sir: do you believe that nine questions in the whole of Question Time is adequate? Should there not be at least 11 questions so that there can be a reasonable allocation of question opportunities?

The PRESIDENT: I thank the honourable member for his question.

The Hon. L.H. Davis: You haven't counted the supplementaries.

The PRESIDENT: Order! A question has been asked of the chair and I think the chair ought to have a chance to answer it. I thank the honourable member for his question; obviously he has been keeping tally. I was getting slightly concerned towards the end of Question Time. If the chamber achieves only eight or nine questions a day, notwithstanding the fact that the chair should first acknowledge those members who get to their feet, the understanding is that each member, other than ministers, should be able to ask two questions a week. The opposition front bench is guaranteed the first three questions. If time permitted today, at the end of Question Time I was going to try to let the Hon. Mr Xenophon quickly ask a question, and also a Democrat, which would have given, for the week, three questions for the Independents and four for the Democrats. In fact, the Democrats have achieved only three questions this week, and hopefully a fourth will be asked today.

Members interjecting:

The PRESIDENT: Order! All members know that the chair cannot control Question Time in respect of the length of questions asked and the length of a minister's reply. A further consideration is the number of interjections that occur during Question Time. I thank the honourable member for the opportunity to answer this question, but the short answer is that the chair has no control over the number of questions that are asked.

Members interjecting:

The PRESIDENT: Order!

SOUTH AUSTRALIAN HEALTH COMMISSION (DIRECTION OF HOSPITALS AND HEALTH CENTRES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 16 November. Page 434.)

The Hon. P. HOLLOWAY: The opposition will support the second reading of this bill. It was debated at some length in both the second reading and committee stages in the House of Assembly, so I will be fairly brief in my comments. The purpose of the bill is to enable the Minister for Human Services to direct hospitals and health services which are incorporated under the South Australian Health Commission Act. This issue has caused some angst, particularly in rural South Australia, and I guess that relates to the history of many of these hospitals which were built, to a large extent, and perhaps wholly in some cases, by the efforts of local communities, and naturally they would be concerned if there were to be any loss of autonomy in those institutions. A letter from the Hospitals and Health Services Association of South Australia—

The PRESIDENT: Order! There are too many conversations going on in the chamber. We have a perfectly good lobby at the back for that.

The Hon. P. HOLLOWAY: —sets out many of these issues. This letter, I understand, was sent to all members of parliament, but I believe that it should be put on the record. The letter, from Mr Kenneth Goodall, the Executive Director of the association, states:

> I am writing on behalf of members to express their concerns about the bill to amend the SAHC Act that was introduced recently in the Lower House. It is anticipated the bill will be debated in the Legislative Council as soon as next week.

That was back in October last year. It continues:

> The association is the industry body representing mainly publicly funded health services in South Australia. Membership includes health services in metropolitan and rural regions, state wide services and aged care providers. HHSA is the state association member of the Australian Healthcare Association located in Canberra. The concerns expressed by members relate to three matters; the role of community boards in the health system, the way in which the bill has been introduced and specific aspects of the proposed legislation as it relates to providing clinical services and the ownership of assets. I will now address each in more detail.
>
> Many members question the future role of community boards once a minister has the power to direct a health service. In fact some question the need for boards should this bill be passed while others are of the opinion this is a surreptitious way of removing boards at a local level. The bill seems to have been introduced with undue haste not allowing adequate time for consultation and discussion. As it is over 20 years since the introduction of the SAHC act, the need for this amendment at this time is not apparent and no reason has been given other than consistency and need for accountability. Unfortunately this approach leads many members to suspect there is some ulterior motive behind the amendment.
>
> Ministerial direction in relation to clinical treatment of an individual is quite correctly exempted from the bill. Members are concerned that this exception does not extend to a class or type of clinical service such as obstetrics or orthopaedics leading to a health service being directed to stop a specific service and thereby undergo a role change. This is unnecessary and suggests a more centralised and less regional approach is being contemplated to the provision of clinical services. Many of our health services have been built and equipped with local community funds and this support continues today. Boards need clarification on whether the land, buildings, equipment and capital funds are in fact deemed to be held by the Crown. In the event the government of the day were to start accessing capital funds or selling assets for whatever purpose then many members believe local communities would cease to help raising moneys.
>
> The association asks that you give further consideration to this proposed amendment including providing more information and consultation before proceeding. Please contact me if you need further information or wish to discuss the matter.

Of course, this bill was introduced in the last few sitting weeks of last year and the delay that we have had has at least enabled some of those concerns in relation to consultation to be addressed.

There is no doubt that, under the Brown and Olsen governments, there has been a move towards greater centralisation of control in the hospital sector. This parliament debated a bill prior to the last election that was specifically introduced for the purpose of removing the Health Commission and setting up regional boards. Subsequently, when that bill was rejected by this Council the government proceeded with regionalisation, in any case, by administration. Certainly, I am aware—I am sure other members who move around

the rural community of this state would be aware—that there are many complaints in rural South Australia about the impact of those regional boards upon local health services. Many people believe that decisions have been forced upon local health units by boards at the regional level. The reality is that the minister effectively, in some cases, has direct control over most hospitals and health units within the state. In other cases, that control is less direct, and that raises the problem of delays. In some cases, the Health Commission can direct: in other cases the minister has direct powers. It depends largely on the constitutions of individual hospitals and health units.

I am aware of the problems regarding delays that can occur in cases such as the McLaren Vale Hospital, where there was some government money going in, and in cases such as that I am aware that the Health Commission's powers are less than direct. That is the reason why the opposition will support the bill but with some reservations, which I will express in a moment.

It is my understanding that the government has, in any case, been moving to progressively change the constitutions of hospitals and health units, and that would bring them all under the direct control of the minister, but of course this process may well take some years to complete. So, we support the thrust of the bill. However, during the debate in the House of Assembly my colleague Lea Stevens raised a number of issues in relation to accountability. If the minister is to receive more power to direct hospitals and health units, there should be at least some accountability that goes with that. If the minister has the ultimate responsibility, when directions are given those directions should be properly recorded.

My colleague in another place Lea Stevens moved amendments. Those amendments were unsuccessful but the minister, the Hon. Dean Brown, indicated that he would be proposing his own amendments, which he has now done, and the opposition believes that they satisfactorily address our concerns. We will support those amendments in Committee and we believe that the bill will be all the better for them because, in the post State Bank environment, if a minister is to be held accountable for what happens, they should have power of direction but they should be accountable for those directions. The opposition will support the bill and the amendments.

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning): I thank all honourable members who have contributed to this debate. The bill was introduced in this place on 27 October and honourable members made comment on it late last year. The Hon. Ron Roberts was concerned about the temporary closure of the maternity ward at the Port Pirie Regional Health Service over the Christmas-new year period. I advise that temporary closure of public hospital wards during the Christmas-new year period is not unusual. Historically, public hospitals throughout the state consolidated their activities during the extended holiday period in December and January. Such an arrangement is intended to maximise the funding available to a public hospital and to avoid the staffing of wards and departments that will be largely empty during the holiday period. It also enables many staff to take their annual recreation leave with their families at a time when the hospital does not have to employ relieving staff.

As the honourable member mentioned, board members held a special meeting to review their earlier decision. After considering various options, they reaffirmed their earlier decision. However, the board has also confirmed that obstetric patients admitted during the holiday period would be provided with a specific suite of rooms within the medical ward and that every endeavour would be made to accommodate them in single rooms. I understand that the board and the hospital were able to accomplish those ends.

The Hon. Mr Roberts also asked whether an amendment would be framed so that the minister cannot give a direction in relation to a particular patient or class of patients or the provision of a particular health service from time to time. I advise that the bill already contains limitations on the minister's power of direction. Under the bill, the minister cannot give a direction 'so as to affect clinical decisions relating to the treatment of any particular patient'. The limitations do not extend to a class or type of clinical service. If a small country hospital were, for example, to attempt to set itself up to carry out complex cardiac surgery, patient safety considerations may require the issuing of a direction. If a hospital with a clinician who specialised in a particular procedure were to carry out a large number of these procedures when there was a substantial waiting list for more fundamental surgical procedures which reflected broader community need, that is also a circumstance in which a direction could be contemplated if other attempts at persuasion had failed.

The basic principle is the protection of the use of public funds to ensure that they are applied to meet the broader health needs of the community. Earlier today, I was also asked by the Hon. Nick Xenophon, who indicated that he did not wish to speak on the bill, whether I could reassure him that the directions this bill provides to the minister in relation to the hospital mean that information could be gained under the Freedom of Information Act. I advise that one of my amendments ensures that the minister must table a copy of any direction that he or she gives within 12 sitting days after the giving of the direction and also that the annual reports of all hospitals and health units must record these directions and, further, the Auditor-General records all directions in the Auditor-General's Report.

Bill read a second time.

In committee.

Clause 1.

Progress reported; committee to sit again.

OFFSHORE MINERALS BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 713.)

The Hon. P. HOLLOWAY: I indicate that the opposition will support—

Members interjecting:

The ACTING PRESIDENT (Hon. T. Crothers): Order! I call the Hons Ms Laidlaw, Mr Gilfillan and Mr Elliott to order. The Hon. Mr Holloway is on his feet and deserves to be heard.

The Hon. P. HOLLOWAY: Thank you, Mr Acting President. The ownership and administration of offshore resources has a long and chequered history.

Members interjecting:

The ACTING PRESIDENT: Order! We are now on a different matter on the Notice Paper.

The Hon. P. HOLLOWAY: Thank you, Mr Acting President. The opposition will support the bill. The ownership

and administration of offshore resources has had a long and chequered history. It was one of the issues that led to the first joint sitting of the federal parliament in 1974, following the double dissolution of that year. The Whitlam government then had sought to assume control of the seas and submerged lands under its Seas and Submerged Lands Act. Of course, that was at a time when significant offshore oil discoveries were made on the North-West Shelf, the Timor Sea and Bonaparte Gulf. Of course, the Bass Strait oil fields had been producing for some years at that time. So it was a matter of great contention in commonwealth and state relations.

The issues that arose from the constitutional dispute were not just related to petroleum—although that was the main issue at the time—but mineral resources, to which this bill refers, and fishing resources are other matters that were affected by this dispute in commonwealth/state relations over offshore ownership. I might also say that this was at a period of time when a number of countries were establishing 200 mile economic zones around their coastline.

If I recall the situation correctly, following that bill's passage at the joint sitting of the commonwealth parliament, it was subject to a High Court dispute. A series of changes was made federally during the course of the Fraser government and, subsequently, the Hawke government, before this matter was resolved. It was finally resolved amicably. In relation to petroleum, in 1983 a commonwealth/state regime for the management of those offshore resources was established. In relation to minerals, that matter was settled in 1994 with an act of the commonwealth parliament. So, now, some six years later, this bill is to fulfil South Australia's part in that arrangement.

The purpose of the Offshore Minerals Bill is to establish a legislative framework by which mineral exploration and mining off South Australia's coast may be governed. This bill is also mirror legislation to the 1994 commonwealth bill. South Australia's coastal waters extend three nautical miles from Australia's territorial sea baseline. This baseline was determined under the Seas and Submerged Lands Act of 1973, which I referred to earlier, and encloses Spencer Gulf, Gulf St Vincent, Investigator Strait and Backstairs Passage by a line from the mainland, to the western end of the island, to the mainland. Beyond that three mile nautical limit, the commonwealth has jurisdiction, and commonwealth waters are administered under the commonwealth Offshore Minerals Act of 1994.

The administration of mineral exploration in commonwealth waters is shared between the commonwealth and the relevant state government through a joint authority. So, this bill is closely related to the commonwealth act and is based on a model bill enacted by the West Australian government, under the auspices of the Australian/New Zealand Mining Energy Council, and I understand all states and territories have now drafted complementary legislation. Because it is model legislation, this parliament cannot amend the first 420 or so clauses in the bill—not that, given the long gestation period required to get an agreement, up to 25 or 30 years or so, we would wish to hold it up any further. Whatever the deficiencies, it is time that we finally put this measure into place.

Therefore, the bill seeks to ensure that exploration and mining proposals in both state and commonwealth waters will receive the same treatment. The fact that uniform rules will operate across state borders will be of some benefit to this nation. The bill provides for the administration of mining licences in South Australian waters. The bill also sets out state functions in commonwealth waters under Part 5.1 of the commonwealth act, so that South Australian laws will apply to commonwealth waters where commonwealth legislation does not exist.

The consistency between the states and the commonwealth will assist in the effective administration of exploration and mining and fulfil South Australia's obligations under the Offshore Constitutional Settlement of 1979. Its also important to note that schedule 2 of this bill links the act to the following pieces of legislation: the Aboriginal Heritage Act, the Development Act, the Fisheries Act and the National Parks and Wildlife Act.

After many years the minerals aspect of the commonwealth's taking control of seas and submerged lands will be in place. As I understand it there are no applications for mining in state waters. I recall some years ago, when this bill first went through the commonwealth parliament, some consideration was given to mining manganese nodules in certain parts of the sea bed off Western Australia. As I understand it, there are no proposals yet and, I guess, it is not economically feasible for mining in offshore waters. I guess that day will come, and it is important that we have some legislation in place to govern that, and that is why we support this legislation.

The Hon. K.T. GRIFFIN (Attorney-General): I thank honourable members for their indications of support for this bill. The Hon. Sandra Kanck has raised most of the issues that require a response. However, she has taken several items out of context in painting an apparently negative picture as to how the proposed legislation will work in the future. I regret that I do not have answers to all of the questions she has raised. I think there have been some difficulties in other offices—not mine—in relation to this. Even though I will close the second reading debate in a moment, I will provide more detailed responses when the committee considers clause 1 of the bill, and hopefully that will be next week.

The bill is not about a theoretical situation and has never been promoted as such. While no applications were pending for offshore mineral exploration in South Australia when the briefing note was provided to me on 10 November 1999, this situation could well change. I will seek to provide up-to-date information in relation to any application pending for offshore mineral exploration when I provide additional information during the committee stage. In the event that there is an application, existing onshore legislation will be applied to any applications for the time being. Offshore petroleum exploration does currently occur in South Australian waters. For the most part it has been conducted properly, without damage to the marine environment.

The Hon. Sandra Kanck uses as an example of her reliance upon those who have drafted the bill to have got it right the technical issues surrounding clause 10. I must confess that, when I looked at clause 10, I also had to rely on the officers around Australia who put this together to guarantee that the methodology was correct. The clause is required purely to declare the model upon which locations at sea are to be defined under this legislation. The bill was deliberately set up in this fashion in order to gain acceptance by the states and the Northern Territory of the broad concepts contained in the commonwealth's offshore mineral legislation.

Under the Offshore Constitutional Settlement of 1979, the commonwealth and states agreed that as far as practicable a common offshore mining regime should apply in commonwealth and state waters. It was agreed that state coastal waters

should extend three nautical miles from Australia's territorial sea baseline and that commonwealth waters should lie beyond the three nautical mile limit.

Commonwealth waters are administered under its Offshore Minerals Act 1994 and it is proposed that South Australia's coastal waters be administered under this new legislation: hence, the need for our legislation to mirror that of the Commonwealth. The bill thus provides little more than a legislative framework for the administration of various types of exploration and mining licences that may be required in the future. The details of environmental management have therefore not been included and will be spelt out in the regulations yet to be agreed and drafted.

In preparing these regulations, due consideration will be given to the government's proposed oceans policy and various other offshore environmental legislation already in place. In addition, the influence of other relevant legislation, including the Environment Protection Act, will be determined. A similar bill was passed by the New South Wales Parliament on 2 July 1999. The bill received royal assent but its provisions will not commence until the regulations have been finalised. Again, I will endeavour to ascertain the current position in relation to other jurisdictions. A process similar to that which applied in New South Wales can be adopted here and that will enable the states and the Northern Territory to work together to agree as far as possible common regulations which will spell out the environmental requirements necessary before offshore exploration and mining programs will be approved in the future. Again, I thank honourable members for their indications of support for the second reading of the bill. I will endeavour to provide further information in committee.

Bill read a second time.

GOVERNMENT BUSINESS ENTERPRISES (COMPETITION) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 523.)

The Hon. P. HOLLOWAY: The opposition supports the second reading of the bill. It relates to competitive neutrality, which was part of the package of reforms that originated in the Hilmer report and the subsequent COAG meeting in the early 1990s. The second reading explanation given by the Premier in another place indicates that this bill is being introduced partly as a result of a review of the Competitive Neutrality Policy Statement 1996, which was conducted by a key agency working group.

I am interested to know the outcomes of this review and whether or not the government will table the report. It is my view that, if legislation is introduced as a result of a review, to which the government refers in a second reading explanation, it is fair that that report should be made available to the parliament so that we can form our own judgment. In his summing up, I would like the minister to advise the membership of this so-called key agency working group; the people and the organisations consulted in the process; and the period of time that this review spanned. I think they are all reasonable questions, given the background of this bill.

The Premier also stated in the House of Assembly that a new South Australian competitive neutrality policy statement would be released to coincide with the operation of the amendments in this bill. That is obviously a matter that we will look at with some interest when that statement is released. It is certainly a matter which I know local government will be looking at fairly closely.

Notwithstanding the matters that I have raised, the opposition supports this bill. The bill seeks to clarify the application of competitive neutrality to government business activities, as well as refining the complaints mechanism within the act. The bill also clarifies the definition of 'government agencies' so that competitive neutrality will now apply to local government agencies as well as to state government agencies under ministerial control.

In a further amendment the bill removes the requirement for competitive neutrality policies to be proclaimed by the Governor and to allow policies to be published by the minister from time to time. In other words, it is the minister rather than cabinet that would be making that decision. This issue was raised by my colleague Annette Hurley during debate in another place, and she sought clarification as to what type of safeguards would be put in place to ensure that no arbitrary act occurred in relation to the publication of new policies. The Premier's response was as follows:

> The intent remains. The minister shall bring the policy to cabinet for determination. The Deputy Leader sought an assurance on that point and I am happy to give her that assurance.

That addresses one particular concern that we had about this bill. I also refer to the complaint mechanism in this bill, which ensures that confidential information obtained as part of an investigation under the act is not used improperly by any of the parties involved in the complaints process. The bill also allows for copies of the report to be published by the minister and for summaries to be made available to the public.

I am aware that the Local Government Association has a number of concerns in relation to the amendments to the complaints procedure and they were, as I understand it, in discussion with the government on this matter. I would be interested to hear whether the minister responsible was able to address the concerns of local government. In response to the concerns of the LGA, I state again what my colleague Annette Hurley already stated in another place, namely, that the opposition will closely monitor the operation of these amendments when they come into force, both in relation to the complaints procedures and the Premier's assurances in another place. With those reservations, the opposition supports the second reading.

The Hon. M.J. ELLIOTT: On behalf of the Democrats, I support the second reading. We have had no organisations or individuals come to us expressing concern or reservations about the bill. I am certainly aware that local government has been in correspondence with the state government. We have copies of the correspondence that took place between government and local government, but local government has not been to us wishing to follow through further on that. With no expressions of concern, there is no reason why we would seek to delay the passage of this bill.

The Hon. J.F. STEFANI secured the adjournment of the debate.

DISTRICT COURT (ADMINISTRATIVE AND DISCIPLINARY DIVISION) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 28 March. Page 683.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their expressions of support for the second reading of this bill. The Leader of the Opposition referred to correspondence that she had received from the Law Society commenting upon an earlier version of this bill which was introduced in the last sitting of parliament but which lapsed. I confirm that I also received correspondence from the society expressing comments about that bill and that the society's comments were considered in preparing the present bill. The present bill was supplied to the society for any comment in January 2000. The society has not indicated to the government any concerns with the present bill.

The Hon. Ian Gilfillan made several comments. He suggested that the bill could have the effect of changing the substantive rights of parties to a police disciplinary matter in that the court would not now be bound by the rules of evidence and in other respects. I should point out that the provisions of proposed new sections 42A to 42G, to which I understood him to be referring, apply to administrative appeals and not to disciplinary matters. The rules of evidence do not currently apply in administrative appeals because of section 52(1) of the District Court Act, and this will continue to be the case under the amendments proposed by this bill.

However, the rules of evidence do apply in disciplinary matters by the operation of present section 52(2)(a), and they will continue to so apply under this bill, hence there should be no substantive difference in the procedure as a result of these amendments. The Hon. Mr Gilfillan also made reference to the comments of the Law Society on the earlier bill. As mentioned, the society's concerns have, I believe, been addressed in the present bill. The bill now makes clear that on an appeal the court does not proceed as if the decision below had never been made but examines that decision and may, in its discretion, receive new evidence.

This should have addressed the fears of the society about lengthened hearings or additional cost. Indeed, I do not believe that there will be any change in the way that guardianship appeals are conducted as a result of this bill. There is no reason to think that there would be any extra burden on mental health or guardianship clients. Certainly, I have had no representations from the society to suggest that it has any concerns with the present bill. The bill has also been circulated for consultation purposes to the Public Advocate, the Guardianship Board, the Legal Services Commission and the Royal Australian and New Zealand College of Psychiatrists (SA Branch), among others. No objections have been expressed.

The Hon. Mr Gilfillan asked for an elucidation of the difference between a fresh hearing and a de novo hearing. I am not aware whether there has been judicial interpretation on this point. As far as I am aware, there is no difference and I take the former phrase to be a plain English equivalent adopted in modern drafting. However, I should point out that neither phrase appears in this bill. Again, I thank members for their support for the second reading of this bill.

Bill read a second time.

In committee.

Clause 1 passed.

Clause 2.

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

Page 1, lines 17 to 20—Leave out subclauses (2) and (3) and insert:

(2) If section 52 of the Motor Vehicles (Miscellaneous) Amendment Act 1999 comes into operation before the date fixed by proclamation for the commencement of this Act, paragraph (a) of clause 27 of Schedule 1 of this Act is to be taken to have been struck out.

This amendment is necessary because, in the time which has elapsed since the introduction of this bill, section 256 of the Local Government Act 1999 has come into operation. At the time of introduction of this bill that section was not yet in operation and provision had to be made for its amendment if it were to come into operation subsequent to the commencement of this bill. That provision is no longer needed. However, it is still necessary to make provision for amendment to the Motor Vehicles Act as amended by the Motor Vehicles (Miscellaneous) Amendment Act 1999, the provisions of the latter being as yet only partly in force. The proposed amended clause 2(2) does this.

The Hon. CAROLYN PICKLES: The opposition supports the amendment and thanks the Attorney for letting us have it so expeditiously so that we can hurry at least one bill through the parliament.

Amendment carried; clause as amended passed.

Clause 3.

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

Page 1, after line 25—Insert the following subclause:

(6) Subsection (5) does not affect any special rule as to the conduct of proceedings for a contempt of the Court.

This amendment makes clear for the avoidance of any doubt that special rules for the conduct of proceedings for contempt of court are not abrogated by the general provision that proceedings before the court, other than proceedings in the criminal jurisdiction, are civil proceedings. Contempt proceedings may have some or all of the features of criminal proceedings and there is no intention to change that. Rather, the intention of the provision is to make clear that, in general, proceedings in the criminal injuries compensation division and the administrative and disciplinary division are civil proceedings, for example, for the purposes of the Evidence Act.

The Hon. CAROLYN PICKLES: The opposition supports the amendment.

Amendment carried; clause as amended passed.

Remaining clauses (4 to 9), schedules and title passed.

Bill read a third time and passed.

NATIVE TITLE (SOUTH AUSTRALIA) (MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 29 March. Page 715.)

The Hon. K.T. GRIFFIN (Attorney-General): I thank members for their indications of support for this bill and I am pleased that it has received support from the Hon. Terry Roberts and the Hon. Sandra Kanck. The amendments are necessary technical amendments to ensure compliance with section 207A of the commonwealth Native Title Act. There are some additional minor technical amendments that have arisen out of further discussions with commonwealth officials that I will be moving later in the consideration of the bill. These amendments will not alter the substance of the bill and will be provided to members as soon as they are finalised.

I note that the Hon. Sandra Kanck asked about the progress of the other pieces of legislation. Amendments to the Land Acquisition Act 1969 are being drafted, and further discussions with commonwealth officials will occur when they are finalised. I hope to introduce those amendments later this session.

I would like to correct the Hon. Ms Kanck's comment that the amendments in the Statutes Amendment (Native Title No. 2) Bill 1998 would have suffered a similar fate to the Northern Territory's native title legislation, which was disallowed by the Senate last year. The Statutes Amendment (Native Title No. 2) Bill simply sought to amend the existing section 43 right to negotiate schemes for mining and opal mining and introduce a section 43 scheme for petroleum. It did not—and I stress that—seek to do away with the right to negotiate under section 43A of the Native Title Act. In contrast to the Northern Territory's and other states' section 43A schemes, the Hon. Ms Kanck's federal colleague Senator Woodley has described South Australia's right to negotiate native title schemes as a model and providing a way forward.

It is very important to recognise the distinction between what we are endeavouring to do in South Australia and what is happening in other jurisdictions. There is a fundamental difference of approach which it is important to recognise. The progress on amendments to the state's existing and proposed right to negotiate mining schemes has been made difficult by the rather narrow and technical approach that the commonwealth has taken to the granting of determinations under section 43 of the Native Title Act. This difference of approach is the subject of discussions between the commonwealth Attorney-General and me, and I will update members on what is proposed regarding the state's mining schemes when those discussions have been concluded, and I hope that will be earlier rather than later.

I now make some observations about the other bill that is before us, that is, the Native Title (South Australia) (Validation and Confirmation) Amendment Bill 1999. It was mentioned by the Hon. Sandra Kanck and this provides me with an opportunity to update members on where consideration of that legislation is at present. As I said when I introduced that bill last year, I hope that all members will ultimately come to conclude that the bill should be supported. The confirmation provisions of the bill confirm that certain types of leases over land have already extinguished native title over that land. The validation provisions deal with some acts that were carried out in 1994, 1995 and 1996, when it was widely believed that native title had already been extinguished over land held under pastoral leases.

It is a very important bill and it has very wide-ranging consequences in terms of the comfort it provides to leaseholders, in particular, across South Australia. It is important to recognise that substantial misrepresentation and misinformation has been circulated about the bill and, no matter how hard I have tried to get the facts on the record to correct those misrepresentations and that misinformation, they continue to proliferate. I suspect that is because some people do not want to understand the nature of the legal effect of these bills.

It has been promoted that the confirmation provisions of this bill extinguish native title. That is just not true. Native title has already been extinguished on the land covered by the bill, for example, land under freehold title or perpetual lease. The confirmation legislation confirms the types of land over which native title has already been extinguished in line with High Court decisions and the commonwealth Native Title Act.

It has also been suggested that the confirmation provisions relate to most of the state. That is also not true, and I emphasise that. After the bill comes into force, native title will still be claimable over more than 80 per cent of the state. The confirmation legislation applies only to a list of perpetual and miscellaneous leases that make up approximately 7 per cent of South Australia in total.

Approximately 42 per cent of South Australia is held under pastoral lease. Pastoral leases can already and will continue to be claimed as part of native title claims in this state. That is not to say that native title actually exists over pastoral leases, but it is claimable. Aboriginal people already have rights to enter, travel across and stay on pastoral leases to follow traditional pursuits. Those rights have been in existence for well over 100 years, and they are now recognised under the Pastoral Land Management Act.

The right to claim pastoral lease land and the ongoing rights of access are not in any way affected by the bill. Almost 20 per cent of South Australia is held as Aboriginal freehold land under the Pitjantjatjara Land Rights Act 1981, the Maralinga Tjarutja Land Rights Act 1984 and the Aboriginal Lands Trust Act 1966. This is also not affected by the bill.

It has been suggested that it is not necessary to have confirmation provisions, that the courts should decide in every instance whether or not a lease extinguishes native title. However, if this issue is left to the courts to decide it will take many years, cost millions of dollars and leave everyone (including the government) not knowing what to do in the meantime. It is, I would argue, the proper role of parliament to decide these issues.

The South Australian Native Title Steering Committee—which comprises the Aboriginal Legal Rights Movement, the Aboriginal and Torres Strait Islanders Commission, the Anangu Pitjantjatjara and the Maralinga Tjarutja—has acknowledged that many, probably most, of the leases covered by the confirmation legislation extinguish native title. Compensation is payable if native title is affected by the confirmation provisions of the bill. However, the reality is that the leases on the list have extinguished native title at the time they were granted, mostly many years ago.

It is important that I stress again that compensation is payable if native title has been affected by the confirmation legislation. It is not as though they are being cut out. We argued quite strenuously on the law that those titles in the commonwealth schedule have extinguished native title and that, if they have not, if we are wrong—and we do not believe we are—compensation is payable. In my view, you cannot have a better deal than that.

Contrast that with the course that will have to be followed in each and every instance where a claim is made—and that is to go through the legal processes. I can tell you that there are people who will make claims but who will be dead by the time we get to them. That will satisfy no-one. That is the reason we are trying to establish a proper negotiation process for indigenous land use agreements to avoid both the costs and the delay and to provide a greater level of certainty than the law can provide at present.

The schedule was compiled and has been publicly available for over 2½ years. In proposing forms of tenure to be included in the schedule (both historic and current), regard was had to history, location, the evident purpose of the grant, any restrictions on the size or value of the land, the obligations of the grantee, rights to acquire the freehold and the extent of any third party rights reserved in relation to the land.

The government made a public submission on the schedule to the Commonwealth Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund in 1997. This submission has been

provided to the South Australian Native Title Steering Committee. The recent decision of the majority of the Full Court of the Federal Court in WA v Ward ([2000] FCA 191) supports the philosophical underpinnings of the schedule that it is the grant rather than the use of a tenure that is important in determining extinguishment of native title.

I turn now to the validation provisions. The validation provisions have wrongly been criticised as unfair. It was widely believed after the Mabo decision that pastoral leases extinguished native title. However, the High Court's Wik decision in late 1996 stated that it was possible for native title to exist on pastoral lease land. The validation legislation will validate acts done over pastoral and other lands when it was widely believed that native title was extinguished.

These acts happened between when the Native Title Act came into operation (1 January 1994) and the High Court Wik decision (23 December 1996). This is called 'the intermediate period'. Recognising that native title might exist over pastoral leases, the state government took reasonable precautions during the intermediate period. For example, up until the time the state 'right to negotiate' mining regime began (June 1996), the state issued tenements which only authorised acts that did not affect indigenous rights to access, stay and hunt on pastoral land.

South Australia was the first and only state to put a 'right to negotiate' into part 9B of its Mining Act that requires the miner to negotiate directly with native title claimants before doing anything that might affect native title. Whilst the government acted cautiously in the intermediate period, it is possible that some acts that were authorised may have affected native title. As allowed in the Native Title Act, the government will use the validation legislation to make valid any such act.

The government is required by the commonwealth Native Title Act to give notice of all mining tenements granted in the intermediate period within six months of passing validation legislation to the Aboriginal Legal Rights Movement, native title claimants and the public, and the government is happy to comply. As a gesture of goodwill, even though the information is not required in advance of passing the legislation, I will shortly be making this information available to the South Australian Native Title Steering Committee and any members who wish to peruse it.

In addition, at the request of the South Australian Native Title Steering Committee, officers from my department today forwarded information about all freehold grants made over pastoral and Crown lands during the intermediate period. I am happy also to provide this information to members if it would assist them in their consideration of this bill. Native title holders are entitled to compensation if validating any of these acts has an effect on native title. So they do not lose out.

I turn now to the issue of consultation. The state government has consulted extensively about the bill. These provisions are exactly the same as the provisions that were contained in a bill introduced into parliament in December 1998, over 15 months ago. Extensive consultation has taken place since that time. For example, the following groups and individuals have been sent information about the government's bills: the Aboriginal Advancement League SA; the Aboriginal Lands Trust; the Aboriginal Legal Rights Movement; the Aboriginal and Torres Strait Islander Commission; the Anangu Pitjantjatjara; Australians for Native Title and Reconciliation; the Council for Aboriginal Reconciliation; the Maralinga Tjarutja; the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner; the South Australian Farmers Federation; and the South Australian Chamber of Mines and Energy.

The government has met with the South Australian Native Title Steering Committee and others representing indigenous perspectives to discuss the legislation. The South Australian Native Title Steering Committee has also made a number of written submissions that have been discussed with the government. The consultation process has been both an extensive and a genuine one. The government has repeatedly offered to consider submissions if Aboriginal groups believe that any particular leases on the list of extinguishing tenures do not grant exclusive possession and do not extinguish native title. No information—I stress 'no information'—has been forthcoming about which of the leases, if any, should not be included on the schedule.

We have bent over backwards to provide information, to cooperate and to consult, but the frustrating thing is that no-one seems to be prepared to face reality—that the tenures covered by this bill have already extinguished native title, in many instances many years ago. It seems to me that there is almost a sense of deliberate frustration of the government's objectives in the interests of the whole community to deal with confirmation and validation on a sensible basis.

When we were consulting with the commonwealth about the schedule we did agree to have a number of tenures taken from that schedule because there was doubt. We do not believe that there is any doubt about the tenures that are left on the schedule. Notwithstanding that we have offered to most of those with whom we have consulted the opportunity to make submissions on that, no-one has made a submission.

I do not know what more the government can do to deal responsibly with this issue. It is a source of significant frustration, and I would suggest that if the confirmation and validation bill is defeated in this Council there will be quite significant outrage at that outcome, and quite justifiably so.

In conclusion, I thank the Hon. Terry Roberts and the Hon. Sandra Kanck for their support of the Native Title (South Australian) (Miscellaneous) Amendment Bill. I hope that they will also ultimately support the Native Title (South Australia) (Validation and Confirmation) Amendment Bill when we come to debate it. I hope that we and they are in a position to debate that bill sooner rather than later.

Bill read a second time.

NESTLÉ WRITE AROUND AUSTRALIA COMPETITION

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

That this Council—

I. Notes the two winning South Australian stories from the Nestlé Write Around Australia Competition; and

II. Congratulates the Year 5 winner, Elsie Michael, and the Year 6 winner, Lisa Mular.

I put this motion on the Notice Paper last November before the national final of the Nestlé Write Around Australia Competition, and the two state winners, Elsie Michael and Lisa Mular, performed superbly in those finals. When I attended the Nestlé Write Around Australia Competition finals in South Australia I indicated, as I have in past years, that I would read their work into *Hansard* because the work is of such high quality. The winner for Year 5 students was Elsie Michael, aged 10, from Walkerville Primary School. Entitled 'The Lorikeet', it is as follows:

Benjamin flopped his head down onto his history assignment and stared out of the window, looking for anything at all interesting to look at. As he did, he noticed a small rainbow lorikeet feeding on the ripe figs that grew on the fig tree.

He stared at it for a while, watching its brightly coloured body seeking out the best places to have a last minute meal before going to bed. He thought about how it would feel to be a bird with not a worry in the world.

He thought about how all the different birds flew; the flapping crow, the gliding eagle and the floating seagull. The family down the road had homing pigeons that flew around and around in endless circles. Benjamin decided he would like to be a seagull the best, to just float, riding on the wind.

As he came back to earth he was startled to hear a tremendous squawking and flapping. He looked outside, appalled to see the rainbow lorikeet lying on the grass with feathers scattered everywhere and the next door neighbour's cat slinking away through the gap in the fence.

Benjamin pushed back the battled old office chair he had salvaged from the tip and ran down the stairs. He pushed open the old screen door and half ran, half dragged himself around the corner and was temporarily blinded by the dazzling sunset ahead of him. He ran on until he found the little bird on the grass. He took off his jumper and wrapped it around the lorikeet, took his bundle inside and told his parents what had happened. They told him he could keep the bird until it was well enough to be let go. Benjamin called the vet and made an appointment to take the bird in. Then he went out to the shed to find something to put his new-found pet into. After 10 minutes of breaking fingernails and getting caught in spider webs he found a good sized apple crate. He made a nest of towels and newspaper and put the bird in. Benjamin suddenly heard the tap shuffle tap tap shuffle of his mum's high heels and smelt the hideously strong scent of play perfume. Without turning around he said, 'Go away, Rosie,' and the smell and the shuffling went away. When Benjamin took the bird to the vet he found that it had a broken wing that would take a month to heal.

Exactly one month later, Benjamin took his bird outside and put it in the fig tree. He went back to his room, only to hear a tapping at the window. Benjamin opened the window and sighed with relief as the bird snuggled back down in the apple crate and fell asleep.

The second story is by Lisa Mular, Year 6, aged 11, of St Francis School at Lockleys. Entitled 'That Cat!', it is as follows:

BANG. . . went the rusty old polaroid instamatic camera. I'd been waiting for this snap for ages.

'So YOU'VE been devouring all those goldfish, Mixie! After mum's been blaming *me* for their mysterious disappearances.' Now I had the proof I needed. Boy, was she going to feel bad.

I gazed angrily at the empty tank. Those innocent little fish. . . dinner for that rotten gluttonous cat! Mum's fish had been absolutely *exceptional* because she had patiently trained them to waltz across the gravel ON THEIR TAILS!!!

But as I imagined mum returning naughty Mixie to the pet shop a painful lump rose in my throat and I felt prickly tears forming in my eyes. I blurted out suddenly, 'Mixie MUST be saved.'

The clock was ticking. . . second by second. . . while I panicked inside. Looking at her sad, pitiful face, little paws covering guilty feline eyes, I knew I had to help Mixie somehow. She knew she had done something terribly wrong.

I gathered the twenty dollar note from my silver piggybank. I had intended to use the money for a Lucky Book Club, but that didn't seem so important now. With more precious time ticking away Mixie and I raced to the pet stop. I spied three goldfish that looked identical to Mixie's victims. WHAT A RIP OFF! Five dollars each!

I really had no choice but to buy them. 'Those three goldfish with the spots, thanks.'

The old petshop owner staggered over to the tank, net held in shaky hands. One. . . t.two. . . and. . . and. . . He was having trouble catching the third one. I waited there anxiously as he dipped and splashed the net at the colourful darting fish until finally. . . THREE! I paid him quickly and headed back home.

OWWW! I stumbled on the path and my bare knees scraped painfully on the rough asphalt. Behind me lay an enormous grey stone. I spotted the fish flapping frantically on the ground, boggle-eyed and gasping, tiny gills trembling. Thank goodness they had survived the fall. Mixie pawed at them, excitedly.

I DON'T KNOW *WHY* I DID THIS. . . but I placed the fish in my mouth, blocked the back of my throat with my tongue and poured in the remaining water from the leaking plastic bag. The sweet taste sent an awful nauseous shiver down my spine.

I continued running, Mixie close behind. The crimson drops of blood from my injured knees left a sticky tell-tale trail, my cheeks threatened to spew their wriggling, tickling passengers at any moment.

Home at last, I spat the startled fish into the tank. My mouth and knees were sore and swollen and mum was due back within minutes. I spotted her FISH TRAINING GUIDE on the couch, flipped to page 23 and started teaching the eager little critters.

All done! Discarding the photo, I collapsed on a nearby chair. Then mum walked in. . . and screamed. . . 'WHERE ARE MY FISH?' I spotted Mixie. . . paws over her eyes. . . and my heart sank.

I want to acknowledge the quality of the writing, the drama and the wonderful stories. I also acknowledge the support of everyone in South Australia through the library sector and the writers who have supported Nestlé Write Around Australia in encouraging our students right around South Australia to participate so strongly in this competition, to use their creativity and to participate in writing literature—and literacy in general. In particular, it was very pleasing to see the strong work from children in country areas.

Today I want to highlight the quality of the work at a time when there is some concern, which I share, that the arts are not being given the emphasis that they should, whether that be in schools or in universities. There seems to be such a strong emphasis on simply getting a job, and the arts do not seem to be related to the qualities that one needs to obtain a job. I do not share that view, and I want to congratulate Nestlé, as sponsor, and everyone involved in celebrating writing and in encouraging young people to experience the joy that I have always gained from writing and literature. Long may their interest continue.

Motion carried.

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

A quorum having been formed:

SUMMARY OFFENCES (SEARCHES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 18 November. Page 515.)

The Hon. IAN GILFILLAN: The Democrats support the second reading of this bill. We always welcome an opportunity to put into legislation provisions which clarify the rights and responsibilities of police and members of the public. Likewise, we applaud any moves which will have the effect of reducing the number of unjustified complaints against police. Experience shows that most complaints against police are not justified and cause unnecessary stress and anxiety to the officers concerned. That does not, of course, represent any softening in attitude concerning complaints which are justifiable and for which police need to be held accountable.

This bill does two major things. First, it clarifies (some say it extends) police powers to conduct a search of a person detained. Secondly, it provides that strip searches must be videotaped to provide an independent record which, it is said, will be a protection for both the police officers and detainees. With respect to the first matter, I must say that the submission of the Law Society on this point has caused me some concern. On Tuesday 28 March, the Hon. Carolyn Pickles read into *Hansard* the most recent submission of the Law Society dated 3 March, so I see no need to repeat the same words here.

Like the Hon. Ms Pickles, I too would like some assurances in respect of the matters raised by the Law Society. I have

serious concerns that this bill, if it is enacted, may serve to increase opportunities for police to exceed their common law powers. The Attorney has made a distinction between, on the one hand, invasive procedures for the purposes of gathering evidence—for example, photographing scratches on a suspect's hands or forcibly taking fingerprints, neither of which are permitted by common law—and, on the other hand, an invasive procedure for the purposes of a search, which includes preventing a detainee destroying or eliminating evidence. This practice is permitted by common law and also under section 81 of the act.

I understand the Attorney's claim and belief that the courts will uphold that distinction and reject any extension of police powers for the first purpose while allowing them for the second. However, I also believe that the Law Society has made a valid point. It suggests that this fine distinction may be muddied when it has to be interpreted late at night, on a weekend, possibly by a junior member of the police force who has no training in the finer points of the law, with merely a copy of the statute in front of him or her. Therefore, I remain to be convinced that the Attorney-General's preferred option of letting the courts sort it out later is the best we can do. I would hope that, rather than cleaning up a serious infringement of the rights of an unconvicted detainee after it has occurred, we might find some clear words which will succeed in preventing such an infringement in the first place. I will address that matter in a proposed amendment.

I turn now to the second major provision of this bill, which is the requirement that strip searches—any intimate search excluding an intimate intrusive search—must be videotaped. The Attorney's view, as I understand it, is that video recording is the only real hope of resolving allegations of misconduct by police where a person is in custody. The Police Complaints Authority advises that the availability of a video makes it much easier to resolve complaints in respect of strip searches. I note also that the Police Association supports this view. I assume for the purposes of argument that they are correct and that the availability of videotape records of strip searches would prevent unjustifiable complaints being laid. However, I believe that the solution being proposed here would turn out to be much more of a problem than the problem that currently exists.

Complaints about strip searches are rarely made—there have been only eight in four years. I seek leave to have incorporated in *Hansard* a table of statistics taken from the past four annual reports of the Police Complaints Authority without me reading it in detail.

Leave granted.

Category: HF Minute/Intimate Search

Year	Allegations	Complaints Laid
1997-98	7	1
1996-97	5	3
1995-96	3	2
1994-95	10	2

The Hon. IAN GILFILLAN: The quite brief table of statistics indicates that, in those four years, as I indicated earlier, only eight complaints were laid. There were slightly more allegations, but not significantly more, and the annual reports do not indicate how many complaints in any category are subsequently upheld. However, when the average of two complaints a year are compared to the number of complaints lodged in other categories and the total number of complaints laid each year (1 200 to 1 500), it is apparent that this is not a major issue for police. This level of complaint cannot alone justify the regime of videotaping all police strip searches. I agree that videotaping strip searches would presumably provide some protection for police from false allegations. In theory, it might also provide evidence to convict a police officer of improper conduct during such a search. Perhaps the absence of a video recording after the lodging of a complaint would also raise a suspicion of improper activity.

I note that the bill gives the Governor power to make regulations for the storage, handling and destruction of these videotapes. However, there would always be potential for the video itself to be improperly handled and, therefore, become the subject of a complaint. It is not too hard to imagine circumstances where a video of a strip search 'accidentally' falls into the wrong hands, and nobody would know how it had happened, after which it could be copied, placed on the internet, sold on the black market and so on. Arguably, the existence of videotapes of all strip searches would give rise to more complaints, whether justified or not, about what police might be doing with those tapes than the small number of complaints that are made because there is no video record.

Even if the video is not mishandled, the mere knowledge that it exists and might be unlawfully copied, distributed or viewed would be sufficient to cause anxiety not just to the detainee but also to the officer or officers who supervised the process. In short, there are many more opportunities for something to go wrong, many more people to blame, and for what benefit? It would avoid merely two complaints a year. Therefore, this bill in its present form is unjustifiably broad. I will be moving amendments, the effect of which will be to permit—even encourage—the videotaping of strip searches but only if and when that has been sanctioned by the detainee in writing. Where the detainee does not approve, there are already measures in the bill which provide an alternative record of events, that is, the need to keep a written record, reading the record aloud to the detainee and allowing the detainee to interrupt to point out errors or omissions. These provisions should all remain in the bill.

Finally, the Police Association has raised an objection to the provisions in subclause (3)(f), that is, a requirement that, before an intimate search is carried out, a member of the police force supervising the search must explain to the detainee—among other things—the value of recording the search on videotape. The association points out—quite rightly, in my view—that it is not the role of an arresting or searching officer to explain to a detainee what is or is not of value. As the association says, this sort of advice needs to come from someone else, most likely from a detainee's solicitor. The association's submission states:

> As our members are not qualified legal practitioners, nor are they the agents of the detainee, it is inappropriate that they take on the role of advising the detainee.

I indicate that I will be moving an amendment to take account of this criticism, and my preferred solution is to have a statement in writing given to the detainee outlining the law and their various options. A detainee would be required to signify their consent in writing, if they do agree to have a strip search videotaped. With these remarks, I indicate Democrats support for the second reading of the bill.

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

DEVELOPMENT (SYSTEM IMPROVEMENT PROGRAM) AMENDMENT BILL

The Hon. DIANA LAIDLAW (Minister for Transport and Urban Planning) obtained leave and introduced a bill for an act to amend the Development Act 1993 and to make related amendments to the Environment Protection Act 1993, the Environment, Resources and Development Court Act 1993, the Irrigation Act 1994, the Native Vegetation Act 1991, the Roads (Opening and Closing) Act 1991 and the Water Resources Act 1997. Read a first time.

The Hon. DIANA LAIDLAW: I move:

That this bill be now read a second time.

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

Leave granted.

The *Development Act 1993*, together with the associated *Statutes and Amendment (Development) Act 1993*, the *Environment, Resources and Development Act 1993* and related regulations came into operation on 15 January 1994 setting in place the framework for a new integrated planning and development assessment system for South Australia.

In 1996 the Government sought to make a series of important changes to the *Development Act* in order to provide greater certainty and better outcomes for proponents and the community at large, especially in relation to the assessment procedures for Major Developments or Projects. These changes were included in the *Development (Major Development Assessment) Amendment Act 1996*, which was assented to by the Governor in August 1996 and came into operation on 2 January 1997.

In August 1998 the Government appointed Ms Bronwyn Halliday—then an independent consultant—to undertake a customer survey of the administration of the planning and development assessment system through the *Development Act*. This survey deliberately set out to focus on the attitudes of users of the system. Planners, local government staff and elected members, developers, private certifiers, government officers, Members of Parliament and members of the wider community were invited to comment on the planning and development assessment system in several ways:

- By attendance at one of eight in-depth discussion groups focussing on a particular element of the system; attendance was by invitation,
- By attendance at a regional meeting of local government; this involved both elected members and staff,
- At agency meetings to capture issues from a single perspective; and,
- In response to a newspaper advertisement, either by telephone or in writing.

The Customer Survey Report, publicly released in April 1999, found that overall the South Australian planning and development assessment system is considered to be one of, if not the, best system in Australia. Certainly it has some faults and the administration can be improved. Five major themes emerged from this review:

1. The need to further integrate the development assessment system more effectively and completely—in particular making provision for a single assessment 'one stop shop' process for more development activities.
2. The need to focus on the provision of clearer planning policies to enable balanced State development—and more guidance on State policies and processes so that local government has clear direction on priorities.
3. The need to support Local Government so that it can fulfil its role as a planning authority under the *Development Act* effectively and efficiently—and be accountable for its decision making. In particular the promotion of a shift in focus of Councillors to strategic and policy issues rather than considering detailed operational matters.
4. The need to improve rules and processes so that there is greater certainty and faster decision making both within the State Government and local governments.
5. The need to better inform professional staff, Councillors and the development industry about the planning and development assessment system.

This Bill deals with the first and fourth of these themes. The other important improvements to the system are being achieved in non-legislative ways. For this reason, the Government has instituted a System Improvement Program for the planning and development assessment system. The first draft of this System Improvement Program was publicly released in April 1999. Updated outlines of the Program were released in August 1999 and February 2000.They reveal that considerable good work has already been achieved across Government, and in close cooperation with the local Government Association, to improve the administration of the planning and development assessment system—and more work is planned.

On 20 August 1999 the Government released for consultation a working draft System Improvement Program Bill, with amendments to the *Development Act* and the *Environment, Resources and Development Court Act 1993*. Following representations made by the Local Government Association the consultation period was extended until 5 November 1999. The Local Government Association was also given an additional month to provide a consolidated local government position on the working draft Bill. During this period Planning SA conducted a series of regional workshops for Councils and other stakeholders in Adelaide and rural centres to explain the draft Bill and receive feedback.

Fifty-seven written submissions were received—together with the Local Government Association's consolidated submission. These submissions were generally supportive of the main aims of the Bill –and the goal of system improvement in particular. However, concerns were raised about three particular proposals in the draft Bill:

- The proposed increase in the Minister's ability to call-in development applications for a decision by the Development Assessment Commission;
- the introduction of private certification for complying kinds of development; and
- proposed amendments to the *Environment, Resources and Development Court Act* in relation to unwarranted third party proceedings.

In response to these concerns, Planning SA and the Local Government Association formed a joint working party—at the Minister's request—with the objective of reaching common ground on the proposed amendments. The Government has adopted the working party's recommendations to amend the Bill through the deletion of references to additional Ministerial call-in criteria and private planning certification. The latter will now be the subject of a joint Local Government Association/Planning SA working party to consider a wide range of issues relating to complying kinds of development. Also, the provisions relating to third party appeals have been redrafted to specifically target Environment, Resources and Development Court proceedings where commercial competitors have a commercial competitive interest.

In December 1999 the Government also released for targeted consultation purposes proposed amendments to the *Roads (Opening and Closing) Act 1991* relating to proposals to integrate decisions on road closures affecting a declared major development with the major development assessment process—plus minor amendments to the *Native Vegetation Act 1991* to facilitate the integration of decisions on native vegetation clearance consent applications with the assessment of development applications. Related draft integration amendments to the Development Regulations 1993 and the Native Vegetation Regulations 1991 were also released for stakeholder comment as part of this package. Planning SA conducted a further series of workshops in Adelaide and rural centres on the draft integration Act amendments and related integration regulation amendments.

Twenty-two submissions were received on the integration Act and regulation amendments and as comment was generally supportive, these matters have now been included as a schedule to this Bill.

The major provisions of the Bill are as follows:

The Customer Survey Report identified serious concerns about the length of time it takes for most amendments to Development Plans to be authorised. In order to improve the efficiency, timeliness, and outcomes of the Development Plan amendment process, substantial amendments are proposed to sections 24 to 29 of the *Development Act*.

There is also an increased emphasis on the Statement of Intent to prepare an amendment, to be agreed upon by the Council and the Minister—and for Councils to provide a comprehensive certificate—signed by Council's Chief Executive Officer—when placing a PAR on public consultation and again when submitting an authorisation draft Plan amendment to the Minister.

The Bill provides that Ministerial approval to undertake public consultation will only be required where there are significant or

unresolved State issues. The need for such approval will be set out in the agreed Statement of Intent to prepare an amendment. Most Council PARs will proceed directly to the public consultation phase.

The requirement for the Governor to authorise Plan amendments after the Minister's approval has been deleted. At present, there are no sunset clauses to lapse Council PARs that a Council has failed to progress within reasonable time limits. Councils have expressed concern about the insertion of standard timelines for PAR lapsing purposes into the Act or regulations. The Bill now proposes that sunset clauses for various stages in the Plan amendment process will be PAR specific and included in the relevant Statement of Intent. It is also proposed to give the Minister the option of taking over lapsed PARs and progressing part or all of the new policies to approval from the stage reached by the Council.

The circumstances in which the Minister can initiate a PAR are to be expanded to include amending a Development Plan to achieve consistency with a major development application.

The Customer Survey Report found that the development assessment process of the *Development Act* does not require substantial change. Rather the emphasis should be on consistency of decision making and processing by those administering the system. Nonetheless, there is a need for amendments to the *Development Act* and Development Regulations to assist and encourage Councils to properly carry out their functions as the relevant planning authority.

The working draft Bill included provisions giving the Minister the power to unilaterally establish Regional Development Assessment Committees. The mandatory elements of these provisions were strongly opposed by Councils. To address these concerns, the Bill now proposes to amend the Act to give the Governor the ability to establish regional development assessment authorities (to be called Regional Development Assessment Panels to differentiate them from committees established under the *Local Government Act 1999*) by amendment to the Development Regulations. This will only be pursued at the request of a group of Councils. The regulations—to which all of the member Councils must concur—will set out the criteria for the appointment of members, the kinds of applications to be considered, cost sharing arrangements and so on.

The Customer Survey Report recommended that action be taken to make Councils aware of the difference between 'sitting as a Council' and 'sitting as a planning authority' to assess development applications. To emphasise this difference, the Bill provides that every Council must establish a Development Assessment Panel for the purpose of assessing development applications. Councils will also be required to establish a policy of delegation to their panel. The membership of these panels and the delegation policy will be reviewed annually. Subdelegations to professional staff will continue to operate for applications not considered by the panels or the Council itself. The Local Government Association has expressed support for this approach.

Section 41 of the *Development Act* enables an applicant for development approval to seek an order from the Environment, Resources and Development Court requiring a Council to make a determination on a development application. This provision protects applicants where a Council has exceeded the statutory maximum time limits for determination. The Court can award costs if the applicant seeks these. The Bill amends section 41 to provide that the Court should award such costs unless it forms the opinion that this action cannot be justified.

Section 57 of the *Development Act* enables Councils and/or the Minister to enter into Land Management Agreements with landowners for the purposes of the management, preservation or conservation of land. The Bill widens the scope for the use of these agreements to include issues related to the development of land. These agreements will be subject to the proviso that they are not to be used to find a way around the policies for development in the appropriate Development Plan. Councils will be required to establish a register of new LMAs they enter into—and to notify third party representors of the existence of these agreements.

Section 71 of the *Development Act* gives an 'appropriate authority' the power to investigate the fire safety adequacy of buildings erected prior to 15 January 1994—and to require them to be upgraded to an appropriate level of fire safety if considered necessary. At present, an appropriate authority can be either a full Council or a committee appointed by a Council or group of Councils. The Bill amends section 71 to require Councils to address their fire safety responsibilities through the establishment of fire safety committees with members who have specific fire safety expertise. The proposed amendments to section 71 will provide a more consistent and defined approach across the State and clarify other fire safety issues relating to enforcement and liability. These amendments have been strongly supported by Councils and industry groups.

Non-compliance of building work approved under the *Development Act 1993* needs to be addressed. The Crown Solicitor has advised that Councils have the powers but not the obligation to undertake inspections to ensure building work meets acceptable standards and complies with the development approval and the Building Rules (primarily the national performance Building Code of Australia), as required under the Act.

The majority of responses to an industry discussion paper—"Improving the Quality of Residential Construction"—released for comment by Planning SA in May 1999 supported the need for Council's to undertake audit inspections for residential building work. The discussion paper followed extensive consultation with the Commissioner for Consumer Affairs, the Housing Industry Association, the Master Builders Association and the Local Government Association.

The Bill includes a requirement that all Councils establish audit inspection policies based on criteria in the Bill. The inspections will include building work resulting from plans assessed and granted Building Rules consent by private building certifiers. The clarification of local government's responsibilities in this area has widespread support, although the Housing Industry Association continues to have reservations about the justification for increased levels of Council inspections.

The Customer Survey Report recommended that Planning SA should investigate amending the *Development Act* to enable Councils to maintain a car park fund for a specific centre. This will allow the Council to use developer contributions—if the developer agrees to this approach—instead of the provision of compulsory car parking spaces as part of a development approval. The contributions will be used to provide shared parking facilities for the centre—as enunciated in the appropriate Development Plan. The Metropolitan Centres Review conducted by the Development Policy Advisory Committee contained a similar recommendation. Council operated car park funds are an especially useful option for the provision of parking in strip centres along main roads.

The Bill gives the Minister the ability to approve the establishment of a carparking fund by a Council (Councils administer their own funds and set contribution rates.) An important criteria for Ministerial approval will be that the proposed sites for shared car parking be shown in the Development Plan. The carparking fund monies will also be able to be utilised for the provision of transport facilities that would result in a decrease in the need for carparking spaces in the designated area. Carparking funds were strongly supported by local government and industry groups in the submissions on the working draft Bill.

The Bill contains provisions that will enable the Minister to appoint an Independent Investigator to investigate and report to the Minister on a significant aspect of a relevant planning authority's development assessment performance. Acting on this report, the Minister will be able to make recommendations and/or directions to the authority. These will be in addition to the Minister's existing ability to remove some or all of a Council's development assessment functions through an amendment to schedule 10 of the Development Regulations 1993.

The specialist Environment, Resources and Development Court is operating successfully with most appeals against planning decisions being resolved at the conference stage. However, there are still some appeals lodged for other than good planning grounds. The Bill strengthens the Courts powers to assign costs relating to such appeals.

The Bill now contains amendments to the *Development Act* targeted directly at commercial competitor appeals. Commercial competitors will be required to declare any direct or indirect commercial competitive interest they have in any proceedings before a court that relate to the *Development Act* to the Registrar and other parties in these proceedings. Where the outcome of the proceedings is that the development may go ahead, the proponent will be able to apply to an appropriate court for damages attributable to delays to the development on account of the conduct of the proceedings. This approach will act as a significant deterrent to commercial competitors using court proceedings as a delaying tactic.

Schedule 1 to the Bill contains the integration System Improvement amendments to the *Roads (Opening and Closing) Act 1991* and the *Native Vegetation Act 1991*. These amendments received widespread support in the submissions on the integration component of the Bill. The schedule also contains amendments to the *Environment Protection Act 1993, Environment, Resources and*

Development Court Act 1993, *Irrigation Act 1994* and *Water Resources Act 1997* designed to improve the operation of the ERD Court.

I commend the Bill to all Members and ask that it receive their prompt attention. Not only does the Bill introduce important improvements to the Planning and Development processes in this State, but it is desirable, following the forthcoming May Local Government elections, that the information and awareness material and forums for all new members of Council incorporate the new processes.

Explanation of Clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Amendment of s. 4—Definitions

These amendments up-date references relevant to the *Opal Mining Act 1995* and make a consequential amendment to the definition of 'relevant authority' on account of amendments to section 34 of the Act to provide for the constitution of regional development assessment panels under the Act. Other definitions relate to new provisions concerning 'associates' under the Act.

Clause 4: Amendment of s. 20—Delegations

These amendments are consequential on other provisions which provide for the creation of new bodies under the Act, and up-date references due to the passage of the *Local Government Act 1999*.

Clause 5: Amendment of s. 24—Council or Minister may amend a Development Plan

These amendments relate to the circumstances when an amendment to a Development Plan may be prepared. The Minister will be able to determine whether a matter is of significant social, economic or environmental importance for the purposes of section 24(1)*(g)*. Another amendment will allow the Minister to proceed with an amendment to a Development Plan if the Minister considers that the amendment is appropriate having regard to issues surrounding the consideration or approval of a development or project under Division 2 of Part 4. The Minister will also be able to proceed with an amendment if a Plan Amendment Report prepared by a council has lapsed.

Clause 6: Amendment of s. 25—Amendments by a council

These amendments make various revisions with respect to the procedures to be followed by councils when considering amendments to Development Plans. A new certificate will be required from the chief executive officer of the council relating to the extent to which a proposed amendment accords with the Statement of Intent, the Planning Strategy and other parts of the Development Plan, complements planning policies for adjoining areas, and satisfies other prescribed matters. The Minister will be able to determine that a Plan Amendment Report be divided into parts and that each part be dealt with separately. Other provisions to promote greater flexibility in the processes are included. A mechanism is now to be included under which a Plan Amendment Report will lapse in certain circumstances after consultation with the relevant council.

Clause 7: Amendment of s. 26—Amendments by the Minister

These amendments provide greater flexibility in some of the processes associated with Ministerial amendments to Development Plans.

Clause 8: Amendment of s. 27—Parliamentary scrutiny

The Minister will now be solely responsible for authorising amendments to Development Plans under the processes of the Act, which will continue to be referred to the Environment, Resources and Development Committee. The Governor will still retain the role of giving an amendment interim effect in an appropriate case under section 28 of the Act.

Clause 9: Amendment of s. 28—Interim development control

This is a consequential amendment.

Clause 10: Amendment of s. 29—Certain amendments may be made without formal procedures

These amendments relate to the circumstances where the Minister may make an amendment to a Development Plan without following the formal procedures under the Act. The Minister will now be able to make a change in form if to do so does not alter the effect of an underlying policy reflected in the Development Plan, or if the Minister is taking action which, in the opinion of the Minister, is addressing or removing irrelevant material or a duplication or inconsistency (without altering an underlying policy), or correcting an error.

Clause 11: Substitution of heading of Part

Clause 12: Substitution of heading of Division

These clauses make consequential amendments to headings.

Clause 13: Amendment of s. 33—Matters against which a development must be assessed

These amendments will require that buildings situated on land to be divided by strata plan comply with the Building Rules as in force at the time the application is made for consent in respect of the division of the land.

Clause 14: Amendment of s. 34—Determination of relevant authority

It is proposed to provide mechanisms for the creation of regional development assessment panels to act as relevant authorities in appropriate cases. A regional development assessment panel will be constituted, by regulation, in relation to the areas of two or more councils (being contiguous areas) and, if the regulation so provides, in relation to a contiguous area of the State outside a council area. The Minister will obtain the concurrence of the relevant councils before a panel is constituted. A panel will then act as the relevant authority in cases involving prescribed classes of developments (subject to the operation of the other provisions of the Act, and especially section 34).

Clause 15: Amendment of s. 35—Special provisions relating to assessment against a Development Plan

The legislation will now provide that a proposed development of a class prescribed for the purposes of the referral scheme under section 37 of the Act will always be taken not to be a *complying* development.

The circumstances where the concurrence of a council is required when the Development Assessment Commission is considering a *non-complying* development have also been reviewed, given that in some cases the council will have an interest in the development or is not otherwise to be involved in a particular case.

Clause 16: Amendment of s. 41—Time within which decision must be made

The Act currently provides that the Court has complete discretion as to whether to award costs on an application under section 41(2). It is proposed that it now be a principle that the Court should award costs in such a case, unless the Court is satisfied that the relevant delay is not attributable to an act or omission of the relevant authority, or that an order for costs should not be made for some other reason.

Clause 17: Insertion of s. 45A

The Minister will now have specific power to initiate an investigation into a matter involving a significant failure to comply with the assessment procedures, or a significant failure to discharge a responsibility efficiently or effectively, on the part of a relevant authority. An investigation will be conducted by an investigator or investigators appointed by the Minister. An investigation will be conducted in a manner similar to an investigation under the *Local Government Act 1999*. The Minister will, as the result of an investigation, be able to make recommendations or to give directions in appropriate cases.

Clause 18: Amendment of s. 48—Governor to give decision on development

This clause corrects an incorrect cross-reference.

Clause 19: Insertion of s. 50A

A council will be able, with the approval of the Minister, to establish a carparking fund for an area designated by the council. The fund will be available for cases where a proposed development does not provide for sufficient carparking spaces at the site of the development and it is agreed that it is appropriate to make a payment to the fund in view of the circumstances. Money standing to the credit of the fund may then be used to provide carparking facilities in the area, or to support carparks, or towards improving transport facilities with a view to reducing the need for carparking in the designated area.

Clause 20: Insertion of s. 56A

Each council will be required to establish a development assessment panel to exercise or perform, or to assist the council to exercise or perform, certain powers and functions under the Act. The council must consider the extent to which it should delegate its powers and functions to the panel in order to facilitate the expeditious assessments of applications made to the council as a relevant authority.

Clause 21: Amendment of s. 57—Land management agreements

It has been decided to provide that a land management agreement may include a provision relating to the development of land. However, the Minister or a council must, in considering such a provision, have regard to the provisions of the relevant Development Plan and any relevant development authorisation, and to the principle that this mechanism should not be used as a substitute to proceeding with an amendment to a Development Plan.

The regulations will establish a scheme for the registration of land management agreements.

It will also be made clear that a mortgagee in possession of land will be taken to be an owner for the purposes of the section.

Clause 22: Amendment of s. 59—Notification during building

Section 59 of the Act is to be amended so that it is clear that the mandatory notification requirements apply to a licensed building work contractor who is carrying out the work or who is in charge of carrying out the work or, if there is no such licensed building work contractor, to the building owner.

Clause 23: Amendment of s. 66—Classification of buildings

These amendments are intended to ensure that section 66 of the Act will reflect the actual situation that now applies where all buildings (other than those excluded under section 65) are now expected to have a classification.

Clause 24: Amendment of s. 70—Preliminary

This amendment will allow new buildings to be subject to the fire safety provisions of the Act.

Clause 25: Amendment of s. 71—Fire safety

Specific provision is now to be made for the establishment of appropriate fire safety authorities. It will also be made clear that an order may be made with respect to a *part* of a building. A default penalty will now be available if a person fails to comply with an order under the section.

Clause 26: Insertion of new Division

Each council will be required to have a building inspection policy that specifies the level or levels of audit inspections that the council will carry out on building work conducted in its area in each year.

Clause 27: Amendment of s. 74—Advertisements

These amendments update cross-references.

Clause 28: Amendment of s. 75—Applications for mining production tenements to be referred in certain cases to the Minister

This amendment corrects a clerical error.

Clause 29: Amendment of s. 86—General right to apply to Court

A dispute involving an emergency order relating to the safety of a building will now be dealt with by a commissioner or commissioners acting as building referees.

Clause 30: Amendment of s. 87—Building referees

These are consequential amendments.

Clause 31: Insertion of new Division

A person who participates in, or supports, proceedings before a court arising under or in connection with the operation of this Act will be required to disclose any commercial competitive interest of the person (or of a person providing financial support to the person) in accordance with the scheme set out in this Division. If a development finally proceeds despite opposition from persons with a commercial competitive interest, the proponent will have a right of action for any loss that the proponent has suffered because of delay if he or she can satisfy the court that the opposition to the development was solely or predominantly based on an intention to delay or prevent the development through the conduct of the proceedings in order to obtain a commercial benefit.

Clause 32: Amendment of schedule

This amendment will facilitate the keeping and supply of information by prescribed bodies performing various functions under the Act.

SCHEDULE 1

It is intended to make a series of related amendments to other Acts. One set of amendments will provide greater flexibility when constituting full benches of the Environment, Resources and Development Court, while still ensuring that appropriate expertise is still maintained. Another set address issues surrounding the awarding of costs in the Court. Amendments to facilitate greater integration in certain cases between the processes and procedures under the *Development Act 1993* and the *Native Vegetation Act 1991*, and between the *Development Act 1993* and the *Roads (Opening and Closing) Act 1991* are also included.

SCHEDULE 2

This schedule sets out various transitional arrangements relevant to the procedures being undertaken immediately before the commencement of this measure to amend Development Plans, and to the registration requirements for land management agreements.

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

ADELAIDE FESTIVAL

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

That this Council:

1. Congratulates the artistic directors, chairs and board members and management on the outstanding success of both the Telstra Adelaide Festival and Adelaide Fringe 2000; and
2. Thanks both Robyn Archer and Barbara Wolke for their creativity and commitment in presenting challenging and exciting performances and exhibitions which were strongly supported by South Australians and interstate and overseas visitors.

This motion seeks to congratulate the artistic directors, the chairs and board members, and the management of the Telstra Adelaide Festival and the Adelaide Fringe 2000 on the outstanding success of both events earlier this month. The motion also seeks to thank Robyn Archer and Barbara Wolke, the artistic directors of the Festival and the Fringe, for the excellence of their programs, which were strongly supported by South Australians and visitors from interstate and overseas. It also seeks to wish them well in the future because, in each instance, they will be moving onto other work—not necessarily as big as or better than the work that they have done in association with the Festival and the Fringe respectively.

The Telstra Adelaide Festival 2000 was a resounding success. Since I have been Minister for the Arts since late 1993, I am pleased to note that, these days, the parliament does not sit during the Festival and the Fringe, enabling members to attend and to see the excellence of work by our South Australian companies and to experience the thrill of work by interstate and overseas companies.

It is predicted that the attendance figures for the Telstra Adelaide Festival 2000 will be the highest ever recorded, and we will know those figures shortly. The box office income is also expected to be higher than it was in 1998. A feature of the Festival this year was the 16 major new commissions, with a further 24 first performances of new work and 10 international collaborations. This effort was made possible by additional funding through the state government, and taxpayers can be well pleased with the results. It was quite extraordinary to see work commissioned and undertaken for the first time, with each work attaining a 100 per cent success rate. The creation of new works of art is a highly risk-prone process, and it is an extraordinary compliment to Robyn Archer that the people she selected to undertake this work excelled in every sense. I congratulate the board for having the courage to endorse her vision and, in turn, to persuade the government to back this new work.

It is interesting to see that there is enormous potential now for overseas performance of some of these new productions—for the *Ecstatic Bible*, which was undertaken by our own local Brink company, in association with the Wrestling Company of the United Kingdom; *Mizumachi*; and *Theft of Sita*. In addition to these new commissions and first performances, there were 67 performing arts productions, with 37 exclusive to Adelaide, and 20 visual arts exhibitions and installations across Adelaide.

In all, it was an enormous program of works. Many shows were sold out, including *Writing to Vermeer* and Robyn Archer's final concert *Keep Up Your Standards*. It was a fitting message to us in terms of keeping up one's standards because Robyn was able to sing without a break for 1½ hours in all languages, and to do so after three weeks of Festival activity, and many years of preparation, was quite an

outstanding achievement—but one not necessarily unexpected from the professional which she is. Other highly popular shows which were close to selling out included *Eat Your Young* by Arena Theatre and *Cool Heat, Urban Beat*.

One of the thrills of the Festival program this year was the inclusion for the first time of a regional program under the umbrella title of *Plenty*. This was coordinated activity in South Australian country regions and it was driven locally in many instances. They became big events, the first being at Penneshaw on Kangaroo Island, and many old timers on the island who had probably never been to the arts before are recording openly that it was the biggest event that they recall ever being held on the island. It is a thrill that it was the arts, and in particular the Festival, that brought so many people together on the island and that is was such a successful occasion.

In terms of the Adelaide Fringe, the event this past month was the biggest ever in terms of participating artists. Over 5 000 artists participated in the Fringe in the year 2000. Audience numbers were in excess of 850 000, according to Fringe management. Over 113 000 advance tickets were sold through the FringeTix box office arrangements that the Fringe itself operates and over 100 000 tickets were sold at the doors. The Fringe Festival exceeded its box office target, with over $2 million in FringeTix tickets sold. The most popular shows were the comedy program the Spiegel Tent. Approximately 150 000 people attended the Spiegel Tent over the three week season and a further 500-plus people attended each night at Big Rig.

There was a record number of emerging artists performing in the Festival, and one of the very exciting new elements of the Festival was the Fresh Bait program. This was organised down at the Lion Arts Centre and it was an opportunity for South Australian artists who had not performed before to have their first public experience. The Hon. Angus Redford would be well aware of the government's focus on contemporary music, as he is such a strong supporter of all initiatives in this area. It was exciting to see that the *Fresh Bait* program included such a strong performance by our young contemporary musicians.

It was even better knowing that 150 people attended every session of the *Fresh Bait* program. That is quite extraordinary, knowing how raw some of these artists were, not only in contemporary music but in other forms of the art. The boldness of the people participating in the *Fresh Bait* program and the boldness of the people attending to see new work was very exciting and augurs well for both new audiences for the arts and the strength of the arts at the community level.

I was particularly pleased, in terms of the broad breadth of my portfolio responsibilities—Transport and Urban Planning, the Arts, and the Status of Women—that the public transport sector participated so strongly in supporting the Festival and the Fringe. Honourable members would be very well aware of the 'Cabbie's Guide to the Festival' initiative where the taxi industry distributed the Festival program. I know that that program is keenly sought after by taxi riders, but it also enables taxi drivers to be well informed about what is on each night and to recommend shows that they have heard are popular.

One of the interesting features of this past Festival was the indication that word of mouth is powerful. Ticket sales for the Festival were a bit of a worry prior to the Festival and, as I indicated earlier, box office income is now expected to be higher than for the 1998 Festival. Word of mouth contributed enormously to that, as did the *Advertiser* reviews and the ABC with its daily comments from Richard Margetson and others. Also during the Fringe, we were able to provide a free city loop bus service which proved to be extremely popular with both the artists and audiences, and that operated as an extended service after 6 p.m. across the city, joining arts venues and restaurants from Hutt Street to Gouger Street, the Lion Arts Centre and the East End of Adelaide.

A very important component of the work of this government in terms of the Festival and the Fringe is to use these strong arts activities to build on other activities in the city, and with this Festival and Fringe we were particularly successful in terms of value-adding to the strength of the Fringe and the Festival.

The Australian Performing Arts Market, an initiative of the Australia Council, was hosted here because of the support of Arts SA, together with Tourism SA and the Department of Industry and Trade. It is fantastic that these two departments supported the arts in recognising the importance of the arts in bringing a focus to this city and doing business. This year the total number of delegates to the Australian Performing Arts Market was 330, including more than 120 international delegates. That is a very big increase over the successful Adelaide Market held in 1998 when there were 200 delegates, including 90 international delegates.

I acknowledge the efforts of Adelaide's Arts Projects Australia Company in organising and managing the market. I also acknowledge the National Playwrights Conference, a leading event on the Australian cultural calendar, which came to Adelaide for the first time this Festival and Fringe, as did the National Aboriginal and Torres Strait Islander Playwrights Conference, which provided the opportunity for indigenous artists to meet at the same time as the National Playwrights Conference and the Festival and the Fringe. They all fed off each other. In addition, Writers' Week was held with 69 writers, including 22 from overseas, and for the first time there was the strongest component of South Australian writing.

Artists' Week involved over 270 artists. The *Opera Now Conference* was an enormous success, as was *New Moves*, a laboratory of choreographic activity between Adelaide and Glasgow based at the Balcony Theatre, the home of the Australian Dance Theatre. To top all this off, we had the opening of the Australian Aboriginal Cultures Gallery at the South Australian Museum. It was brilliant to see the ancient Aboriginal cultures from around Australia celebrated at this new gallery space in the museum; and, next door at the recently extended art gallery, we saw the Aboriginal biennial exhibition, which included the newest of work, principally by urban Aborigines. We were extremely proud and fortunate to see both exhibitions together. All those who participated in those activities at the museum and the art gallery would appreciate the strong contribution of this work to reconciliation.

Since the Fringe and the Festival I have already written to the chair of the Australia Council, Dr Margaret Seares, highlighting the extraordinary success of holding the Australian Performing Arts Market in Adelaide at the time of the Festival and the Fringe, and indicating that a jointly funded project between Arts SA, the Department of Industry and Trade and Tourism SA would be keen to support the Australia Council in hosting the next three markets in Adelaide. I have asked that this proposal be considered by the Australia Council in the near future.

The delegates who attended the Australian Performing Arts Market indicated that there is no doubt that a fixed time and place on the international calendar is important in their planning ahead, particularly with the great travel distances to Australia. There is no doubt that they enjoyed the opportunity to see both brief showcase performances during the market and the full performances that were held during the Fringe as part of the Fringe and Festival program. They also saw the very best of all that is Australian in terms of performing arts work. Of course, they saw the city of Adelaide at its best, when the arts and artists literally take over.

I have always argued that the arts make Adelaide and South Australia distinctive as a city and a state. I do not think that anyone who had participated in the Festival and the Fringe at this time and had seen the number of international visitors and artists in our city and state who appreciated the opportunities to travel throughout the state, to spend money, to learn more and to report back so positively to their own countries about Adelaide as a destination would do other than recognise the value of the arts to our city and state not only in cultural terms but in economic terms. I hope that all members will support this motion and, in doing so, congratulate Robyn Archer and Barbara Wolke, wish them well for the future and highlight that they have left us with many positive experiences, happy memories and an extraordinarily strong base from which to build the next Festival and Fringe in 2002.

The Hon. A.J. REDFORD: I endorse the comments made by the minister. I congratulate the two directors, Robyn Archer and Barbara Wolke. The Festival and Fringe were extremely well done. I attended a number of performances. What I really liked was that the whole city got behind it to a person—the taxi drivers and the people walking down the street. Even the wheelie bins got into the act. I know that when I took my children to a couple of functions they were absolutely captivated by the wheelie bins. I had a visitor from the United States over one weekend and she was absolutely amazed at the breadth and depth of the performances. It was just fantastic. I acknowledge also the country program. It is not just now the Adelaide city of arts: it is a South Australian affair. I know that the event at Beachport attracted a huge crowd—

The Hon. Diana Laidlaw: I think 4 000.

The Hon. A.J. REDFORD: The minister says '4 000' and I think that is correct.

The Hon. T.G. Roberts interjecting:

The Hon. A.J. REDFORD: The Hon. Terry Roberts was there. I do not think that we have ever had a football match that has attracted that many people, so it does put that into context. Indeed, my father attended and he is hardly mentioned in hushed terms when it comes to the arts.

An honourable member interjecting:

The Hon. A.J. REDFORD: I will not go into detail but I heartily endorse the new director's comments which appeared on the front page of the *Advertiser* regarding the architectural standards of this city. He is absolutely correct. It is amazing—as I find when walking around the city, where he did receive some criticism—that everyone is saying pretty much the same thing.

The Hon. Carolyn Pickles: Let's do something about it.

The Hon. A.J. REDFORD: Let's do something about it, as the Leader of the Opposition so aptly interjects. My observation is that Adelaide has achieved a new maturity. We have grown up. We have even got past the so-called loss of the Grand Prix. We seem to have become far more mature. I would like to see us look at what we can do to make it an annual event. I understand why it is biennial, but this city is big enough and the event has achieved enough public interest for us to look seriously, perhaps, at even extending the Fringe to an annual event and leaving the Festival biennial, or even simply holding an annual Writers' Week.

I have never seen a Festival that has captured the whole of the city, from young children to the very elderly, across the board so completely. All credit to the minister, the government and everyone, including the minister's predecessors, because this Festival keeps going from strength to strength.

The Hon. CAROLYN PICKLES (Leader of the Opposition): I am happy to endorse the remarks made by the minister and the Hon. Mr Redford. I support strongly this motion and congratulate the artistic directors, chairs, board members and management on the outstanding success of the Telstra Adelaide Festival and Fringe. I also place on record my appreciation, on behalf of the State of South Australia, to the sponsors involved in the whole event. Without the sponsors, even with the goodwill of governments of all political persuasion, I do not think we would have such a successful Festival and Fringe. It is, indeed, something that sets the city alight.

I attended the Sydney Festival this year and it is interesting that you certainly do not get any feel at all that there is anything going on. In fact, you have to hunt for a Festival in Sydney, although very many interesting events are being held. It is not supported in the way that the Adelaide *Advertiser* and the Messenger press include lots of advertisements and every day there is information and stories on television. It seems that everyone gets behind this Festival that is so popular and so successful. Everyone has a good time. But not only that, there is something for everyone in this Festival. It is not just something at the top end of the market, although there were stunning spectacles at the Festival.

The Fringe is certainly affordable for most people. Even if some people cannot afford anything, free events are held that are quite wonderful. The final night with the Symphony under the Stars sponsored by Santos is a superb event that all families can enjoy.

I do not want to single out any special events that I went to see, although *Writing to Vermeer* was stunning, and I urged people to see it because we will probably never see it again. After the performance, a lot of people were walking around a little bemused wondering what it was all about, so I was pleased that I did my homework on it. The event that was organised by the Friends of the Festival, the Friends of the Art Gallery and the Friends of the Symphony Orchestra prior to the Festival gave us a lot of information about it, and was very worthwhile.

I particularly enjoyed *Mizumachi*, which I thought was the most wonderful event, just something so very different. The visual arts program was quite spectacular. *Beyond The Pale*, the biennial event at the Art Gallery, was well attended and extremely well curated. I enjoyed the performance by Cool Heat, Urban Beat and the hip-hop and scratching, which I understand is the terminology of one of the fastest growing music forms in the world today. It is not everybody's cup of tea, but it is certainly energetic. So many young people attended that event and loved it.

Unfortunately I was so busy going to some of the other things in the city that I was not able to attend any of the

regional programs, but people who went told me that it was very special and that they would welcome that kind of inclusion in a future Festival. Thanks must also go to the Governor who so generously opened Government House where many special events were held. I attended a Writers' Week breakfast that was quite charming and I was daring enough to say that Government House would make a very nice venue for Writers' Week. Given the tremendous popularity of Writers' Week, on a very hot day I feel that it is getting a little bit squeezy and uncomfortable. There might be some rumours about the Torrens Parade Ground, so perhaps we can spill out onto what may well be lawns one day. The minister and I have talked about that on previous occasions and I do not want to start any financial rumours, but that would be a great venue and could be used in a more creative way.

South Australia is certainly on the world map with the Festival and Fringe. We are one of the three eminent festivals in the world, the Edinburgh and Avignon Festivals being the other two. When I retire from this place I shall compare those other two Festivals, because I have never had time to go while I have been in parliament, but I am sure that they will compare unfavourably with ours.

Everybody says that Adelaide is the perfect venue for a Festival of this kind. It is not just the events that take place but it is the way in which the people of this city take it to their heart and enjoy it. I had two visitors from interstate staying with me, a former minister in a Labor government and her partner, who come back regularly to enjoy the Adelaide Festival. We have been very fortunate with the artistic director of the Adelaide Festival, Robyn Archer, a home-grown Festival director. Have we had a home-grown director before?

The Hon. Diana Laidlaw: Neither home-grown nor a woman.

The Hon. CAROLYN PICKLES: That shows they can do it really well.

The Hon. L.H. Davis: Rob Brookman.

The Hon. CAROLYN PICKLES: Yes, Rob Brookman is a previous director.

The Hon. L.H. Davis: He is a home-grown male.

The Hon. CAROLYN PICKLES: A home-grown male, yes. As an artist, Robyn put her heart and soul into these two festivals. She has warned in the past that we must start thinking about where we go from here with the Adelaide Festival, that we must beware that it will not always be as easy as it is now to get the corporate dollar and the financial support from governments, although I know that the minister and I heartily wish that there will be ongoing and increasing commitments from governments of all persuasions to ensure that we continue to have such great success. We have to acknowledge that the place of a cultural event such as this in our nation's psyche is quite important.

I look forward to the work of the future Festival director, Peter Sellars. I have met Peter and he is a fascinating character. He does not think on the same wavelength as other people. He has boundless energy and clearly he is not frightened to tilt at windmills. I know that his comments upset a few people but I have to say that some areas of downtown Adelaide and the CBD are not very beautiful and, when we are looking at our public architecture, we should think about it more carefully.

The Hon. L.H. Davis: The Bannon era's ASER complex is a good example.

The Hon. CAROLYN PICKLES: There are shockers in every era and we continue to perpetuate the crime.

The Hon. L.H. Davis: Your government did it.

The Hon. CAROLYN PICKLES: It is not just our government: governments of every political persuasion—

The Hon. L.H. Davis interjecting:

The Hon. CAROLYN PICKLES: We are not getting into swipes here; we are trying to have some bipartisan support on this issue. One of the things that we have to consider is that our city will be here for many years, long after we are gone and long after the Festival of Arts for that particular year is gone, so comments that are made by somebody of the eminence of Peter Sellars should be taken to heart by the city fathers and mothers and something should be done about it.

The minister has covered all the detail connected with the Festival and I await a report from the Festival and the Fringe. I am sure that it has been a huge financial success, and I say that with my fingers crossed because one is always worried about that, but it appears that the Festival has been a big financial success and that will encourage governments of all political persuasions to continue to fund it adequately and with increasing vigour.

I wish both Robyn Archer and Barbara Wolke well in the future. I cannot believe that anything they will do will be as exciting as being artistic directors of the Festival and Fringe. As an artist, Robyn will go on from strength to strength, and I have to say that both these women have enormous staying power and energy. I was flagging a bit by the end of the first week of the Festival, but there was Robyn, still going strong and managing to do that final performance, which was amazing.

The Labor Party both in opposition and in government has always strongly supported the Adelaide Festival and the Fringe. I know that there are queries about whether the Fringe has grown too big or whether we should have a Fringe every year. We have to be very careful that we do not overdo it. In between the Adelaide Festival, we have the Festival of Ideas, which I believe is to be ongoing and which is very successful. I think that we cherish having the Festival every two years and there is an enormous lead time into getting performances together.

I honestly do not believe that such a successful Festival can be produced every year—I think we would lose something—and that those who are enthusiastic about it should be warned a little. One of the things that we might need to look at is whether the Fringe has grown too big. It is exciting that it is, but in a way it makes the organisational details a little difficult. That is not meant as a criticism but just to say that perhaps it can be looked at in another way.

Writers' Week is something that I particularly enjoy. I always spend much too much money in the Writers' Week tent. The books tend to sit there for a few months before I can get around to reading them, but I am looking forward to reading all the books I purchased during the Easter period. Once again, on behalf of the opposition, I heartily congratulate the artistic directors and all who were involved in the Festival and the Fringe. I assure them that if there is a change of government at the next election there will be ongoing support for both these events.

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

ADJOURNMENT

At 5.27 p.m. the Council adjourned until Tuesday 4 April at 2.15 p.m.