LEGISLATIVE COUNCIL

Thursday 11 July 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 2.15 p.m. and read prayers.

CHILD SEXUAL ABUSE

A petition signed by 161 residents of South Australia concerning the statute of limitations in South Australia on child sexual abuse, and praying that the council will introduce a bill to address this problem, allowing victims to have their cases dealt with appropriately, recognising the criminal nature of the offence; and see that these offences committed before 1982 in South Australia are open to prosecution as they are within all other states and territories in Australia, was presented by the Hon. Sandra Kanck.

Petition received.

LUCAS HEIGHTS NUCLEAR REACTOR

A petition signed by 60 residents of South Australia concerning nuclear reactors at Lucas Heights, and praying that the council will call on the federal government to halt the nuclear reactor project and urgently seek alternative sources for medical isotopes and resist at every turn the plan to make South Australia the nation's nuclear waste dumping ground, was presented by the Hon. Sandra Kanck.

Petition received.

NATURAL GAS PRICES

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I table a ministerial statement made by the Minister for Energy earlier today in the other place about South Australian natural gas prices.

QUESTION TIME

ABORIGINAL COMMUNITIES

The Hon. R.D. LAWSON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question.

Leave granted.

The Hon. R.D. LAWSON: In the *Australian* today, Noel Pearson, the team leader of Cape York Partnerships, a joint enterprise of the Queensland government and the Cape York Aborigines, has outlined a major issue in Aboriginal communities. He states that there are four obvious facts:

> There is a direct relationship between substance abuse (mainly, but not only, grog) and violence.
>
> The substance abuse epidemics directly cause problems that lead to poor health. They exacerbate existing problems that lead to poor health or they frustrate and prevent many solutions to these problems.

Thirdly:

> Substance abuse plays a primary causal role in the over-representation of Aborigines in the criminal justice system.

And, fourthly:

> Of all the factors contributing to the loss and destruction of Aboriginal culture, substance abuse is profoundly the worst.

Mr Pearson continues:

> The big scandal of contemporary Australian debate is that the advocates of the symptom theory—which explains substance abuse as a symptom of social and personal problems—won't confront addiction as the problem. They seem to deny the central role of addiction as a problem in its own right.
>
> But the substance epidemics can be confronted and overcome if conservatives, responsible economic liberals, principled social democrats and socialists—

of whom the minister would count himself as one, I am sure—

> and whoever is in favour of social order unite against the unthinking Left and the 'socially progressive' Right to enforce a consistent restrictive policy.

Mr Pearson also says that we must:

> rebuild a social, cultural, spiritual and therefore legal intolerance of abusive behaviour. Of all possible strategies, this is the most important.

He goes on to say:

> We must make the connection between Aboriginal law and zero tolerance of abusive behaviour.

Mr Pearson's remarks are set out in full, and I invite the minister to indicate whether he agrees with the proposals being advanced on this occasion and previously by Mr Pearson, a very experienced Aboriginal leader, on the need to confront abuse of alcohol in Aboriginal communities, in particular, and to have tough strategies to address this most corrosive problem. What is this government doing to address these issues?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I am not familiar with the article from which the honourable member quotes, but I am certainly familiar with the issues that are raised by Noel Pearson in his attempt to bring to the public's attention the plight of many Aboriginal people in Australia at this time.

The position that he has outlined in that article, from my interpretation, is that, if we tackle separately the problems of individual alcohol abuse, drug abuse and, I suspect, petrol sniffing, we can then somehow or other capture the former tribal law or the Aboriginal law that once ruled the original inhabitants of this country. I agree with his assessment in relation to the deterioration and breakdown of communities with alcohol, drug and petrol sniffing abuses. There is no doubt that, as one can see when visiting the communities where these symptoms are showing themselves, the law and culture of both the Aboriginal people and of our own justice system are breaking down.

The symptoms and solution he describes are only a part answer to the complicated question we face. Other governments have attempted to declare dry zones to ban alcohol from communities, but the people in those communities tend to travel, they are mobile, and you cannot successfully isolate geographically any of the drugs of addiction or abuse from any of those communities. Where attempts have been made by traditional owners or communities themselves to eliminate those drugs of addiction from their communities, it appears that someone will set up a black market, which is being done now. Communities in this state have declared themselves substance free but alcohol, particularly slabs of beer, is being sold into those communities for $100 a slab, and petrol is being sold for up to $100 for two litres.

When those sorts of profit are being made by unscrupulous people, just as they will in the broader society, they will target those people within those communities if the demand is there for it. We have to give indigenous communities assistance and support when they declare their communities

alcohol, drug or petrol sniffing free. That is a part of our policy and what we are attempting to do.

The issues or circumstances Noel Pearson describes are quite accurate. I have read the *Hansard* record of the contributions of members in another place, and the Hon. Graham Gunn describes the circumstances of the people in the AP lands accurately but, as the interjectors argued in the same debate, what did he as an individual or the government do over the past eight years to correct the circumstances of the people in the Pitjantjatjara lands? I would say that, over the eight years of their governance, they tried what they thought was an appropriate policy to try to come to terms with those difficult issues with which we all have to wrestle but, unfortunately, the circumstances deteriorated. I have argued in this place that we have a combined bipartisan position in relation to dealing——

The Hon. Sandra Kanck: Tripartisan.

The Hon. T.G. ROBERTS: —we have a tripartisan position, with the Independents—with this question because of the seriousness of it. While I agree in part with the article and that Noel Pearson accurately reflects and argues that these drugs of addiction are killing off the culture of our indigenous people, particularly in remote and regional areas—and, in the case of the metropolitan area, aggravating circumstances that had already existed for some time—there are no silver bullets in relation to dealing with this issue.

We are taking steps at the moment to try to get a form of governance where communities can feel confident enough to take ownership of the problems and describe solutions in the traditional way, with cross governance support and with programs in place through human services, providing infrastructure support to enable the same choices and opportunities that exist for the broad number of Australian people on behalf of whom governments are elected to act. The issues within our remote areas at the moment are so serious that the differences of opinions that appear to be emanating in terms of how to identify not the problem but the solution need to be addressed. If the shadow minister can do anything to bring about a combined solution or one worked out between the government and the opposition within the state to try to get an agreed position on which to move forward, we would certainly take any suggestions that could be made.

The Hon. NICK XENOPHON: I have a supplementary question. Does the minister support the calls made by Noel Pearson yesterday at an Aboriginal men's health forum in Cape York that Aboriginal elders must be given legislative power to order alcohol or substance addicted offenders into compulsory rehabilitation, mediate between groups and hold parents responsible for juvenile offences?

The Hon. T.G. ROBERTS: Noel Pearson's recommendations for solutions are running ahead of the programs being considered by the government. We are trying to involve the traditional owners—and they have been neglected over a period—in a way which allows them to sit at the table with their elected representatives and their nominated representatives within communities and put their views forward. The idea of isolating offenders is being considered. The argument against isolating offenders from communities and setting up rehabilitation or correctional service facilities away from the communities is being discussed and debated. The jury is still out in relation to how best to deliver programs to people in those circumstances. Support would be given by government if the traditional owners declared dry zones within communities; and that support would be given legislatively if that call was made by the communities for that to happen, but—

The Hon. Caroline Schaefer interjecting:

The Hon. T.G. ROBERTS: The point being made is that technically they are already supposed to be dry, but the running of alcohol, drugs and petrol within these communities is very lucrative for some people, including Aboriginal people, I must say—and it is not confined to the non-indigenous communities—to supply the triple evils to the communities. However, whatever empowerment process we set up under the new governance hopefully it will be in place by the end of this month. Mediation is taking place at the moment to try to reach an agreement on a way to proceed within the AP lands today, and I will be able to report the formal outcome to parliament on Monday.

If we reach an agreed form of governance, we can move forward and put these questions in a broader way to the traditional owners and to the communities as recommended ways of proceeding so that we can stop the communities from further deteriorating. Certainly, the Coroner will have something to say about some of the recommendations put forward by the honourable member. We can look at a collective form of recommendations which will include a number of aspects. We will have a sweep of recommendations, which, hopefully, will deal with the problems including prevention, treatment and rehabilitation, and also building into training opportunities for employment and stopping the boredom that exists within these communities and the lack of opportunities.

The Hon. NICK XENOPHON: As a further supplementary question, does the government consider that there are sufficient penalties in place against those who profiteer from the sale of petrol in those Aboriginal communities where it is clearly being used for the purpose of petrol sniffing; and also in relation to the sale of alcohol in dry zones at exorbitant prices?

The Hon. T.G. ROBERTS: The answer is that I think the penalties are probably not heavy enough.

The Hon. R.D. LAWSON: I have a supplementary question. Is the minister prepared to set a date by which the tripartite or quadpartite, or whatever it is, parliamentary committee structure which he mentioned will be established?

The Hon. T.G. ROBERTS: At the moment I am reinstituting the committee structure that was discontinued under the previous government, that is, setting up a standing committee that will include members of all parties. I am working on a recommended structure to put to cabinet that might include me as chair, or the recommendation of cabinet may not pick that up. However, it will be a committee given the same power as the previous committee had—to look at the question of lands within the north-west and the west, and it will have the other responsibilities that were picked up by the previous standing committee. So, hopefully, we will have a broader range of people who will be able to make assessments in a tripartisan way, if the make-up of the committee falls that way, and a report under the Parliamentary Committees Act will, I think biannually, be presented to parliament as to the progress of that committee in recognising the problems and formulating responses to the problems within those communities. So, that recommendation should be before cabinet within, I would say, the next 14 days and I should be able to report back to parliament that a recommended form of committee structure should be in place as soon as possible after that.

CROWN LAND

The Hon. CAROLINE SCHAEFER: I seek leave to make a brief explanation before asking the Minister for Regional Affairs a question on land rental.

Leave granted.

The Hon. CAROLINE SCHAEFER: There has been quite a lot of press coverage today about the fact that this budget will provide for the removal of peppercorn rental for crown land. Least publicised is the fact that pastoral leases will be increased commensurate with market value. Stringent rules are imposed on pastoralists. They are expected to conform to environmental management rules and stocking rates; they are expected to provide public access at all times; and they are expected, among other things, to perform plant and pest eradication. They are assessed by an inspectorial system at least once every two to three years—sometimes quite a bit more often than that. My questions to the minister are:

1. If pastoralists are to be charged along the lines of a freehold property, will they be given more rights commensurate with a freehold property: that is, will they have some say over their own destiny as far as stocking rates and environmental management are concerned?

The Hon. Diana Laidlaw: Plus access.

The Hon. CAROLINE SCHAEFER: Plus access. My questions continue:

2. Has the minister, as Minister for Regional Affairs, had any input into this issue and has he asked for or been given any indication how these changes will impact on rural communities?

3. Has he inquired as to how this increase in rental will impact on crown land use for recreational purposes? There are very few community football ovals, cricket pitches or showgrounds in country areas which are not on crown land and most of them are in or on the edge of towns. Has the minister made some inquiries as to how much those additional charges will be for rural communities?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I am not able to comment on the budget process in relation to changing the formula for peppercorn rents.

The Hon. Caroline Schaefer: Why not? Radio station 5AA has, as have all the newspapers.

The Hon. T.G. ROBERTS: What the media do is up to the media. I can say that the pastoral lease rental structures are subject to a bill or an act of parliament. My understanding is that it is a hybrid bill and, if any changes are to be made to the pastoral leases formula, it has to come back to parliament.

The Hon. Diana Laidlaw: Doesn't it go to a select committee?

The Hon. T.G. ROBERTS: I think, being a hybrid bill, it would have to go to a select committee and there would be a process that it would go through. It is not something that has been considered. I suspect from their reports that 5AA and other media have misunderstood pastoral lease regimes, but I cannot comment on the budget process.

PITJANTJATJARA COUNCIL

The Hon. A.J. REDFORD: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Pitjantjatjara council.

Leave granted.

The Hon. A.J. REDFORD: This morning the former minister for aboriginal affairs called on the government to show support for the leadership and elected traditional owners and managers of the AP lands. In her contribution in another place she referred to an insidious campaign of allegations ranging from alleged inappropriate action of officers of her then department; the offering of bribes; state government intervention; withholding of funds; and state government attempts to overturn land rights and ownership of the lands.

In her contribution she referred to a resolution passed in June 1999 by the AP executive to appoint an administrator. She alleged that a Mr Mark Ascione, the principal legal adviser of the Pit council, informed an officer of her department that the council intended to 'run amok' within the community on the funding issue.

She also alleged that Mr Ascione, who has claimed to be the principal legal adviser, was contracted through the Pit council. Following that there was a campaign and the then minister received a letter dated 14 June 2001 from the Pitjantjatjara council, as follows:

> We wish to apologise for the recent public attacks on the state government and David Rathman.
>
> You will note that the majority of these attacks originated from the Pitjantjatjara council chairman and principal lawyer. The letters and press releases we have seen were not authorised by the Anangu Pitjantjatjara executive director, executive officer or myself.
>
> Regard the press release sent out on 7 June and my phone call to you in relation to the administrator, you should be aware of the following information. . . I consider the resolution to be wrong as it was made on the advice of the principal legal adviser who did not have the full information, nor did he try to find out further details. So, I consider the executive was poorly advised and made a resolution under pressure from the legal adviser.
>
> The press release sent out that day was written by the legal adviser and distributed without checking the facts. The telephone call to you was made in the presence of the legal adviser. The director of Anangu Pitjantjatjara and myself signed the press release under pressure from the legal adviser, so for our part we wished to stop that press release and felt that I was under pressure from the legal adviser to make that call to you.

That letter was signed by Mr Owen Burton, the Chairman of the council. Notwithstanding that letter, the attacks on the minister and the campaign proceeded unabated on the part of Mr Ascione, right up until the eve of the election, and the details of that are outlined in the former minister's speech.

The Hon. T.G. Roberts: And post-election.

The Hon. A.J. REDFORD: And post-election. As a practising lawyer, I know that we are bound by some fairly strict ethics in the way in which lawyers behave in acting for and on behalf of their respective clients and that their primary duty is to represent what their clients want and to follow clear instructions given by that client ensuring that the client is properly and fully advised. I have checked in the South Australian Law Calendar and Mr Ascione's name does not appear in that book, so it is not clear whether or not he is an admitted practitioner of the Supreme Court of South Australia. I am not sure whether he may be an admitted practitioner of the Supreme Court of New South Wales. Notwithstanding that, if he is not an admitted practitioner, he may well be acting in breach of section 21 of the Legal Practitioners Act by acting as a lawyer while not admitted to the bar. In light of that, my questions are as follows:

1. If Mr Ascione is a lawyer, will the minister look into his conduct?

2. Will the minister support a complaint to the South Australian and Northern Territory Legal Practitioners Disciplinary Body and assist the council in that respect in relation to Mr Ascione's conduct in this matter?

3. Does the minister agree that Mr Ascione's conduct as described in the letter does no good for those on whose behalf he purports to act?

4. Will the minister indicate that he supports the elected leadership and traditional owners of the AP lands and the Anangu?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will answer the last question first. I have had a number of meetings with the traditional owners and their representatives, the Anangu Pitjantjatjara Council, and I have had a number of meetings with the Pitjantjatjara council in trying to resolve the difference of opinions between the two groups. The difficulties that the previous government had over probably a six to eight month period in the lead-up to the election had been bubbling along probably for another 18 months before that—before it blew into the public arena, where full page advertisements have been taken out by the Pitjantjatjara council and then counter accusations made by the AP council. That focused my mind on the difficulty that the government was having in relation to arriving at a solution. I spoke to both groups while we were in Opposition, trying to achieve a mediated position. I was unsuccessful.

I asked the players—the legal representatives of both groups—not to antagonise each other by making public declarations that could not be proven and pointed out that, if they could prove aspects of their differences, it was doing the cause of the traditional owners and the community no good by fighting publicly and expending moneys on threatening each other with court action. That was not going to help the people on the ground who at this time were dying through the activities involving drug and alcohol abuse and petrol sniffing that was going on in the communities. I implored both sides to concentrate on service delivery for health, education, housing and a whole range of other issues. I found over time when we first came into government that the gaps between the two groups were so wide that it was almost impossible to get the groups to sit around the same table. In fact, it took two meetings before representatives would square off with each other across the table to try to discuss the differences they had.

We have advanced the case a little bit further than that. People are sitting around tables today, I hope, talking about some of those differences. I am not in a position to be able to make any declarations or condemnations of any of the individual lawyers representing either case. I have been asked by the Pitjantjatjara council representatives to take action against representatives of AP. I have desisted from doing that on the basis that I prefer the model of conciliation and mediation.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: The same accusation could be made, rightly or wrongly, by the Pit council, by the other side, against the legal representatives of AP.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: It is a very complicated circumstance when you have members of both groups on each other's council. There are members of the AP executive who have rights to sit on the Pitjantjatjara council. That is not a well-known fact. There are people on the executive of the Pitjantjatjara council who have the right to sit on the AP executive. It is a complicated client representative argument when we break down the problems.

The Hon. A.J. Redford interjecting:

The Hon. T.G. ROBERTS: You are right. The sensitivities of those circumstances certainly need to be taken into account—

The PRESIDENT: Order! It is not a debating society.

The Hon. T.G. ROBERTS: —when trying to form a solution. I have tried not to take sides. I have been accused of siding with the Pitjatjantjara council and its executive and being tougher or harsher in my dealings with the AP council. I have tried to avoid being seen to be on one side or the other to enable that conciliation process to proceed. Eventually the traditional owners will make the determination, and that is the point that I have made to both councils.

Under the legislation, if the traditional owners declare that they will call a meeting, the future of the AP council, particularly, will be in the hands of the traditional owners and they will determine what the outcomes are. If they do not get a negotiated settlement within a reasonable time frame, it has been indicated to me that the traditional owners will meet in the third week of this month and will make a determination. Then, whatever individuals want to do in relation to taking action in the courts to protect their own names or reputations, that will be up to them.

As it is, I certainly will not be making any condemnation of Mark Ascione. Philip Hope is the other lawyer there, and, under the circumstances, they have done their best to protect what they see as the interests of their clients or the people they represent but, when you have a political body and a service delivery body and legal and anthropological representation all tied up in one executive body, to me that spells difficulty and trouble.

Again, that is how it has evolved under the legislation since 1981. I have indicated to this council that it is time those structures were changed, that the focus be on service delivery and that the hardware delivery in relation to infrastructure be the responsibility not of service providers through grants from time to time from federal and representative bodies like ATSIC but that the responsibility should be at state and commonwealth level. Power and water infrastructure should be looked at in a different light and the responsibility for human services should be the key feature. All the arguments that we are having between ourselves about who is right and who is wrong should be dropped completely so that the focus can be on the people who are missing out on all those services.

The Hon. A.J. REDFORD: As a supplementary question, does the minister agree that the behaviour of Mr Ascione, as described in this letter of 14 June, makes it more difficult to resolve the issue, to the detriment of the people?

The PRESIDENT: I believe that the honourable member is asking for an opinion.

The Hon. T.G. ROBERTS: As I have explained, all the correspondence made public condemns each of the positions without the public really knowing the real issues, and that is not helpful in settling the problem.

NAIDOC WEEK

The Hon. J. GAZZOLA: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about NAIDOC Week.

Leave granted.

The Hon. J. GAZZOLA: There have been many events—with some still to come—as we celebrate NAIDOC Week. Will the minister outline the importance of NAIDOC

Week, the important events he has attended, and the significance of this year's theme of recognition, rights and reform?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): Fortunately, this is a response that I can relate to parliament that has happy events associated with it. NAIDOC Week gives indigenous communities within South Australia, particularly within the metropolitan area, an opportunity to showcase to the broader community some of the positive aspects of their lives, culture and heritage. The important aspect developed out of NAIDOC Week is the drawing together of the reconciliation process where the broader community is able to participate in a number of the events that NAIDOC Week has put together.

I have attended a number of the celebrations. Without deflecting from the other celebrations, probably the most interesting had the smallest gathering. The Millicent district is not known as a very progressive community; in a lot of ways it is quite a conservative community. The Wattle Range Council put on a flag unfurling—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. ROBERTS: A very progressive council with a very progressive mayor and a very progressive CEO. The council put on a flag unfurling ceremony on Sunday in the council grounds. The people within the region were waiting for a celebratory event to attend, and it was very well attended. The kindergartens and schools participated in an artefacts display, and many of them put in many hours of work. The MacArthur Park Kindergarten had a very professional display of paintings and artefacts. Art works from other schools were hung in the Millicent Library and Art Gallery. The flag ceremony and the socialisation that took place later was a major event for a small community.

My wish would be for more local government events in regional and outlying areas to celebrate with the metropolitan area the life and culture of traditional people within our state. Hopefully, bridging the gap through the reconciliation process between the two cultures and the understanding of the heritage and culture of Aboriginal people within this state can be showcased and pride taken in being able to grow up alongside a culture that has many differences in terms of the indigenous culture and our own; and hopefully we can pay more respect to each other in living and growing together.

ENVIRONMENT PROTECTION AUTHORITY

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question in relation to the Environment Protection Authority.

Leave granted.

The Hon. M.J. ELLIOTT: There are some parts of this question that the Minister for Primary Industries may wish to respond to as well, just so that he does not feel left out today. The Environment, Resources and Development Committee recommended last year that the Environment Protection Authority should have a higher level of independence. Probably the most significant of the very extensive list of recommendations made by the committee in terms of achieving that independence was that the officers of the Environment Protection Agency should become the staff of the authority.

For those who do not know how things work, we have two EPAs in South Australia: the authority, which is really the board, which I believe has about one secretary attached to it and that is its full staff allocation; and then there is the agency, which, in fact, are staff of the Minister for Environment. Whilst that staff does work for the authority, they are, in the first instance, responsible to the minister.

The ERD Committee believed that that divided loyalty undermined the independence of the authority and recommended very strongly that the agency staff should be staff of the authority. I know that the previous Minister for the Environment disagreed with that and was choosing to try to set up some sort of service agreement between the agency and the authority; in other words, the agency staff were, at the end of the day, still to be staff of the minister.

I do not believe that the government has said on the record at this stage what its intention is in relation to this. I note, however, that yesterday in the Environment, Resources and Development Committee there were representatives of PIRSA to speak about issues surrounding aquaculture. During those discussions, the role of the Environment Protection Authority came up. People may remember that we passed the Aquaculture Act last year, and the authority was given a very clear role.

What is happening, as I understand it, is that a service agreement has now been negotiated between PIRSA and the Environment Protection Authority, so that although the authority will be the decision maker and have the responsibility, PIRSA staff will be doing a lot of the legwork.

I certainly expressed concern in the ERD Committee yesterday that the very concerns the ERD committee had in relation to the authority and the agency are now occurring in relation to the authority and PIRSA—that the authority will not be in a position to be fully independent in the way that it functions, because it is reliant upon advice from a group of people who are, in fact, answerable to the Minister for Primary Industries.

The Hon. A.J. Redford: Here we go—quoting from himself again.

The Hon. M.J. ELLIOTT: It was an accurate quote, too. I will go outside this place and repeat it. I will take that risk.

The Hon. A.J. Redford: And passionately.

The Hon. M.J. ELLIOTT: And passionately. The questions to the minister are:

1. What is the government's intention in relation to the agency?

2. Is it its intention to take the unanimous advice of the ERD Committee that the agency staff should be, in fact, staff only of the authority?

3. If that principle is accepted, why would that principle not also apply to PIRSA staff in relation to the Aquaculture Act?

4. Does the minister concede that perhaps the intent of this parliament in passing this act in the form it did last year is, in fact, being undermined by the structure that is now being set up?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): As far as my responsibilities go in taking the question back to the Minister for Environment in another place, I will do that.

CITY BUILDINGS

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Attorney-General and the Treasurer, questions regarding dangerous city buildings.

Leave granted.

The Hon. T.G. CAMERON: The media has covered extensively the incident that occurred in the city at the weekend, when a large piece of stone fell from the Bank SA building in King William Street. It was only luck that the stone missed passing pedestrians. It has been brought to my attention that similar incidents have occurred in other streets of Adelaide. Another building on the corner of King William and Gillies Streets has remained off-limits for the past three weeks to pedestrians because pieces of concrete have been falling. The falls were reported to police last month, when a pedestrian narrowly missed being hit by a piece of concrete larger than a house brick. Many other incidents of falling debris are not even reported because they fall onto private property.

In other Australian cities, such as Sydney, and cities overseas, buildings must be inspected every five years. There is currently no requirement for general inspections in South Australia. The Adelaide City Council says the legal responsibility for maintenance lies with the building owners. My questions to the minister are:

1. How many reported incidents of falling debris from buildings have occurred in Adelaide in the past three financial years and how many injuries have occurred as a result?

2. To ensure the safety of pedestrians, will the government follow the lead set by other Australian cities by requiring that all buildings undertake a general external safety inspection every five years?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Attorney-General in another place and bring back a reply.

BUSINESS INVESTMENT

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Industry, Investment and Trade, a question about the business development scheme administered by the Department of Industry and Trade.

Leave granted.

The Hon. J.F. STEFANI: Over a number of years the state government has encouraged companies to establish operations in South Australia, offering various financial assistance incentives. We are all aware that a number of companies have established their operations in South Australia and have received government grants, which were allocated on the basis of employment of a specific number of people. Some grant schemes provide for a claw back provision if the company did not reach the target number of employees stipulated in the agreement with the government. My questions are:

1. Will the minister advise whether the Department of Industry and Trade has completed an audit of all companies that have received government funding to establish their operations in South Australia?

2. Are the companies that receive state financial assistance fully complying with the conditions of the grants?

3. Will the minister advise how many companies have received government assistance that was tied to targeted employment numbers, and what was the amount of assistance made available by the state government?

4. What was the total number of employees to be directly engaged under the funding agreements?

5. What is the actual number of employees engaged by the companies that received financial assistance?

6. What is the total amount of money, if any, that has been refunded to the government as a result of the audit to enforce the claw back provisions applicable under the funding agreements?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I will refer those questions to my colleague the Deputy Premier and Treasurer and bring back a reply.

WHYALLA

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister of Regional Affairs a question on Whyalla.

Leave granted.

The Hon. T.J. STEPHENS: Some members would realise that I am extremely sensitive about issues or comments made in this council or reported in the media that relate to my home city of Whyalla. In the *Whyalla News* recently, for example, Whyalla Mayor John Smith rightly or wrongly commented that major parties, both Labor and Liberal, have little or no interest in the future of the city. He made the point that he felt that even under the Labor government the interests of Whyalla were being ignored. I know the Labor member for Giles has for many years blamed any perceived lack of action in Whyalla on the previous Liberal government. Now that the incumbent is a Labor member in a Labor government, I would expect she will have great influence in ensuring the interests of Whyalla are a priority. My questions are:

1. Will the minister assure the Whyalla community that he has been working closely with the member for Giles and in tonight's Labor budget there will be provision for additional funding for services and programs in the Whyalla area?

2. Regarding the minister's announcement yesterday that he will be locating one of his two regional ministerial offices in Port Augusta, the other to service the south in Murray Bridge, why was Whyalla overlooked as a site for one of these offices, given that Whyalla is the third largest city in South Australia and is a recognised focal point for the region to the north of the state?

3. Will the minister commit to and support major projects that may assist in the rejuvenation of Whyalla, given the level of existing and under utilised infrastructure such as schools, housing and office space?

4. Given the significance of mining and resources in the region, will he support a decentralisation of the Department of Mines and Energy or a significant portion thereof to Whyalla?

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the honourable member for his important questions in relation to Whyalla and recognise his interests, his background, the fact that he is a local and that he would certainly like to see our government giving Whyalla a fair share of the public infrastructure purse (if it is available) to assist the setting up of private sector programs. Whyalla has been hit hard over the past decade and a half in relation to the infrastructure support that it had for the shipyards, the steel industry, BHP and so on. The wind down has been fairly critical within the Whyalla region. Currently, the government has a priority for the Upper Spencer Gulf region, which includes Whyalla, Port Augusta and Port Pirie. All the Iron Triangle regional cities face problems associated with the slowdown of activities within that region.

Port Augusta has diversified fairly successfully into environmental tourism and as a stopover point for a whole range of servicing provisions within that area and it has not noticed the withdrawal of some of the public monies—commonwealth and state—over the last decade as perhaps Whyalla has. Port Pirie is struggling to set up another industry associated with BHAS and it is trying to procure a company that is interested in investing large amounts of money in a project, which, hopefully, we will be able to secure, but that is not guaranteed.

Certainly, through its economic development board, Whyalla is doing a very good job of putting itself on the map by raising the issues referred to by the honourable member, including the fact that the surplus infrastructure that has been put in over the years to accommodate a town of some 30 000 people is available for immediate growth within the region and that the housing stock, although it is ageing, is still adequate for any potential growth within the region.

In relation to the issues of development in the Whyalla region, I am confident that the enthusiasm of the economic development board in particular and its links to the commonwealth and the state government make it adequately equipped to state its case publicly. And, in conjunction with the local member (who is now the chair of the Environment, Resources and Development Committee, which gives her another string to her bow in relation to influence), and hopefully with the honourable member's support and assistance, the political support that is required to bring the attention of this government and the opposition to the circumstances in which Whyalla finds itself will be provided.

Although there are not unique circumstances as far as regional downturn is concerned, they are probably unique to South Australia. For those who follow what has happened—and I guess the honourable member has—Port Kembla, Wollongong and Newcastle—all the regional cities which relied on the investment of BHP through the steel industry—have felt the impact of the withdrawal of those investments, the changing nature of the technology and the trade position in relation to BHP's changeover to Biliton—that is, becoming an international company—and the cold winds of change within those communities.

Many of those communities have adjusted: they have found alternatives to single industry towns. I suspect that, with Whyalla's geographical placement and its attractions, within half a decade (or less) Whyalla's chances for participating in a whole wide range of new industries through aggregation of smaller industries will enable it to fill the gap, the vacuum, that perhaps exists now. So, although there is a note of despair in the pleas by the mayor in the Whyalla press, I suspect that, with the confidence levels that have been shown by the Economic Development Board and others, hopefully we can turn it around.

MINERAL EXPLORATION

The Hon. CARMEL ZOLLO: I seek leave to make a brief explanation before asking the Minister for Mineral Resources Development a question about new mining projects.

Leave granted.

The Hon. CARMEL ZOLLO: On 21 May 2002 Adelaide Resources Ltd, a South Australian based minerals exploration company, and Phelps Dodge Australia, a division of the second largest copper mining company in the world, announced a new joint venture to undertake exploration in the Moonta-Wallaroo minerals district. Can the minister advise the council of the nature of this exploration and what role the government intends to play in encouraging future exploration in this area?

The Hon. P. HOLLOWAY (Minister for Mineral Resources Development): The exploration licence that was granted to the joint venture referred to in the honourable member's question covers the historic Moonta-Wallaroo district in northern Yorke Peninsula. Since 1860 this area has produced about 350 000 tonnes of copper and an estimated 116 000 ounces of gold. The district lies near the southern end of the zone of copper-gold mineralisation termed the Olympic copper-gold province. The province extends for at least 600 kilometres along the eastern boundary of the Gawler Craton and is also host to the giant Olympic Dam copper-gold-uranium-silver mine and the recent Prominent Hill copper-gold discovery.

The project will focus on exploration for iron oxide copper-gold style mineralisation, the same as that found at Olympic Dam and Prominent Hill. It is important to note that this differs from the copper loads already known in the area. It is the first time that the area has been explored for this type of resource. Phelps Dodge has previously explored in South Australia but has in recent years concentrated its exploration activities on South America and Asia. The fact that it has returned and is involved in such an innovative project is proof of the resurgence of exploration activity in this state. This will lead to more economic growth and royalties for the state.

In relation to the latter part of the honourable member's question, PIRSA has recently completed a major study in the Olympic province, with a component concentrating specifically on the Moonta-Wallaroo area. The results of this study were released at the Australian Geological Congress which was held in Adelaide last week. It is through the provision of pre-competitive data from geoscientific studies and the TEISA program (the targeted exploration initiative program in this state) that the government intends to make sure that this state's mineral resources continue to deliver for our state's economy.

The Hon. CAROLINE SCHAEFER: I have a supplementary question. Does the minister intend to make a practice of what he is currently doing, that is, using Dorothy Dix questions instead of press releases to inform us of important events within the state and if so will he post his Dorothy Dix answers on the web site so that we have some access to this information?

The PRESIDENT: That is not a supplementary question in respect of the matters we are concerned with. The minister can choose to answer or not.

The Hon. P. HOLLOWAY: I think I choose to answer it in the circumstances, Mr President. The honourable member might care to make light of what is happening in relation to Yorke Peninsula, but I know that my colleague the Hon. Carmel Zollo has for many years had a genuine interest in what has happened on Yorke Peninsula. The Hon. Carmel Zollo has, in this council, asked a number of significant questions on that topic. The Hon. Caroline Schaefer may not be interested in economic development in that region but I am sure that my colleague the Hon. Carmel Zollo is.

The PRESIDENT: Order! I knew that I should not have allowed that supplementary question.

PARLIAMENTARY ACCOUNTS

The PRESIDENT: In response to a series of questions asked by the Hon. Mr Redford yesterday, I can advise that, in answer to question one, the matter was purely within the province of the House of Assembly and therefore there was no effect on the Legislative Council budget. With regard to question two, I repeat my earlier statement that the matter involved a standing committee of the House of Assembly and therefore did not impinge on the Legislative Council.

In response to question three, I can assure honourable members that there will be no effect on the Legislative Council budget in the future as a result of this payment. With regard to question four, obviously the legal bill and the file in relation to the matter cannot be tabled in the Legislative Council as it is purely a matter for the House of Assembly. In answer to question five, I can tell the honourable member that I will not be making a submission to the Auditor-General on behalf the Legislative Council in relation to payments. As indicated earlier: it is purely the province of the House of Assembly. In relation to question six, the honourable member was quite clearly asking for an opinion which, first, I am not qualified to answer and, secondly, questions seeking or giving opinions are contrary to standing orders.

QUESTION TIME

The PRESIDENT: I draw to the attention of honourable members that question time has lost the high standards with which we started. It took 36 minutes to answer the first three questions today. I would ask members asking questions to be precise and concise, and I would ask those members answering questions to take the same approach, and I am sure we will have those high standards reinstated.

REPLIES TO QUESTIONS

RAIL, SOUTH-EAST

In reply to **Hon. DIANA LAIDLAW** (27 May).

The Hon. T.G. ROBERTS: The Minister for Transport has advised the following:

1. Will the minister confirm, as part of the contractual negotiations that are continuing with Australian Southern Railway, that the government will agree to incorporate in the contract the long-term lease of the line between Millicent and the Victorian border in addition to Wolseley to Mount Gambier?

The documentation issued by the previous government in June 2001 inviting detailed requests for proposals for the South-East rail network included a 'Memorandum of lease South-East Railway Network'. That memorandum of lease included all land and track infrastructure on the South East network for a period of 20 years, including the line between Millicent and the Victorian border. The request for proposal was on the basis that respondents may standardise and reopen the track between Millicent and the Victorian Border. However, the government funding contribution was explicitly limited to the link between Wolseley and Mt Gambier. The contractual negotiations that are continuing are in accordance with these same requirements.

2. *Will the Minister also provide clarification to a number of questions I have regarding the level of private investment? The Premier's press release makes no reference to any dollars from ASR in terms of its reopening of the Wolseley to Mount Gambier line. However, the Minister for Transport said on ABC radio Friday morning that there would be $10 million of state money and also $18 million from private investment. Is the $18 million up front funding or is it over the 20 year life of the contract, or the 10 year life of the exclusive access regime that ASR is seeking for the operation of the line, or is the $18 million, or part thereof, for the standardisation and reopening of the line between Millicent and the Victorian border and on to Portland?*

The request for proposal documentation required respondents to indicate initial private sector investment, and proposed further upgrades of track infrastructure required to meet performance indicators for track operational standards and growth in rail freight over the 20 year lease of the network. The figure of $18 million includes the up front private sector investment plus the funding required for proposed further upgrades of the state owned rail infrastructure in the South East, including the Millicent—Victorian border link. It excludes any investment in rolling stock, any additional spurs or sidings and any further terminal upgrades. It does not include any private sector investment that may be required to reopen and upgrade the track between the Victorian border and Portland.

MOTOR VEHICLES, SPEEDOMETERS

In reply to **Hon. T.G. CAMERON** (4 June).

The Hon. T.G. ROBERTS: The Minister for Transport has advised:

1. Have any studies been undertaken by Transport SA, or any government department, into the accuracy of South Australian motor vehicle speedometers?

Transport SA is not aware of any study that has been undertaken into the accuracy of motor vehicle speedometers in South Australia. However there is an Australian Design Rule (18/00) that has been in force since 1 July 1988 that requires the vehicle speedometer to indicate the actual speed, for all vehicles above 40 km/h, to an accuracy of plus or minus 10 per cent.

Other than lack of maintenance, the most common cause of speedometer inaccuracy is changing the overall diameter of wheel and tyre combinations from the original manufacturer's specifications.

The South Australian Road Traffic (Miscellaneous) Regulations 1999 requires that vehicles manufactured on or after 1 January 1973 (the introduction date of Australian Design Rule 24 Tyre & Rim Selection) are fitted with wheel and tyre combinations that vary by no more than 15 millimetres in overall diameter from the original manufacturer's specifications.

This requirement will retain speedometer accuracy within the 10 per cent required by Australian Design Rule 18.

2. If so, how many South Australian motor vehicle vehicles are estimated may have an inaccurate speedometer?

Transport SA is not aware of any study that has been undertaken to determine the numbers of vehicles that may have inaccurate speedometers.

3. What is the current allowable variance on motor vehicle speedometers by the South Australia Police Force?

The issue of any tolerance applied by police with respect to speeding vehicles needs to be addressed by the Minister for Police.

MOTORCYCLES

In reply to **Hon. DIANA LAIDLAW** (3 June).

The Hon. T.G. ROBERTS: The Minister for Transport has advised the following:

1. Will the Minister progress negotiations between representatives of motorcyclists, motor safety personnel and the police to determine a means of securing a registration number on the front of motorcycles that does not present a safety hazard to motorcyclists but is clearly legible for speed cameras and other enforcement purposes?

The Motor Vehicles Regulations specifically exempt motor cycles from the display of a front number plate. I understand the exemption was introduced in 1981 following concerns that a front number plate represented a danger to riders and pedestrians, in the event that a motor cycle was involved in an accident. A similar exemption applies in all other States and Territories.

However, the South Australia Police (SAPOL) and other police authorities interstate recently have expressed concerns that the absence of a front number plate significantly decreases the probability of detection and prosecution, such that motor cyclists will largely ignore speed camera activity. Consequently, the deterrent effect of speed cameras is lost on motor cyclists whom continue to be over-represented in fatal crashes.

Earlier this year SAPOL trialled a 'stick-on' number plate on six of its motor cycles. While 'stick-on' number plates are suitable for motor cycles fitted with a fairing, which is an attachment usually made from plastic that enhances airflow across the front of the motorcycle, they are not suitable for motor cycles that do not have a fairing.

A working party comprising representatives from SAPOL, Transport SA, Royal Automobile Association, Motor Trade Association, motor cycle rider groups and the Insurance Council of Australia has been formed to examine the feasibility of front number identification on motor cycles.

A report, titled 'Visual Front Number Identification' is one of the matters being examined by the working party. This report examines a range of options for front identification on motor cycles and was jointly commissioned and funded by VicRoads and the Western Australian Department of Transport.

The matter of front number identification on motor cycles also is to be examined on a national level and is one of the items on the agenda for an upcoming Australian Transport Council meeting.

SHOP TRADING HOURS

In reply to **Hon. T.J. STEPHENS** (4 June).

The Hon. T.G. ROBERTS: The Minister for Transport has advised the following:

1. Will the minister say which position I can take to the many small businesses that are under considerable duress with regard to extended shopping hours at the moment?

2. If the minister intends to have further discussions with the major traders, when will those discussions commence, and will they take the form of a review, a committee, or yet another independent consultancy?

3. Will the minister assure the small business sector, such as owners of delicatessens and small seven-day supermarkets, that they, too, will be regarded as major players?

The government does not support the full deregulation of shop trading hours.

The government believes that there may be an opportunity to introduce some more flexibility in shop trading arrangements, whilst improving and clarifying the compliance and enforcement provisions of the Shop Trading Hours Act 1977.

There will not be a review of the Act. Rather, the government will determine a package of legislative reforms following consultation with key stakeholders, and in particular peak representative bodies.

I have begun the process of consultation by personally meeting with stakeholders. I can assure the small business sector that it is regarded as a major player. I have already met with representatives of the State Retailers Association.

BEVERLEY MINE

In reply to **Hon. SANDRA KANCK** (16 May).

The Hon. P. HOLLOWAY: The Premier has provided the following information:

The transport management plan is designed to promote the safe transport of uranium ore concentrates from the Beverley Mine. Among other things, the plan regulates the type of vehicles to be used, the communications equipment they must carry; their hours of work and the speed they must travel; the minimum road conditions required for transport and communications protocols to ensure that appropriate contact is maintained with the vehicles en route. The plan complements other stringent controls covering the safe transport of radioactive materials in South Australian regulations, which adopt a commonwealth code of practice based on international requirements.

In answer to the honourable member's first specific question, the Minister for Environment and Conservation advises that the threat to the Gammon Ranges National Park due to the transport of yellowcake from the Beverley uranium mine is considered to be extremely low.

The selected route was chosen in part to minimise the exposure of the national park to the transport of the yellowcake. It would be extremely unlikely for an incident to occur on the route through the national park and even less likely for an incident to cause environmental damage.

In answer to the honourable member's second and third questions about emergency procedures for cleaning up spills associated with the transport of yellowcake, the transport management plan outlines the detailed emergency procedures in place for any incidents that may occur along the entire transport route, including the clean-up procedures for any spills.

The transport management plan requires Heathgate Resources staff to be trained in the control, containment and recovery of yellowcake during an emergency. These personnel are available to respond to an emergency on site or off site or on the transport route north of Yunta. Mine site emergency staff are also able to respond to an emergency on the transport route south of Yunta.

In answer to the honourable member's fourth question, upkeep of the route is the responsibly of three parties, Transport SA, Epic Energy and Heathgate Resources.

In the 2001 calendar year approximately $285 000 was expended on maintenance by Transport SA, while to date approximately $120 000 has been expended in the current calendar year.

Drivers are trained in accordance with the transport management plan. This training covers the policy and procedures for the safe handling, transport and incident response regarding the transport of yellowcake from Beverley. The plan requires all drivers to have documentation signifying successful completion of training in standard operating and emergency response procedures and certification in the Transport and Handling of Hazardous Materials. Drivers of packaged yellowcake receive training in the response to a yellowcake spill.

In answer to the honourable member's final question, the Department of Human Services advises that there is no requirement for routine radiation health checks of drivers. However, each driver has a yearly medical over and above the three yearly medical required by the Dangerous Substances Act 1979.

In addition, radiation levels around the consignment and in the driver's cabin are checked prior to the commencement of every consignment. In the event of a radioactive material spill, radiation health checks of the driver would be carried out in accordance with the Transport Management Plan.

WHEAT BREEDING

In reply to **Hon. IAN GILFILLAN** (28 May).

The Hon. P. HOLLOWAY: I provide the following information:

1. No

2. Yes, the shareholders agreement for Australian Grain Technologies (AGT) Pty Ltd makes provision for dividends to be paid to the shareholders (South Australian Government through South Australian Research and Development Institute (SARDI), the University of Adelaide and the Grains Research and Development Corporation) following the expected break even after year 5.

3. The board of AGT Pty Ltd will be responsible for the breeding objectives of the breeding programs under its control. These objectives will be determined from a range of market driven sources; including international and national market needs and opportunities surveys, AGT's comprehensive and detailed assessment of Australia's market sectors, various industry bodies such as the Grains Council of Australia and the Grains Research and Development Corporation as well as a number of identified sustainability and abiotic/biotic traits identified as being beneficial to sustainable farming practices in general.

EMERGENCY SERVICES ADMINISTRATION UNIT

In reply to **Hon. IAN GILFILLAN** (4 June).

The Hon. P. HOLLOWAY: The Minister for Emergency Services has provided the following information:

1. No. The government does not have any comparative costs. Costs of ESAU were derived from a baseline, which anticipated the expenditure to be incurred from combining the administrative functions of the emergency services agencies.

The total operating costs for ESAU are as follows:

1999-2000	$9.307 million
2000-01	$9.446 million
2001-02	$9.588 million forecast

2. The government has indicated its intention to review the arrangements relating to emergency services.

3. The government will await the outcome of the review. The government is committed to ensuring that the maximum amount possible from the Emergency Services Budget reaches operational areas.

In reply to **Hon. J.F. STEFANI** (4 June).

The Hon. P. HOLLOWAY: The Minister for Emergency Services has provided the following information:

The cross charge is revenue received by ESAU from the South Australian Metropolitan Fire Service, Country Fire Service, and State Emergency Service for the services it delivers. It does not include the South Australian ambulance Service (SAAS), or the South

Australian Police (SAPOL). Some funding from the Community Emergency Services Fund is directed by the Minister for Emergency Services to SAAS, SAPOL, the Surf Lifesaving Association and other community based organisations. The cross charge as negotiated and agreed by the operational agencies for 2001-02 is as follows:

SAMFS	$3.438 million
CFS	$5.125 million
SES	$1.025 million

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Budget Paper No. 1, 2002-2003—Budget at a Glance
Budget Paper No. 2, 2002-2003—Budget Speech
Budget Paper No. 3, 2002-2003—Budget Statement
Budget Paper No. 4, Volumes 1 and 2, 2002-2003—Portfolio Statements
Budget Paper No. 5, 2002-2003—Capital Investment Statement.

AGRICULTURAL AND VETERINARY PRODUCTS (CONTROL OF USE) BILL

In committee.

(Continued from 9 July. Page 422.)

New clauses 22A and 22B.

The Hon. IAN GILFILLAN: I move:

Page 17, after line 14—Insert:

Registration of trade protection orders.

22A.(1) The Minister may, in the case of a trade protection order that affects land, provide the Registrar-General with notice, in a form determined by the Registrar-General, setting out details of the trade protection order.

(2) On receipt of a notice under subsection (1), the Registrar-General must, in relation to the land referred to in the notice, enter a note of the order against the relevant instrument of title, including the date on which the order is due to expire.

(3) If the minister has provided the Registrar- General with notice of the order under subsection (1) and the minister subsequently varies or revokes the order, the minister must notify the Registrar-General of the variation or the revocation.

(4) The Registrar-General must then make a note of the variation or the revocation (as the case may be) on instrument of title.

Public register of trade protection orders.

22B. (1) The Minister must maintain a public register of trade protection orders.

(2) The register must contain the details of the order including the grounds for issuing the order.

(3) The public register is to be available for inspection, without fee, during ordinary business hours at a public office, or public offices, determined by the Minister.

(4) The Minister must ensure that copies of material on the public register can be purchased for a reasonable fee at the public office, or public offices, at which the register is kept available for inspection.

New clause 22A will require the minister to inform the Registrar-General of any trade practice order that affects land. The Registrar-General will then note the order and its expiry date on the relevant instrument of title. This will come into play only where the trade practice order applies to a specific area of land. The TPOs can be made for 90 days and then renewed if required. TPOs are made to a certain person or class of person. This amendment is a simple measure to ensure that, where a TPO affects a specific area, it should be applied to new owners of the land, should that land be transferred.

New clause 22B will require the minister to keep a register of trade practice orders and that that register be open for public inspection. This is a transparency measure that means that TPOs will be held in a central repository. The Democrats believe that it is important for public confidence in this legislation that measures under trade protection orders be open.

The Hon. P. HOLLOWAY: Before I address the amendments moved by the honourable member, I will address a couple of issues that were raised on Tuesday, one by the Hon. Caroline Schaefer and one by the Hon. Nick Xenophon. First, one of the issues that arose when we were last debating the matter on Tuesday concerned prescribed substances: I refer here to clauses 11 and 12. In terms of definition, a prescribed substance is effectively banned even for veterinarians, but it may be a component of veterinary medicines if a permit has been granted by the National Registration Authority. There are currently no prescribed substances with an NRA permit for use in trade species in South Australia. There is a list of prescribed substances for which no NRA registration or permits exist. These may not be supplied or even stored by anybody, veterinarians included.

Another issue raised by the Hon. Nick Xenophon concerned fertilisers, given an article in the *Sydney Morning Herald* concerning industrial waste masquerading as fertiliser. I put on the record that any substance about which claims are made about being a fertiliser or soil ameliorant falls under the bill and therefore requires appropriate labelling, particularly in relation to heavy metals. Alternatively, under the regulations of this bill we can ban substances not conforming to requirements in the regulations. That is an alternative approach. Otherwise, it is a waste disposal issue and would come under the province of the Environment Protection Act 1993. Given that each jurisdiction has environmental protection agencies and agencies responsible for fertiliser regulations, it is not a federal government responsibility.

The Hon. CAROLINE SCHAEFER: Those answers have precipitated some questions that I would like to ask at some stage. However, we have passed those clauses. Is it appropriate that I ask them now or at the end of the debate, or should it be left until it goes to another house?

The CHAIRMAN: The minister has chosen to broach the subject now, so I think that we will get it out of the road. Unless the honourable member's comments involve an amendment, if they are just points of clarification, we may as well deal with them now. Because the minister has raised the issue, I will allow the member to proceed.

The Hon. CAROLINE SCHAEFER: Thank you, Mr Chairman. The minister's answer to clause 11 has confused me even more than I was previously, unless I misunderstood him. He said that there are no prescribed substances in the ordinary possession of a veterinary surgeon unless by way of a permit. It would seem therefore to be totally unnecessary to have clause 12, which is all about the treatment of animals with, or the possession of, prescribed substances, and, in the case of clause 11, the supply of prescribed substances prepared by a veterinary surgeon. I am utterly confused as to why we have two clauses devoted to something which I have now been told is not possible except with a permit, which I assume would be a rather exceptional circumstance. Where I was marginally confused, I am now utterly confused.

The Hon. P. HOLLOWAY: The point I was making is that prescribed substances are banned for anybody. Clauses 11 and 12 are principally in here to bring veterinarians under the scope of the act. That is why those clauses are in the bill: to bring vets under the scope of the legislation.

The Hon. CAROLINE SCHAEFER: That further confuses me because we agreed at the beginning of this committee stage that the entire bill is applicable after point of sale. To the general animal husbandry user of veterinary products, the veterinarian is the point of sale.

The Hon. P. HOLLOWAY: I am advised that the veterinarian is regarded as an agent. The point of sale is actually when the products are sold to the veterinarian. I return to the two new clauses that were moved by the Hon. Ian Gilfillan and indicate that the government opposes these amendments. In respect of proposed new clause 22A, trade protection orders are designed to control the behaviour of people who might otherwise trade in contaminated rural products, thereby endangering trade access.

The honourable member's amendment seeks to add the trade protection order to a notice in a form determined by the Registrar-General setting out details of the order, so we are talking about registering it against land. The point is that trade protection orders are really to control the behaviour of people who might otherwise trade in contaminated rural products. In many cases the land from which the products come would not be affected, and I give the example of grain that was affected by an insecticide used against stored grain insects or livestock contaminated with a dipping material.

Trade protection orders are designed to be short-term restrictions and must be re-issued every 90 days if restrictions need to be prolonged. In the rare instances where land contamination, such as with the organochlorins, DDT, Dieldrin, etc., is a long-term high-risk to trade, section 7 of the Land and Business (Sale and Conveyancing) Act 1994 provides for notes to be entered. This has already been done in the last decade for 20 South Australian properties affected by organochlorins.

The Agricultural Chemicals Act 1955 is already scheduled as one of the acts under which such notes may be made. When this legislation is proclaimed, that name will be changed in the relevant schedule under the Land Business (Sale and Conveyancing) Act 1994. I think that addresses the honourable member's question in relation to new clause 22A.

The government's concerns in relation to new clause 22B are even greater. Trade protection orders are short-term controls designed to prevent people endangering trade access by trading in contaminated rural products. If there was wide public knowledge of such measures, that could be used by unscrupulous competitors, locally or internationally, to create a false impression that all such products were suspect all the time. So, the outcome could actually be counterproductive. Trade protection orders are expected to be exceedingly rare, so if such a register existed it would seldom have anything in it. The real risk is that wide public use of such a register could damage rather than protect trade, which, of course, is the whole purpose of trade protection orders. For that reason, the government opposes the amendments.

The Hon. IAN GILFILLAN: In that case, in relation to new clause 22A, can the minister assure the committee—and I believe he has, at least in part—that the aim of implementing a trade protection order in the rare case that it may apply to land is already covered by the section of the act that he identified earlier? Secondly, in relation to his comments about new clause 22B, is it the government's intention to keep the trade protection orders secret?

The Hon. P. HOLLOWAY: It is not intended to overlap this act with existing acts so as to cause confusion. I indicated earlier that, in those rare instances where land contamination is a high risk to trade, section 7 of the Land and Business (Sale and Conveyancing) Act provides for notes to be entered. As I have pointed out, this has already been done in the last decade for 20 properties affected by organochlorins. The provision is already in that act, and it is not intended to have two acts overlapping.

The Hon. IAN GILFILLAN: I repeat my second question regarding new clause 22B: is it the government's intention to keep trade protection orders secret? In light of your comment that 20 properties have been under some orders under other legislation, are those orders public information or are they secret?

The Hon. P. HOLLOWAY: I am advised that no section 7 information is public—

The Hon. Ian Gilfillan interjecting:

The Hon. P. HOLLOWAY: Yes, it is only available at the point of sale. So, if the property is sold, under section 7, attention has to be drawn to it, like an encumbrance, effectively. I am advised that the actual details are not made public.

The Hon. Ian GILFILLAN: I am sorry to be repetitious, but can you answer my question, which I am now asking for the third time? Is it the government's intention to keep trade protection orders secret?

The Hon. P. HOLLOWAY: I am advised that it is not the government's intention to make them public. Trade protection is a serious matter. If you are seeking an emergency order to prevent some action that may be damaging to this country's trade, the last thing you would want to do is to make it public. That would allow competitors to blow it up, and that would defeat the whole purpose, because the publicity would damage trade. I think that we really need to think about what we are trying to achieve with this clause.

The Hon. IAN GILFILLAN: I think that Australia's trade reputation would be more strongly enhanced by openness rather than rumours. The damage to trade by rumour of what might or might not be a trade practice order is likely to go far wider and be far more damaging than having an open and honest revelation of the trade practice orders that are in effect.

The Hon. P. HOLLOWAY: In relation to trade practice orders, clause 20(2) provides:

> Notice of an order addressed as referred to in subsection (1)(b) setting out the terms of the order and the persons to be bound by the order must, as soon as practicable after the order is made, be published in a newspaper that, in the opinion of the minister, will be the most likely to bring the order to the attention of the persons bound by it.

Clearly, some notification is required. In relation to subclause (2), the order is hardly being kept secret.

The Hon. CAROLINE SCHAEFER: I indicate that the opposition will not be supporting either of these two amendments. I believe that they are the result of lobbying we all received from the Local Government Association. I admit that these amendments had some appeal to me initially, but—

The Hon. Ian Gilfillan interjecting:

The Hon. CAROLINE SCHAEFER: No, I am persuaded by a briefing that I sought that clearly tells me that the concerns of the Local Government Association, I believe, are already addressed in existing legislation. Therefore, I see no

point in duplicating legislation. In fact, I believe that it would have a detrimental effect, as already pointed out. Section 7 of the Land and Business (Sale and Conveyancing) Act requires the notification that has been sought, and that notification is required to be published on the sale of the land. The concern raised with me relates to contaminated land—as in non-trivial contamination. That land may be innocently bought for a purpose such as development when, as I have said, there may be non-trivial contamination, such as lead. Since that is required to be published at the point of sale, I see no point in duplicating and requiring another series of publications. With regard to the second amendment, I believe that that is sufficiently covered. I do not believe that accusations of secrecy can be made about something that is published in a newspaper.

The Hon. P. HOLLOWAY: In clarification of that point. There is nothing being kept secret; the existence of the order is publicised. I believe that public registers would create a situation where it is likely that trade competitors, and so on, could misuse the information. This state and this country will have an openness in dealing with these matters. At the same time, it would be dangerous if we had a system where people could potentially misuse the information, which would be abetted by having a public register. There is also the question of cost.

The Hon. IAN GILFILLAN: Since the minister substantially argued against my amendment on the grounds that wide publicity could damage trade—and I think I quote him reasonably accurately on that—and that I attacked him on the basis of secrecy—

The Hon. P. HOLLOWAY: No, not wide publicity, but I think—

The Hon. IAN GILFILLAN: You made the point, and it is a valid one, which I disagree with. The minister has referred to subclause (2) of clause 20, which provides:

> Notice of an order addressed as referred to in subsection (1)(b)—

that is, the trade protection orders—

> setting out the terms of the order and the persons to be bound by the order must, as soon practicable after the order is made, be published in a newspaper that, in the opinion of the Minister, will be most likely to bring the order to the attention of the persons bound by it.

Can the minister indicate to the committee what newspaper, in his opinion, would restrict the information of the TPOs to the attention of the persons bound by them but not, in fact, signal the TPOs to the world at large?

The Hon. P. HOLLOWAY: I do not think that is really the point. It is not that one is taking it away. I am sure the honourable member would appreciate that if there is a register people will look at it, and may do so for many reasons. What we are trying to do here to is bring about trade protection orders; in other words, protect our trade. Of course, it is important that we make sure that the person who is posing a risk to that ceases that activity. What we are talking about here under clause 20 is, of course, the manner of making that order to make sure that people are aware of it.

But adding to the administrative burden of the state by having registers which could only be of value to people who were seeking to potentially disrupt trade is not, I think, a particularly clever thing to do. As a country, we must stop activities which are potentially damaging to trade. That is what the bill is all about. The objective of the bill is to achieve responsible use of chemical and veterinary products, not to create registers that potentially could be used to misrepresent what we are doing in the country. We really need to look at the perspective of the overall bill.

The Hon. T.G. CAMERON: I rise to indicate my support for the government's position in relation to the amendments standing in the name of the Hon Ian. Gilfillan, that is, new clauses 22A and 22B. I have been persuaded by the government's arguments.

New clauses negatived.

Clauses 23 to 37 passed.

New clause 37A.

The Hon. IAN GILFILLAN: I move:

> Page 24, after line 33—Insert:
> Notification of suspected contamination of land
> 37A. If a compliance order is issued by the Minister for the purposes of seeking compliance with the general duty under section 5, in circumstances where there are reasonable grounds for believing that there has been contamination of land that is not trivial taking into account current or proposed land uses, the Minister must give written notification of the order and a description of the circumstances to—
> (a) the Environment Protection Authority established under the *Environment Protection Act 1993;* and
> (b) in the case of land situated in the area of a local government council—the relevant council.

The amendment is important because it will require the Environment Protection Agency and the relevant local government bodies to be notified when a compliance order has been issued and there are reasonable grounds for believing there has been contamination of land. This will allow such information to be included in existing registers if there were contamination, which will aid the EPA in its monitoring role.

The aim is to ensure that there is positive communication between agencies when there is chemical trespass. With the previous results of my amendments, it is unlikely that there will be registers in the near future at least. However, if the confidentiality and secrecy aspects of this are such that the Environmental Protection Agency and the relevant local government body, the local council, are not informed, I believe that is carrying the measure of confidentiality of information too far and really does in many ways counteract what could be a very positive role that those bodies could play in making sure that the compliance orders have been complied with.

The Hon. P. HOLLOWAY: The government opposes the amendment. The honourable member's new clause 37A would apply to compliance orders. Compliance orders are intended to enforce specified behaviour of the user of rural chemicals and not the downstream effects on land. I also point out to the honourable member that notification of the Environment Protection Agency is already provided for under the act. If you look at clause 38(a), where actual or potential harm could be demonstrated, it says:

> A person who is, or has been, engaged in work related to the administration or enforcement of this act must not disclose confidential information obtained in, or in connection with, that administration or enforcement except—
> (a) for a purpose connected with the administration or enforcement of this act, the Agvet Code of South Australia or a prescribed act.

I understand that health acts will be prescribed acts. That is my advice, so they would be covered. Clause 38(a) is specifically for that purpose. Notification to the EPA is provided for where actual or potential harm can be demonstrated. This is done in order to allow possible prosecution under the Environment Protection Act. Clause 38 also provides for notification of the Department of Human

Services for harm to public health and to the Department of Workplace Services for harm to occupational health.

The Hon. Caroline Schaefer: Where does it say that?

The Hon. P. HOLLOWAY: It is the intention of the government that those acts would be prescribed.

The Hon. T.G. Cameron: What about local councils?

The Hon. P. HOLLOWAY: In relation to that matter, local government has no powers with regard to land contamination, so notification would not achieve any relevant action.

The Hon. T.G. CAMERON: What about a basic right to know? I am not a local government champion, but what about a basic right to know? Councils may have ratepayers coming in and asking about contamination.

The Hon. P. HOLLOWAY: Most land contamination by registered rural chemicals will be transient. We have a division between state and local government, and it is the state government's responsibility in these areas in relation to health, occupational safety and environmental damage, which is why the notification applies under those state acts so the state authorities can do their work in relation to those matters. Local government itself does not have a role in relation to that and notification of them would require additional costs for no apparent benefit.

The Hon. T.G. CAMERON: I am quite satisfied with the minister's answer in relation to clause 38(a). In his own words he has said that the Environment Protection Act is a prescribed act and therefore the EPA will be notified. However, I am somewhat puzzled by the minister's response or attitude to the Hon. Ian Gilfillan's new clause 37A(b), which provides:

> (b) in the case of land situated in the area of local government council—

Whilst I take on board the minister's statement that there is no power here for a local government authority to act or that it is not required to act, all that the amendment standing in the name of the Hon. Ian Gilfillan is asking for is that the minister give written notification of the order, because it provides:

> In circumstances where there are reasonable grounds for believing that there has been contamination of the land that is not trivial, taking into account current or proposed land uses, the minister must give notification.

One would have thought that, where we have land contaminated and it is not trivial, we would advise the local government authority as the body responsible for current land use and potential future land use. It would be a pity if a council was placed in a position where it was notifying ratepayers and giving them information in relation to land of which it was ignorant merely because it had not been notified that the land it was responsible for had become contaminated. It seems like a pretty straight forward request on the part of the Hon. Ian Gilfillan. Unless I hear good argument to the contrary, I would be compelled to support it.

The Hon. P. HOLLOWAY: The Hon. Ian Gilfillan's amendment refers to compliance orders, so we are not necessarily talking about land here. His amendment suggests that we should notify the local council in which the land is situated of the compliance order.

The Hon. T.G. Cameron: It takes into account the circumstances.

The Hon. P. HOLLOWAY: The compliance order may require the farmer or land owner to maintain equipment or take some other action in relation to complying with the order. It is not necessarily related to land—that is the point I am trying to make. We are talking about compliance orders and requesting a particular person to behave in a particular way, which is why it is not a question.

The Hon. T.G. Cameron: Landholders go to their council if they do not have the information.

The Hon. P. HOLLOWAY: This is about compliance orders. You have to ask the question: for what reason would local government need to know about a compliance order to, say, maintain equipment? That is against a particular person and does not relate to the land as such. We are not talking about issues, as we were earlier, in relation to land; we are talking about compliance.

The Hon. CAROLINE SCHAEFER: There is some confusion here. My understanding of the last of Mr Gilfillan's proposed amendments is that it applies to compliance orders. My understanding of compliance orders is that they are mostly of a very temporary nature. For instance, a broadacre farmer may be ordered under a compliance order to cease spraying with some particular types of herbicide during the time that adjoining properties such as fruit blocks are flowering or at the time when adjoining vineyards are setting.

There may be a compliance order, as the minister has rightly said, to change some specifications to a particular piece of spray equipment, for instance, to put a skirt over a boom spray so that spray cannot drift during certain times of the year. That is my understanding of a compliance order. As I understand, it is applied only after a warning. It would seem to me to be perhaps somewhat draconian to require such orders to be registered with local government.

If it were a more serious matter of non-compliance bordering on, if you like, a requirement for a trade protection order, then my understanding again—and I may well be wrong—is that contaminated land (which seems to be the concern) is already notifiable at point of sale under other legislation. If that is the case, I would see this additional set of orders to be unnecessary or duplicating that which is already there. I may not be correct, but that is my understanding. My understanding of compliance orders is that they are of a temporary nature and very often of a seasonal nature.

The Hon. P. HOLLOWAY: Essentially, the Hon. Caroline Schaefer has correctly identified the situation. Compliance orders are indeed of the nature that she describes and we do need to distinguish between the earlier debate which we had on trade protection orders. The only other comment I would make is that, through adding this additional complication of requiring local government to be notified, there is no doubt that PIRSA is the relevant department to which people will come if there is a problem in that area. If there is a complaint because someone is using chemicals, perhaps spraying in some manner that is perceived to be dangerous or threatening to other people or property, then the complaint will invariably come through PIRSA. If it comes to another agency, it will be referred to PIRSA.

We would not achieve anything by requiring reporting to council. All you would do is create another complication which would add expense and potentially even provide a complication that, ultimately, someone could use to challenge a compliance order for no real purpose. We do not require councils to be notified about everything that happens in every other area related to state government activities. We do not require them to be notified if, for example, the police take action against a farmer in an area for a particular matter. All this would do is require an additional complication for no particular value at all. If someone could suggest any benefit from this, then I would be interested to hear it. I think that we

are talking about something quite different from the trade protection orders we discussed earlier.

The Hon. IAN GILFILLAN: I want to make two points. Some of the compliance orders may be relatively trivial. However, this is quite close to reality. If there has been a severe over application of a powerful herbicide on a property adjacent and upstream, up water, or whatever—whether it be a stream or a watershed—and the area that has had the application of the herbicide is subject to irrigation—either flood irrigation or spray irrigation—the actual hazard to adjacent and further downstream landowners is extreme. We have a case in Edillilie on the west coast where that has happened, and it has happened in such a profound way that it is quite irresponsible for the people who are responsible for the area, the local government, to not know about it, because some of the herbicide may well have washed into public waterways and then could go further.

Even if it is a defective sprayer or some practice in which improper spraying practices put at risk the health or the quality of life of the people living in that area, there is a direct responsibility to the people in local government whether or not they have legislative power to control it, so they are entitled to know. The second point is a reflection on the minister's glib referral to clause 38—his saying that it is all covered in clause 38. Members should note that the only way information will get to the EPA is if a person engaged in work related to the administration or enforcement of this act chooses to pass on the information. There is no obligation, so that much of the action could easily have been totally without any reference or knowledge transferred to the EPA at all. To say that clause 38 covers the intention of my new clause 37A is wrong.

The Hon. P. HOLLOWAY: The honourable member referred to an example that I think occurred on the west coast. In that case, I am advised that the primary industries department quite properly notified the EPA as to whether further action needed to be taken. Of course, that is what would happen. A range of things could happen under compliance orders. What the Hon. Ian Gilfillan's amendment to clause 37A says is 'the minister must give written notification of the order and a description of the circumstances'. There could be an awful lot of letters being sent to local government about what could be relatively trivial matters. I can assure the honourable member that, if a serious case is involved—and, if it is so serious or a threat to trade, it would trigger trade protection orders—then clearly that will trigger other action.

However, if there was some reason for local government to know about a matter, then I am sure that my department would (and does) notify local government. However, this is a requirement which says that you have to give written notification and a description of the circumstances in every matter, no matter how trivial. If there is a reason—

The Hon. Ian Gilfillan: How many compliance orders will there be in a year, do you expect—20, 30?

The Hon. P. HOLLOWAY: We will not know until the legislation is enacted. Remember that warnings may well be given first. Hopefully, there will not be too many, because there will be compliance. The whole purpose of the bill is not to set up a massive costly bureaucratic structure which will require resources to be placed in bureaucracy. What we want is for the rural community to try to comply. We do not have the resources in primary industries—or I suspect in most other areas of government—to be able to afford a whole lot of bureaucratic processes registered and so on.

What this bill is all about is trying to get the users of agricultural and veterinary products to do the right thing, that is, not to risk the trade of Australia: that is what it is all about. We have a system of warnings, compliance orders, trade orders and so on. We have to have the teeth so that, if there is abuse, we can deal with that abuse. What I suggest is that the honourable member is setting up something which is unnecessary bureaucracy and which will achieve no particular purpose. I repeat again that, if there is some need for local government to know about a particular thing, then I am sure that my department will (and does) let local government know.

The Hon. T.G. CAMERON: In relation to clause 38(a), my understanding of what the minister said was that the words 'or a prescribed act' covered the Environment Protection Act and that, if the circumstances outlined in the Hon. Ian Gilfillan's amendment were to occur, the Environment Protection Authority would automatically be notified as the body responsible for the Environment Protection Act. Is that correct? How many compliance orders are generally issued by the minister? How many of those orders would have constituted an order according to the definition set out by the Hon. Ian Gilfillan 'in circumstances where there are reasonable grounds for believing that there has been contamination of land that is not trivial and takes into account current or proposed land uses'? If the government intends notifying local government every time it needs to know, in the minister's or the government's opinion, what circumstances constitute a need to know?

The Hon. P. HOLLOWAY: I will deal with the second question first. The honourable member asked how many compliance orders are issued. Of course, this is a new bill and the compliance orders have not existed under the previous legislation. As this is a new measure, we—

The Hon. T.G. Cameron: A bean counter could make estimates—unless the answer is that you don't know.

The Hon. P. HOLLOWAY: Yes, that is the answer, because compliance orders are a new thing.

The Hon. T.G. Cameron: How can it be overly bureaucratic if you don't know?

The Hon. P. HOLLOWAY: It is overly bureaucratic in the sense that it is unnecessary.

The Hon. T.G. Cameron: It might only be one.

The Hon. P. HOLLOWAY: Even if it was one, it would be unnecessary. The point is that there may be a large number; there may not be. Hopefully, if the bill is working correctly and if people do the right thing, there will not be any compliance orders or trade protection orders. That is what we would like, but that will not happen. This bill is in place to promote responsible use of agricultural and veterinary products. However, it is difficult to say how many compliance orders there would be, because obviously that depends on compliance. It depends also on how many inspectors we might have. I have been given some advice that currently there are about 50 complaints a year, of which about half are trivial and about half are easily sorted out. We get about one compliance order a month.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: It's one letter a month that is not doing anything. Why do anything that is unnecessary and has no purpose but costs money? Do we not have a responsibility to taxpayers to use money wisely and spend it on things that are worth spending on, not spending it on sending letters to councils that do not need to know? We do

not advise local government about every other decision that government makes.

The Hon. T.G. Cameron: According to the Local Government Association and the union that represents them, they do want to know.

The Hon. P. HOLLOWAY: The Local Government Association wrote a letter suggesting that there should be notification under the Environment Protection Act, and that was covered by paragraph (a) of the amendment. I have already argued—successfully I hope—that that was unnecessary in the sense that it is already allowed for. That is the intention of the bill. That is why clause 38(a) is there—to ensure that risks to the environment are placed with the EPA, risks to health are covered by the DHS and risks to occupational health are covered by the relevant department. Of course, in relation to trade risks, that is primary industries' responsibility, and that is where responsibility lies in relation to this bill.

The Hon. CAROLINE SCHAEFER: The closest example I can think of is when a property is put under notice for failure to take reasonable steps to eliminate, eradicate or notify a notifiable weed such as skeleton weed. Is there such a requirement under that law? I assume that primary industries puts those notices on. Is there a requirement under that law to notify local government, or is that in fact administered by local government?

The Hon. P. HOLLOWAY: I think the Animal and Plant Control Commission would do that. It is now under the Department of Water, Land and Biodiversity Conservation.

The Hon. CAROLINE SCHAEFER: If that is the case, I would probably see this amendment as unnecessary. Those sorts of orders have been around for a long time. I can tell you that if any property has such an order on it—I do not know who notifies them—you can bet that the neighbours will all know about it. As I say, I suspect that the compliance orders would not be necessary for notification and it seems to me that more serious issues are already covered. I wonder whether what Mr Gilfillan is really talking about is which agency will have control of such notification and orders. Frankly, I would far prefer that that be the role of primary industries than the EPA, which is now given the stronger role as an enforcing policeman than as a facilitator.

The Hon. P. HOLLOWAY: I think there is an interaction between this act and the Environment Protection Act. It is PIRSA's responsibility in the first instance. That is where the complaints will go and, therefore, they will identify issues and take the initial action. If there is damage to such an extent, that is when the EPA act will come into play and action will be taken. So that is the way this will work.

The Hon. CAROLINE SCHAEFER: Am I correct in assuming, then, that land which is contaminated in a non-trivial manner as that described by the Hon. Ian Gilfillan would be notifiable under the Environment Protection Act?

The Hon. P. HOLLOWAY: I am informed that the EPA has a public register of the so-called section 7 statements but it is the land conveyancing act, as I indicated earlier, under which notification is made when there is a change of ownership. But the EPA, I am informed, has a public register of section 7 events.

The Hon. IAN GILFILLAN: I am sorry that there has been what I see is a lack of appreciation that this new clause of mine is really a matter of sharing information. I think it has been demonised in some way as though it is going to bog down vast sections of the bureaucracy in the minister's department. If this act is properly enforced, authorised officers who will be public servants, if they are doing their job properly, will be checking up on complaints—in fact, even investigating some matters on their own initiative—and the requirement in my new clause really is no more than sharing information which may or may not be acted on by the EPA or local government. I cannot for the life of me see that it is doing any harm. Although my colleague the Hon. Terry Cameron seems to have been placated by the minister's explanation to cover my paragraph (a)—

The Hon. T.G. Cameron: I'm, still with you on paragraph (b).

The Hon. IAN GILFILLAN: He rides with me on paragraph (b) and may be tempted to tolerate paragraph (a) under the circumstances. It is remarkable, and somewhat regrettable, how quickly new ministers and new governments seem to acquire the habits and practices of predecessors from other regimes. I am not sure whether or not there is a coaching regime, but if one could carry an argument by a profusion of somewhat vague and disconnected statements I would have been persuaded to dump my case. Now I am not; I am perverse on this. I indicate to the chamber that, if I am unsuccessful on the voices, I intend to divide.

The Hon. T.G. CAMERON: I have one final question, after being dumped on by the Hon. Ian Gilfillan for not supporting him on paragraph (a), despite the minister's assurances. If land is contaminated, according to the definition that has been put forward by the Hon. Ian Gilfillan, if it is not trivial, taking into account current or proposed land uses, how would the local council find out, because that is where the ratepayer will go? They will not be going to an agricultural and veterinary products department, or whatever it is called. How will they find out?

The Hon. P. HOLLOWAY: Section 7 statements are not really available, except at the point of sale. What we are trying to do is deal with the behaviour of the person on the property to which the problems relate and to get them to change their behaviour. That is again what compliance orders are all about.

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: I think the Hon. Ian Gilfillan makes these sorts of accusations, but I would like to think that, in the years I was in opposition, I was very practical in relation to a number of other bills in terms of not supporting amendments that had no real purpose. If there is a genuine reason for it, if members note some benefit in it, my record in the parliament shows that I would support such amendments. If there is no real purpose for doing it—and I would suggest to this chamber that the Hon. Ian Gilfillan has not demonstrated any reason or benefit to come from the notification—then I suggest it is unnecessary.

The Hon. T.G. CAMERON: Does the minister agree that ratepayers in the first instance are most likely to go to their local council to find out whether or not the land in which they are interested has been contaminated? How will the local council be advised that land is contaminated? According to the minister's own words to the parliament, we are possibly talking here about 20 or 25 notifications per year. This is in relation to whether there are reasonable grounds for believing that land has been contaminated, and it is not trivial, taking into account its future and proposed use. It would seem to me that the amendment moved by the Hon. Ian Gilfillan is not overly bureaucratic. It does not create a lot of work for government. We have established that it would be merely notifying the relevant councils somewhere in the vicinity of 25 times a year that there is the possibility, or there are

reasonable grounds for believing, that land under their control has been contaminated.

How are they going to find out if there is not some automatic requirement? But, more importantly, what does that ordinary individual do—the one that the Labor Party champions—who goes into his local council, perhaps interested in purchasing a piece of land, and finds out from the council that it has no notification of any problem with it. He might then go ahead and buy it and subsequently find out that this piece of land is one of those that fell within the ambit of this definition. That is, that there were reasonable grounds for believing that it had been contaminated; that those grounds were not trivial; and that it could have been contaminated in relation to its current or proposed use, and we seem to be covering it up.

So, I ask the minister: does he believe that ratepayers or prospective purchasers of property have the right to go into their local council and find out whether the land that they want to buy has been contaminated or not? Does he think they should have the right?

The Hon. P. HOLLOWAY: Yes, and they have. That is covered. If land is contaminated then it will be registered under section 7 of the Land and Business (Sale and Conveyancing) Act, so that would have to be declared when land is sold. But, as I am advised, that is the only situation in which the information is available.

In his comments I think the honourable member was confusing the situation here with that of compliance orders. I gave information earlier that our best guess might be that there could be about 50 complaints a year, because that is currently the situation. But in relation to land there might be only one or two a year, I am advised, that would need to be covered by the section 7 statements. So, we are talking about only one or two a year in relation to that. In relation to compliance orders there would be a much greater number, and as I said—

The Hon. T.G. Cameron interjecting:

The Hon. P. HOLLOWAY: But they don't necessarily refer to land, anyway. It could be that there is no problem with the land but that the person is spraying too close to other property or something like that. It may not have an impact on the land but instead be about that person's behaviour.

The Hon. T.G. Cameron: Gilfillan's amendment is only referring to land.

The Hon. P. HOLLOWAY: Well, that is the point I was making. In that sense it is redundant because it is already the case that if there is non-trivial contamination of land then it would be registered under the section I mentioned earlier, anyway. That is the whole point that I was trying to make: that situation is covered.

The Hon. IAN GILFILLAN: Members are short on imagination if they cannot conceive that there are situations where a compliance order may very well be applied. There are consequences of certain activities on land that is reasonably believed to be quite substantially contaminated. I outlined one example that did actually occur at Edillilie on the West Coast. They do not all have to be quite as specific as that, but failure to comply with an instruction not to irrigate or not to cultivate or not to put stock on to certain areas, which may be deemed to be part of the substance of the compliance order, are indications of situations which, for the life of me, I cannot see should not be made available to the EPA, as a matter of course. It could then decide whether or not to act, and whether to forward general information to the community since, as I have indicated before, some of these activities do have quality of life and maybe even health threatening aspects to them. For that reason, I think that my amendment is eminently suitable and I look for support. I realise that I have pretty tough competition for the attention of the committee with some members in the gallery, but, with due respect, I do not feel any jealousy.

The Hon. P. HOLLOWAY: I just repeat that, in cases where there is considerable contamination, the EPA has been notified in the past and will continue to be notified.

The Hon. NICK XENOPHON: What is proposed and what is now in force does not give prospective purchasers of land or landowners information as to what must be done to rectify the problem of land that is contaminated. In other words, the section 7 notice might simply say there is contamination here, but they do not have any real idea as to what the true cost will be in terms of rectifying toxicity on land.

The Hon. P. HOLLOWAY: I am sure that is correct. But is it really the government's role to act as a sort of remover of risk in such cases? It is the duty of a government to notify any purchaser of a property that there may be a problem, but it is obviously something about which the purchaser, having been notified of that, would have to take their own advice. It is a little like a building: governments do not tell people whether the building is sound, or those sorts of things. Clearly, it is a case of buyer beware. It is imperative that the person be aware of such risk, and that is why they are registered under the relevant act—the Land and Business (Sale and Conveyancing) Act—so people are aware of it. But it really is, I guess, up to the potential purchaser to make their own inquiries. I do not really see how a government could effectively indemnify people in relation to those risks if it was not responsible for it.

The committee divided on the new clause:

AYES (7)

Cameron, T. G.	Elliott, M. J.
Evans, A. L.	Gilfillan, I. (teller)
Kanck, S. M.	Stefani, J. F.
Xenophon, N.	

NOES (13)

Dawkins, J. S. L.	Gago, G. E.
Gazzola, J.	Holloway, P. (teller)
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stephens, T. J.
Zollo, C.	

Majority of 6 for the noes.

New clause thus negatived.

Clauses 38 to 42 passed.

Clause 43.

The Hon. CAROLINE SCHAEFER: I will ask a question with regard to the drafting regulations. Most of us know that the devil in any legislation is in the regulations. I simply seek the assurance of the minister. Prior to drafting specific regulations and during this debate there has been considerable reference to such specifics being dealt with in regulations. I would ask that relevant bodies—possibly including myself as shadow minister but certainly the South Australian Farmers Federation and any other relevant bodies—be consulted prior to the drafting of those regulations.

The Hon. P. HOLLOWAY: I have already written to the South Australian Farmers Federation and I will read out the relevant section of my letter, as follows:

The bill is intended to be fairly broad, the regulations much more detailed. Where regulations are to be migrated from acts to be repealed, they will be scrutinised for utility and equity in the process.

Consultation with stakeholders will be undertaken in this process. Where new regulations need to be developed for novel areas of the bill, more in-depth consultations will occur. SAFF will be one of the more important commentators in the process, and I undertake to have some consultation or a copy of the regulations sent to the shadow minister before they are sent for proclamation.

Clause passed.

Schedule and title passed.

Bill taken through committee without amendment; committee's report adopted.

Bill read a third time and passed.

EDUCATION (COMPULSORY EDUCATION AGE) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 10 July. Page 455.)

The Hon. M.J. ELLIOTT: I rise to support the second reading of this bill but indicate that the Democrats are unlikely to support the third reading. I am a former high school teacher and have in fact had two years teaching years 6 and 7. I believe that I have a reasonably good handle on what happens in schools. My experience has been totally within country schools, varying between a small area school like Swan Reach to a larger school like Whyalla High School. I have also taught at Renmark and at Mount Barker. I think it is true that everybody wants to see every child get the best possible education, but I do not think this bill will achieve that end. In fact, it is quite likely that this bill will actually do the exact opposite. It seems to me that trying to use compulsory attendance at school for late adolescent, near adults is simply doomed to failure.

The major challenge for us, as a community, is to provide an education which is relevant and which children in late adolescence can see will take them somewhere they want to go. They are going to have to be offered something which is relevant, interesting, stimulating and which responds to them and where they are at the time. Before I get back specifically to late adolescents, I would like to suggest that some of the problems we are seeing and some of the reasons that kids are leaving school early, I think, come from earlier in their schooling.

I am pleased to see that the government has made a first move in terms of decreasing class size in junior primary. That will not happen until next year and, at this stage, I think there are 160 teachers going in and, as I understand it, they will not be put into schools evenly. They will be put into schools in what is described as 'areas of greatest need'—whatever that might mean. The Democrats' view is to get the sort of class sizes we need. In junior primary alone we probably need an extra 450 teachers. Nevertheless, the government is moving in the right direction there. I think for the most part junior primary and primary schools are catering quite well for the needs of our young children, although I would have to say that I think class size is a major impediment to what they can deliver.

Something that came out very strongly in the Drugs Summit is that schools are seen as having a role that goes well beyond reading, writing and arithmetic, that schools have an important role to play in the development of the individual in terms of their self-esteem, etc. We should do everything we can to help families and parents know how to parent but, as much as we try, schools will always play an important, significant role in the development of the young person and their self-esteem. That will not be achieved in classes of near on 30 students, which we see in primary schools, and which I hope we will not see for much longer in junior primary classes.

The area where things go sadly wrong in the South Australian system is the transition from year 7 to year 8, the transition from primary to junior secondary school. Children go from an education system that is largely student focused in year 7 and, when they arrive in year 8, the system is subject focused, taught by teachers often with university degrees in specialist areas such as science or mathematics, who take a far more academic approach and for whom the subject itself has very great significance. Unfortunately, it is true to say that, in many high schools, getting a junior secondary class is not seen as a major reward for your efforts in terms of getting a degree and providing stimulation for a person who is academically minded.

In year 7, as I said, the classes are very student focused. The students have one teacher for most of the curriculum with classes of between 26 and 30 pupils. The class size stays about the same in secondary school but the students find they get one teacher for a 40-minute block, then the next 40-minute block is taught by another teacher in another classroom on the other side of the school, and the next 40 minutes is spent with yet another teacher somewhere else in the school. They are constantly moving and they do not have a significant adult with them for much of the day.

Moving from year 7 to year 8 is a major change, and some children do it very smoothly. I remember going from year 7 to year 8 and it was exciting because I was at high school. I do not think it caused too much trauma but I was a reasonably quiet kid who kept his nose clean, kept reasonably quiet, kept out of trouble, and was reasonably academically inclined, but a lot of kids are not. That means that a lot of kids go into a system where suddenly they become a very insignificant cog in a very big machine, where the teachers are not significant others, they are not significant adults, because they do not spend enough time with them to develop the sort of relationship that you see in primary schools.

It is almost 10 years since a review into the junior secondary years was undertaken. To my knowledge that review has never been publicly released. I know that a number of people in high schools believe that many of the recommendations contained in that report about developing middle schooling should happen. A number of high schools claim to deliver middle schooling, but usually it is nothing more than the fact that they have separated out the two schools and they are still delivering middle schooling under the old high school model where students have large numbers of teachers in a very impersonal environment.

Just as kids are hitting puberty, just as life is getting overstimulated in a whole lot of ways, school is not providing any real stimulation, certainly not academically, and we are not providing significant others in terms of adults to the kids. It is no wonder that a lot of kids get turned off at that time. So far as kids have needs, academically they might be picked up because you give kids tests and you find out what they know and what they do not know. However, in terms of other needs—the huge needs—that kids have at that age, who is going to recognise them? The home group teacher often does not even teach them a subject or, if they do, they might have

them for only three hours a week. They have 30 kids three hours a week and they are supposed to pick up the individual needs of each student and be able to help them. It is simply not happening.

If the government is serious about retention at schools, and kids wanting to stay at school—and that is important; it is no good just saying, 'You have to stay at school—then we will have to make schools far more relevant. I am not talking just about the years we are making them stay: I am talking about the years when they get turned off. You do not see many kids in grade 7 who are turned off, but by the end of year 9 there are heaps of them. It is years 8, 9 and 10 when we really lose the kids. We must change middle schooling very radically if we are serious, but none of that is on the agenda. What are we doing? Just raising the compulsory age of leaving by one year.

Are we ready for it? Well, the budget certainly announced expenditure which, I think, is $28.4 million over four years. If that is right and that money was spent just on teachers, that is about 135 teachers a year to support 133 secondary schools and about 1 000 extra students. These kids, as I said, are turned off schooling and we are going to put them into still quite large classes (and some schools will not get those extra teachers) when, in fact, often they need far more specialist attention and specialist subjects. We are not putting in, first, the personnel to do it; but, more importantly, what I cannot see is the relevant subject material being put into schools.

We are flying on a hope and a prayer at the moment that, next year, the kids will go to school and the schools will deliver the new and relevant subjects. I do not believe that will happen and I think that it is irresponsible for this parliament to decide that we will make these kids come back to school, which will not only not work for them but will also destroy it for the kids who want to be there now. We will make them stay when no evidence has been put forward in this place that the schools are ready for them; that the schools intend to offer a relevant curriculum. What it will do is create a huge and extra load for the school counsellors. Many more kids will be put on probation, expelled and all those sorts of things. They will be put onto the merry-go-round which, at the end of the day, for many kids may indeed make things worse for them, when the intention is to make it better.

If they get on the truancy, misbehaviour, expulsion roundabout, which a number of them will do, we are more likely pushing them into more trouble rather than less. I want to see kids stay at school longer, but I do not believe that we should try to achieve it by simply using compulsion: we must change the way schools operate at all levels. As I said, I think that the greatest need today is in years 8, 9 and 10, and we should be dusting off that junior secondary review and doing something about it. The previous government, unfortunately, was not prepared to do that.

Having then addressed those middle years and getting kids wanting to stay at school, finding that it can be an enjoyable experience (which it is not for many of them at the moment), we need to ensure that the kids who are staying on have sufficient staffing levels and that suitable subjects are being provided; or, indeed, to take the approach that has been advocated in the past that perhaps these kids should not be at school: they should be at TAFE facilities. However, TAFE facilities must also be providing courses that are relevant for them. Again, I see no—

The Hon. T.G. Cameron: That's questionable.

The Hon. M.J. ELLIOTT: Whether they are?

The Hon. T.G. Cameron: Whether they are.

The Hon. M.J. ELLIOTT: I do not think they are and they are not catering for everybody. People with needs will fall through the cracks at this stage. Perhaps we should look more carefully at what is happening in Victor Harbor at the moment, where a school is separating its middle school and its senior secondary school, and the senior secondary school is going onto the same campus as the TAFE. That is a sensible move to me in that these kids in years 11, 12 and 13 are pretty well adults. You are then able to offer the breadth of opportunity, whether it be a purely academic one or whether it be more of the TAFE style of course. Some courses at TAFE are also academic; I am not trying to be disparaging about TAFE, but I do think that you must offer more spread.

We should look also at the physical arrangement of the way we deliver, but the bill does none of this—it raises the compulsory leaving age by one year. I said that I would support the second reading, but unless the government can put on the record in this place a very clear demonstration that the schools are ready for these kids who are being forced to come back I will oppose the third reading.

The Hon. T.G. CAMERON: I support the second reading of the bill. My position is reasonably similar to the Hon. Mike Elliott's. However, I think that this bill will need to sit on the *Notice Paper* for a long time before I support the third reading. I say that because I do not believe that this government—like the former government—will be prepared to address some of the problems facing school leavers, particularly—

The Hon. M.J. Elliott interjecting:

The Hon. T.G. CAMERON: Yes, I agree, particularly young boys in the 14, 15 and 16-year-old category. As a previous speaker outlined, this is a fairly simplistic bill. It is about raising the age from 15 to 16 years. It does very little about fixing some of the underlying problems that exist in our education system. The bill seeks to compel students to remain at school—or in further education or training—until the age of 16. I note that this will brings us into line with the rest of Australia.

I guess the main thrust of the bill is to make the state responsible for the education of young people until they reach the age of 16. The exemptions have been expanded to include giving the minister power to grant an exemption from any requirement under sections 74 to 81 of the Education Act 1972, conditionally or subject to conditions, such as whether the child attends training for certain hours per week instead of school. The minister will also be given the power to vary or revoke an exemption. There is also a penalty for contravention or failure to comply, attracting a maximum penalty of $500.

The government has argued that increasing the school leaving age means a number of important things for the education of our young people. The government argues that it increases the state's responsibility for the education of our young people, and that is correct. The minister has said that these amendments will send a strong message to schools about their responsibility for the educational welfare of young people. How the minister can make that claim, I do not know. I do not believe that it will do any such thing.

There is evidence that suggests that some students, mainly those who do not fit into the mainstream education system, for whatever reason, when they reach the age of 15 are left to fend for themselves because of the stress—and often their behaviour—placed on teachers and their peers. Often these

children—a high proportion of them boys—are leaving school in years 9 or 10 with little or no education. Some are barely able to read and write. Clearly, this is an unacceptable situation.

Research suggests that a high proportion of these students end up in very low paying jobs—mainly casual—that is if they can find employment. They are often amongst the state's long-term unemployed or they end up crossing paths with the criminal justice system at some stage. It is particularly depressing when you note that these young kids—more often young lads—are moving into an employment market where unemployment figures for teenage children, particularly the group leaving school early, are in the vicinity of 30 to 40 per cent.

I do not believe that simply raising the school leaving age will address the education system's shortfalls. Often students who leave school as soon as they reach 15 years do so because they find no value in what they are being taught. They find it difficult to fit into the conformist nature of the system. As a result of behavioural problems, they are often treated unfairly by teachers or they cannot cope within the system for various reasons. That is why some of the alternative programs mentioned by our colleagues in another place, such as the Pathways program, have been successful. These kids cope better with a less formalised or less conformist approach to their educational needs. They feel respected and they are treated as young adults rather than children.

My objections to the direction we are currently taking in our education system are not as eloquent as previous speakers. I have previously made objections, and I will do so again—but now is not the time to make a detailed speech in relation to it. We need a radical overhaul of the way we deal with education in this state. Simply tinkering around the edges is not good enough for the young people of South Australia or the future of South Australia.

That is what these amendments are really about: tinkering around the edges. The government can show some lead in this. If education and health are the two priorities of a Labor government, then merely pointing to a set of statistics at the end of their four years, saying, 'We gave them priority, we put more money into them, we have done our job,' I think will see the government viewed by the electorate as a real failure. There needs to be a real public debate about our education system and, in particular, how it is failing the 3 per cent of our young people these amendments are targeting.

The delivery of education should be about what is best for all students, not what is best or easy for governments or easy for the education system. I add to the call made by the previous speaker: if this government wants to be serious about education, then it has got off to a very poor start. Often, kids who leave at 15—and I know many examples—are children who are easily categorised in the too hard basket by teachers and by the system. While I support ensuring that the state upholds its responsibilities for the education of all young people, I seriously question whether the proposal being put forward will have the desired effect.

I have indicated that it is only tinkering at the edges: others will probably have stronger words than that to use. Forcing these kids to stay in schools longer without providing them with a relevant education that meets their needs and personalities is a change that creates more problems than it solves. I would like to put the government on notice that, unless there are substantial systemic changes to cater for the 3 per cent of early school leavers, nothing will change and our schools will have to cope with angry 15 year olds being forced to stay in school until they turn 16, with the probability that they will ruin the potential education that many of the students in their class would otherwise have had. I support the second reading.

The Hon. A.L. EVANS: I support the second reading of this bill. I left school at 15 due to family circumstances, and regretted this: it has resulted in my having to catch up several years at night school. I believe that the two previous speakers have quite realistically identified that simply raising the school leaving age will not address the problem. Not all young people want to continue with schooling. However, I am encouraged by the minister's statement that the government proposes to improve counselling and one-on-one service to help students identify a clear path.

Not only are young people needing direction for a career path they are to follow but they are also needing direction on other issues that they are facing. As we are all aware, a 16 year old is at the age of experimentation, and that will include drugs, alcohol and sex. School counsellors need to play an active role in minimising any entry into schools of drugs, alcohol and sexual activities. It is important that they receive counselling on these issues, not just for their sakes but also for the sake of the younger students who look upon the older students as heroes. The way the older students conduct themselves will impact greatly on the younger students.

I am pleased by the government's recent decision to increase funding to assist school chaplains in school drug strategies. I understand that chaplains will now be included to receive free drug education along with teachers and school counsellors. There is no doubt that the employment climate is changing. There is a great demand for people who have received a higher education. I understand that in the last year statistics show that 93 per cent of 16 year olds were at school, in employment or in training.

The stress on families will vary greatly, depending on whether the 15 year old is unemployed or still at school. Currently, we have a situation where a young person could leave school at 15 and be unemployed, sitting around at home. This would create enormous pressures on the family unit. This bill will reduce that pressure. If the statistics are to be relied upon, the 16 year olds are likely to find meaningful employment. This bill would reduce pressure on families and, for this reason, I support it.

The Hon. J. GAZZOLA secured the adjournment of the debate.

GAMMON RANGES NATIONAL PARK

Adjourned debate on motion of Hon. T.G. Roberts:

That this council requests Her Excellency the Governor to make a proclamation under section 43(4) of the National Parks and Wildlife Act 1972 to vary the proclamation made on 15 April 1982 constituting the Gammon Ranges National Park to remove all rights of entry, prospecting, exploration, or mining pursuant to a mining act (within the meaning of the National Parks and Wildlife Act 1972) in respect of the land constituting the national park.

(Continued from 9 July. Page 429.)

Order of the day discharged.

DRUG COURT

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a minister-

ial statement made by the Premier in the House of Assembly yesterday on the topic of the Drug Court.

NATIONAL WINE CENTRE (RESTRUCTURING AND LEASING ARRANGEMENTS) BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): 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 National Wine Centre (the Centre) was established as a statutory authority under the *National Wine Centre Act 1997* (the 1997 Act) with a range of functions and objectives associated with promotion/development of the Australian wine industry and management of a wine exhibition. This followed the execution, in April 1997, of a Memorandum of Understanding between the State of South Australia and Winemakers Federation of Australia Inc (WFA) concerning proposed arrangements for the Centre.

It has become apparent, since the establishment of the Centre, that the mutual objectives of the State and the wine industry for the Centre could more effectively be delivered through industry operation and management of the Centre. Under the arrangement with the industry, the industry will play a more direct role in the operation of the Centre and limit the financial exposure of the Government.

Enactment of the *National Wine Centre (Restructuring and Leasing Arrangements) Bill 2002* (the Bill) is necessary to give the Minister the clear authority to implement the restructure of the Centre and to put in place a long term leasing arrangement concerning the Centre's management and operational risk.

Under the Bill, the body corporate that is the Centre that was established under the 1997 Act will be dissolved and all of its assets and liabilities will be vested in the Minister. The Bill makes provision for the Minister to formally lease and transfer effective control of the operation of the Centre facility to an entity or entities. This entity or entities will be 100% owned and controlled by WFA. Such a leasing arrangement presents the best option for retention of a food/wine tourism icon while limiting Government financial exposure and will facilitate a constructive relationship with participants in an industry of major economic and regional significance to South Australia.

The Bill includes arrangements for boundary changes between the Botanic Gardens and State Herbarium and land that is, under the 1997 Act, defined as Centre land resulting in some of that land being handed over to the care, control and management of the Board of the Botanic Gardens and State Herbarium.

It was determined that implementation of the restructure of the Centre would be achieved most efficiently by repealing the 1997 Act and enacting a new measure specifically setting out the new arrangements.

Under the Bill the following provisions apply:

- The Minister replaces the body corporate known as the *National Wine Centre* which is dissolved with all of its assets and liabilities vested in the Minister.
- The boundaries between the Botanic Gardens and the Centre land are redefined in accordance with the plan set out in Schedule 1 of the Bill. Approximately three quarters of a hectare of land is, by means of redefining Centre land, to be put under the care, control and management of the Botanic Gardens, as agreed with the Board of the Botanic Gardens and State Herbarium.
- The care, control and management of Centre land (as redefined in the Bill) is vested in the Minister (in lieu of the Centre as in the 1997 Act). The Centre land, however, continues to be dedicated land under the *Crown Lands Act 1929* for the purposes of a wine centre, with similar objectives and functions as under the 1997 Act.
- Provision is made for leasing and transfer arrangements whereby the Minister may grant or renew a lease over the whole or a part of the Centre land and buildings for a term not exceeding 25 years. The Minister may transfer a Centre asset or liability or grant a right or enter into an arrangement in respect of the management of a Centre asset.
- After the enactment of the Bill, the Minister will grant a formal lease of the Centre land (as redefined in the Bill) to WFA through an entity (a WFA entity) established by WFA for this purpose. The Centre land remains Crown land that has been dedicated for the specific purposes set out in the Bill and these purposes will be mirrored in the lease.
- The Minister will be the entity for holding the land and buildings for oversight of compliance with the lease terms and conditions and accountability to the Parliament. Note that, while it is proposed that full operational responsibility will transfer to a WFA entity under a lease, the Minister will retain responsibility for major structural and mechanical maintenance of the Centre building.
- Certain terms are specified in the Bill as being terms that should be included in a lease granted by the Minister over any part of Centre land. These include terms under which the lessee is to indemnify the Minister for any liability to a third party that may arise from the lessee's use or possession of Centre land and terms restricting the use of Centre land by the lessee.
- The Minister will provide a report relating to the lease to be laid before both Houses of Parliament.
- No stamp duty is payable in respect of the restructuring transactions (specifically, a lease or agreement) under the Bill, and no obligation arises under the *Stamp Duties Act 1923* in connection with those documents.
- The Minister may make arrangements with respect to staff of the Centre and may transfer Centre staff to a position in the employment of another body. The status, duties, remuneration and continuity of service and entitlements to annual leave, sick leave and long service leave of existing staff of the Centre will not be disadvantaged in their employment conditions as a result of the transfer as outlined in the Bill. WFA has discussed employment issues with existing staff and intends offering employment to the majority of them.
- The Minister may require that a licence under the *Liquor Licensing Act 1997* be issued to a specified lessee or contracting party, subject to such terms and conditions as may be determined by the Minister after consultation with the Liquor and Gambling Commissioner. It is proposed that a liquor licence, and a licence to use the National Wine Centre name, logos and other intellectual property issued to the WFA entity operating the Centre, will be granted to the WFA entity while the lease remains in force.
- The lease will provide for the lease to be terminated by the Minister if the lessee carries out operations outside those provided for in the Bill and the lease. On the termination of the lease, it would be a requirement that the Centre facility be returned to the Minister in a suitable condition for ongoing operation as a National Wine Centre.

Each member of the board of the National Wine Centre tendered their resignation, effective 3 July 2002. Following the resignations of the board members, the Governor formally dissolved, on 4 July 2002, the board in accordance with section 9 of the 1997 Act. On the dissolution of the board, the Minister became the governing authority of the Centre pursuant to section 19 of the 1997 Act. Interim arrangements with WFA have been in place since that time and pending the outcome of this measure. There is no power under the 1997 Act for the Centre (whether operating with a board or the Minister as its governing authority) to enter into an arrangement such as that proposed in the Bill and, hence, the necessity for this Bill to be considered by the Parliament. Under the lease proposal with WFA, the Government's operating contributions will be limited. It is the opinion of the Government that management of the National Wine Centre by the wine industry present the best prospects for viable operations. If passage of the Bill is not secured, the lease of the Centre land and facility cannot proceed.

I commend the Bill to the House.

Explanation of Clauses

PART 1: PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Interpretation
This clause contains definitions of words and phrases used in the measure and provides for the Minister to have the power to make determinations for the purposes of Part 2 of the measure.
PART 2: CONTROL AND MANAGEMENT OF NATIONAL WINE CENTRE
DIVISION 1—MINISTER TO REPLACE BODY CORPORATE
Clause 4: Minister to replace body corporate
This clause provides for the dissolution of the *National Wine Centre* (the Centre) established under the *National Wine Centre Act 1997* (the repealed Act—*see clause 1 of Schedule 2*) and for the vesting of all of the Centre's assets and liabilities in the Minister.
DIVISION 2—CONTINUATION OF DEDICATION OF CENTRE LAND
Clause 5: Continuation of dedication of Centre land
This clause provides for the continuation of the Centre land (*see* the map set out in Schedule 1) as dedicated land under the *Crown Lands Act 1929* and declares the Centre land to be under the care, control and management of the Minister. The Centre land is dedicated for the purposes of a wine centre established—

1. to develop and provide for public enjoyment and education exhibits, working models, tastings, classes and other facilities and activities relating to wine, wine production and wine appreciation; and
2. to promote the qualities of the Australian wine industry and wine regions and the excellence of Australian wines; and
3. to encourage people to visit the wine regions of Australia and their vineyards and wineries and generally to promote tourism associated with the wine industry; and
4. to provide facilities and amenities for public use and enjoyment; and
5. to provide other services or facilities determined or approved by the Minister.

The fact that the Centre land is dedicated land under the *Crown Lands Act 1929* and is under the care, control and management of the Minister does not limit the ability of the Minister to enter into any lease or other arrangement with a person or body to provide for the care, control or management of the whole or a part of Centre land.
DIVISION 3—LEASING AND TRANSFER ARRANGEMENTS
Clause 6: Minister may lease Centre land
This clause provides that the Minister may grant a lease, to any person or body (a lessee) as the Minister thinks fit, over any part of Centre land for a term not exceeding 25 years. Such a lease may be renewed. A lease should contain certain terms listed in the clause and may allow the lessee to sub-lease part of Centre land with the consent of the Minister. A lease may include any other terms that the Minister considers to be appropriate in the circumstances.
The Minister must cause a copy of a report relating to the lease of Centre land granted by the Minister to be laid before both Houses of Parliament.
Clause 7: Minister may deal with other assets and liabilities
This clause provides that the Minister may, by agreement with a contracting party, transfer to the contracting party a Centre asset or a Centre liability (*as defined in clause 3*), grant to the contracting party a lease or other right in respect of a Centre asset, and/or enter into any other arrangement in respect of the management of a Centre asset or the handling or disposal of a Centre liability. Any such agreement will have effect according to its terms and despite the provisions of any other law or instrument.
Clause 8: Related provisions
This clause provides that stamp duty is not payable in respect of a lease or agreement granted or entered into by the Minister under Division 3 of Part 2. It also deals with other formalities that may be associated with such a lease or agreement.
DIVISION 4—STAFF
Clause 9: Staff
This clause provides that the Minister may make arrangements with respect to the staff of the Centre. A person who was, immediately before the dissolution of the Centre under clause 4, a member of the staff of the Centre may be transferred by the Minister, by written instrument, to a position in the employment of another person or body (the new employer). Such instrument takes effect from its date or a later specified date, may, before it takes effect, be varied or revoked by the Minister by further written instrument, and has effect by force of this measure and despite the provisions of any other law or instrument.
Such a transfer does not affect the staff member's remuneration, interrupt continuity of service or constitute a retrenchment or a redundancy and, except with the staff member's consent, must not involve any reduction in a staff member's status or any change in employment duties that would be unreasonable having regard to the staff member's skills, ability and experience. A person whose employment is transferred from the Centre to the new employer will be taken to have accrued, as an employee of the new employer, an entitlement to annual leave, sick leave and long service leave that is equivalent to the entitlements that the person had accrued, immediately before the transfer took effect, as an employee of the Centre.
A transfer under this clause does not give rise to any remedy or entitlement arising from the cessation or change of employment.
DIVISION 5—ISSUE OF LIQUOR LICENCE
Clause 10: Sale and supply of liquor
This clause provides that the Minister may, by instrument in writing, require that a licence of a particular class under the *Liquor Licensing Act 1997* authorising the sale and supply of liquor from the Centre land be issued by the Liquor and Gambling Commissioner to a specified lessee or contracting party, subject to such terms and conditions as may be determined by the Minister after consultation with the Commissioner. The *Liquor Licensing Act 1997* will apply in relation to the licence once it has been issued by the Commissioner.
SCHEDULE 1: Plan of Centre Land
Schedule 1 contains the plan of the Centre land.
SCHEDULE 2: Repeal and Transitional Provisions
Clause 1 provides for the repeal of the *National Wine Centre Act 1997.*
Clause 2 provides for necessary transitional arrangements in relation to the Centre land. It is proposed that part of the land that is currently Centre land under the *National Wine Centre Act 1997* be dedicated not for the purposes of a wine centre but for the purposes of the Botanic Gardens and State Herbarium and declared to be under the care, control and management of the Board of the Botanic Gardens and Herbarium.

The Hon. J.S.L. DAWKINS secured the adjournment of the debate.

LIQUOR LICENSING (MISCELLANEOUS) AMENDMENT BILL

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

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That this bill be now read a second time

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

Leave granted.

This Bill makes some significant changes to the provisions of the *Liquor Licensing Act* relating to complaints about noise and disturbance associated with licensed premises. It is similar to a Bill previously before this Parliament, but unlike that Bill, it does not deal with the question of the review of or appeal against licensing decisions.
Members will recall the background. There has been concern expressed by the live music industry and by hoteliers that noise complaints by local residents may put at risk the future of live music in hotels and clubs. The former Government had during 2001 convened a Working Group representing a range of stakeholders concerned in the issue of live music in hotels. The Working Group made some suggestions for legislative change to protect the interests of the live music industry. This Bill implements some of those suggestions. It also makes some minor technical amendments to the Act, in light of comments of the Supreme Court in a recent case.
The Bill amends the objects of the Act to refer to the 'live music industry' as one of the industries associated with the liquor industry. That is, it will be an object of the Act to further the interests of the live music industry, among others. The Bill provides that the objects of the Act must be regarded in deciding any matter before the licensing authority. This provision is intended to recognise the value and importance of this industry in South Australia and to make its interests a relevant consideration in licensing matters. For example, in deciding a noise complaint involving a live music venue, the Commissioner or the Court would have to consider, among other things, the furtherance of the interests of the live music industry.

The Bill also goes further, as a result of the recommendations of the Working Group, and adds new provisions designed to balance the interests of local residents and of licensees, in the process of dealing with noise and disturbance complaints. The Bill proposes that when a complaint is made, the Commissioner should serve a copy on the licensee within 7 days, and that there should then be a 14 day period before the matter progresses to conciliation or hearing. This is to ensure that the licensee is aware of the concerns being raised by the complainant, and also provides an opportunity for the licensee to address the problem, if he or she agrees that there is a problem, or for the parties to seek to resolve the matter directly if so minded.

Thereafter, a conciliation will normally be held, but the Bill also provides for a party to apply to the Commissioner to proceed directly to a hearing. This can occur if the Commissioner is satisfied that good reason exists. It will be for the Commissioner to consider this on a case by case basis.

Further, the Bill creates a new option for the parties to a complaint which is not resolved in conciliation. Rather than having to go the Licensing Court, as at present, the parties can agree to have the matter determined by the Commissioner. So the Bill puts parties to such a complaint in a similar position to parties to a contested application, in having the choice whether to have the Commissioner or the Court determine the matter. The provision does not, however, alter the present position, where either party for any reason objects to the Commissioner determining the matter. Either party can still insist that the matter go before the Court.

Finally, the Bill sets out a list of matters which it is proposed should be regarded by the licensing authority in determining a complaint. These include the period of time over which the activity complained of has been occurring, the unreasonableness or otherwise of the activity, the trading hours and character of the business conducted at the licensed premises, the desired future character of an areas, as provided in any relevant Development Plan, and relevant environmental policies or guidelines. These are all factors to be weighed, although none is necessarily decisive, and any other relevant matters must also be considered. It is hoped that by spelling out these relevant matters in the Bill, it is made clear that the history of the activity at the premises, such as a history of live music, can be taken into account, as can whether the activity or noise from the premises is reasonable or not in all the circumstances, and factors such as whether the area is residential, commercial or mixed use. That is, the complaint is not decided in isolation, but is considered in context.

Of course, the Bill does not propose to apply any fixed rule in dealing with these complaints, nor does it propose to privilege any category of complainants or respondents. Each complaint must be considered individually on its merits, having regard to all relevant factors. The Government believes that this is the approach most likely to lead to a just result.

The Bill also adds a new provision that the licensing authority may grant an application on an interim basis, or specify that a condition of a licence, permit or approval is effective for a specified period. There is no such express power in the Act at present. This puts beyond doubt that the authority may grant approval on an interim basis, for a trial period, before deciding to confirm or alter it. This is desirable because a licensing decision can have significant consequences both for the parties and for the community in general, and it can be valuable for the authority to be able to evaluate the likely consequences of the proposed decision, through practical trial, before committing itself to a final decision. Indeed, this is often welcomed by the parties as it gives the applicant the opportunity to prove the decision desirable and the respondent the opportunity to assess the real effects of the decision, before it becomes final.

Further, the Bill makes two minor technical amendments to the Act, arising out of the decision of the Supreme Court in the case of *Liquorland (Aust) v Hurley's Arkaba Hotels*, a judgment of the Full Supreme Court handed down on 18 July 2001. It adds to section 61(1) the missing words 'the removal of'. That is, the applicant for removal of a hotel licence must show that the removal of the licence, rather than the licence itself, is necessary in order to provide for the needs of the public in that locality. This is obviously the meaning of the section and the words were simply omitted in drafting.

The Bill also makes a minor alteration to the provisions of s. 77 relating to objection to an application. In the Liquorland case, the Court noted that the grounds of objection to a retail liquor merchant's licence in s. 77(5)*(c)* fail to mirror the matters which the applicant must prove, that is, that the existing licensed premises in the locality do not adequately cater for the public demand for liquor for consumption off licensed premises, and the licence or the removal is necessary to satisfy that demand. The amendment would repair this defect by deleting the word 'provide' and substituting 'adequately cater'. Clearly it is the intention of the Act that the objections to be taken relate to the criteria for the grant of the application.

The amendments proposed by the Bill are intended to make the procedures in this jurisdiction more internally consistent and more effective.

I commend the bill to honourable members.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

This clause provides that this Act will be brought into operation by proclamation.

Clause 3: Amendment of s. 3—Objects of this Act

This clause amends the objects section of the Act by, firstly, including the live music industry in the list of associated industries the interests of which are to be furthered, and secondly, by providing that the Commissioner and the licensing Court must have regard to the objects of the Act when making any decision under the Act.

Clause 4: Amendment of s. 53—Discretion of licensing authority to grant or refuse application

This clause makes it clear that a licensing authority (i.e., the Court or the Commissioner, as the case may be) may grant an application on an interim basis, or impose a condition for a specified period, and give any necessary consequential procedural directions.

Clause 5: Amendment of s. 61—Removal of hotel licence or retail liquor merchant's licence

This clause makes a small amendment to clarify that an applicant for removal of a licence to a particular locality must satisfy the licensing authority that *removal* of the licence to that locality is necessary to satisfy the needs of the public in that locality.

Clause 6: Amendment of s. 77—General right of objection

This clause makes a minor amendment to achieve consistency of expression between section 58 (grant of hotel licence or retail liquor merchant's licence) and section 61 (removal of such a licence).

Clause 7: Amendment of s. 106—Complaint about noise, etc., emanating from licensed premises

This clause makes several amendments to section 61. Firstly, the Commissioner must cause complaints to be served on licensees within 7 days of lodgement. No meeting or hearing can be held for a period of 14 days. Secondly, it is provided that a party can request that the matter proceed direct to a hearing without attempting conciliation, but, for this to happen, the Commissioner must concur. Thirdly, the Commissioner will determine a complaint if the parties so request. Fourthly, in determining a complaint, the Commissioner or the Court (as the case may be) must now take into account various matters. The relevant history of the licensed premises in relation to other premises in the vicinity and, in particular, the period of time over which the subject matter of the complaint has been occurring must be considered, as must any significant changes in its level or frequency. The unreasonableness (or reasonableness) of the actual behaviour or noise is to be assessed. The trading hours and character of the licensee's business, the locality's desired future character set out in any relevant Development Plan and any applicable environment protection policies or EPA guidelines must also be taken into account.

Schedule—Statute Law Revision Amendments

The Schedule makes several non-substantive amendments of a statute law revision nature.

The Hon. R.D. LAWSON secured the adjournment of the debate.

ADJOURNMENT

At 5.10 p.m. the council adjourned until Monday 15 July at 2.15 p.m.