LEGISLATIVE COUNCIL

Tuesday 27 March 1990

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

ASSENT TO BILLS

His Excellency the Governor's Deputy, by message, intimated his assent to the following Bills:
Road Traffic Act Amendment,
Magistrates Act Amendment.

PETITION: ACCESS BY DISABLED

A petition signed by 1 439 residents of South Australia praying that the Council would strengthen the South Australian building regulations in relation to barrier free access for disabled persons to ensure that all renovated and new buildings provided access to all public entrances, to provide incentives to building owners to encourage the provision of access to existing inaccessible buildings; to ensure that full access was provided within such buildings; and to ensure that all outdoor areas constructed for use by the public provided full access was presented by the Hon. Anne Levy.
Petition received.

REPLIES TO QUESTIONS

The PRESIDENT: I direct that written answers to the following questions, as detailed in the schedule that I now table, be distributed and printed in *Hansard*: Nos. 3 and 7.

RADAR UNITS

3. **The Hon. J.C. IRWIN** asked the Attorney-General:
1. How many radar units are operating in South Australia?
2. What are their age?
3. What plans are being made for these units to be replaced by new speed detection units?

The Hon. C.J. SUMNER: The replies are as follows:
1. The total number of radar units being used by the Police Department is 60.
2. Apart from 14 units purchased between 1976-85 (which are to be phased out by 31.12.90), the other units have been obtained on an annual basis since 1986.
3. A speed camera is expected to be introduced this year, and replacement or additional radar units are to be purchased.

FESTIVAL CENTRE PARKING

7. **The Hon. DIANA LAIDLAW** asked the Minister for the Arts: In relation to the limited number of four short-term parking places adjacent to the Administration Complex and Booking Office, Festival Centre, has any consideration been given to—
1. Increasing the number of spaces to ease the current frustrations experienced by persons either delivering supplies or seeking to book tickets;
2. The issuing of temporary parking permits similar to the system that operates for short-term parking requirements in North Terrace out the front of Parliament House;
3. Seeking amendments to the current fine of $30 and the current responsibility for policing the area by the Adelaide City Council, in order to deter persons parking for long durations in the area designated short-term parking?

The Hon. ANNE LEVY: The replies are as follows:
1. There are presently seven short-term parking spaces available on Festival Drive—
2 spaces of ½ hour duration, available 24 hours per day
5 spaces of ½ hour duration, available until 6 p.m. every day (from 6 p.m. until midnight the spaces become taxi stands).
The Adelaide Festival Centre Trust has given consideration to increasing the number of short-term parking spaces available for people wanting to buy tickets at the box office, or deliver supplies, but cannot do so, because of the limitation of space.
2. The temporary short-term parking system which operates outside Parliament House on North Terrace is not considered appropriate for the Festival Centre. However, there is a greater number of casual parking spaces available in the car park adjacent to Parliament House because of the significant increase in permanent parking fees some two years ago and the resultant decrease in use by permanent parkers. Records indicate that people use this casual car parking facility to go to the Festival Centre for short periods of time.
3. The Adelaide Festival Centre Trust has not given any consideration to increasing the fine for people parking in the short-term parking area adjacent to the administration offices. The Adelaide City Council will be assuming control of the entire roadway system through the Festival Centre/ASER site in the next few months, resulting in more regular patrolling by council parking inspectors, which will deter persons from parking for long durations in the areas designated for short-term parking.

POLICE COMPLAINTS AUTHORITY

The PRESIDENT laid on the table the annual report of the Police Complaints Authority for 1988-89.

PUBLIC WORKS COMMITTEE REPORT

The PRESIDENT laid on the table the following report by the Parliamentary Standing Committee on Public Works, together with minutes of evidence:
RN2400 Tod Highway Karkoo to 2 km south of Wanilla, upgrading and reconstruction.

PAPERS TABLED

The following papers were laid on the table:
By the Attorney-General (Hon. C.J. Sumner)—
Classification of Publications Board—Report, 1988-89.
Workers Rehabilitation and Compensation Act 1986—Regulations—Disclosure of Information.
By the Minister of Tourism (Hon. Barbara Wiese)—
Port Pirie Development Committee—Report, 1988-89.

MINISTERIAL STATEMENT: STIRLING COUNCIL

The Hon. ANNE LEVY (Minister of Local Government): I seek leave to make a statement.

Leave granted.

The Hon. ANNE LEVY: The State Government and the District Council of Stirling have been negotiating over repayment of the council's $14.5 million bushfire debt. As members would know, the State Government made available a loan of $14.5 million to the council so that it could in turn pay out the victims of the 1980 Ash Wednesday bushfire. A detailed financial analysis of Stirling council's position has revealed the capacity to repay up to $7 million of that debt. The Government has offered to reduce that figure to $4 million. This would mean Stirling council would be paying back only 28 per cent of the total loan, and the State Government and the taxpayers of this State would be wiping off more than $10 million of the debt.

Stirling council has initially rejected what we feel is a very generous and fair arrangement, and apparently has said it will repay only $2 million. We are attempting to negotiate with the council on this issue. Its members did walk out of a committee set up to determine its capacity to repay the debt. It is the Government's assessment that Stirling council will be able to meet the loan repayments on a loan of $4 million over 15 years without having to sell any assets or without having to raise its rates more than by CPI adjustments. We have offered to permit Stirling council to have the option of paying out the loan early, if it wishes, and the loan will be offered to it at an interest rate of less than that applying for local government authorities.

The Government believes that it has presented a fair and equitable resolution to this long running problem. Let us not forget that Stirling council was found liable for the bushfires in a court of law. It still owes the State Government $14.5 million. The amount of $4 million is not an unreasonable settlement sum.

QUESTIONS

STIRLING COUNCIL

The Hon. R.I. LUCAS: I direct my questions to the Minister of Local Government:

1. Does the Government propose to sack the Stirling council if it does not agree to pay $4 million towards its liability for the 1980 Ash Wednesday bushfires?

2. Whilst the ministerial statement just given by the Minister refers to a Government view that the Stirling council can repay $4 million without having to sell any assets or without having to raise its rates more than by CPI adjustments, does the Minister believe that the Stirling council will be able to continue with its present level of services and service that $4 million debt to the Government?

The Hon. ANNE LEVY: I prefer not to answer hypothetical questions.

Members interjecting:

The PRESIDENT: Order! The honourable Minister.

The Hon. ANNE LEVY: We are negotiating with Stirling council, and we have a meeting with its representatives tomorrow morning. I am hopeful that an accommodation can be reached with the council. As members will know, there is a time constraint on the loan to Stirling council in that, according to the debenture agreement, it is due to be repaid by the end of this month.

However, I would prefer not to deal with hypothetical situations as to what might occur if agreement is not reached by the end of the month, as I feel that provocative statements could damage negotiations which, until now, have certainly been carried out in a reasoned and amicable fashion.

With regard to the second question asked by the Hon. Mr Lucas, the calculations that have been undertaken suggest that the Stirling council will be able to service a loan of $4 million without needing to dispose of assets and without needing to adjust its rates by more than a CPI adjustment. Obviously, in doing calculations of this type, assumptions are made, as in the case of what the levels of inflation will be over the next few years. While every attempt is being made to make reasonable guesses about these basic assumptions to any calculations, one cannot predict exactly what the level of inflation will be over the next five years.

The Government does not expect that Stirling council would need to make any staff redundant. The council does not wish to have to dismiss any staff, and it is certainly not the Government's wish that any staff would have to be made redundant. As to the actual services that Stirling council provides, that, of course, is a matter for Stirling council to determine, according to its priorities. One suggested level of repayment would indicate that it would be well within Stirling council's capacity to pay without having to shift resources from what services the council currently provides to the residents of Stirling.

I should point out that, currently, Stirling council has outstanding loans as do many councils in this State, loans undertaken through the Local Government Financing Authority for the many purposes for which councils take out loans. On the loans that the council currently has, its level of debt repayment is about 12.5 per cent of its rate revenue. One suggested level of repayment would initially increase that proportion to 20 per cent of rate revenue, diminishing as a proportion of rate revenue with succeeding years. I would point out that the metropolitan average figure for debt servicing as a proportion of rate revenue is over 23 per cent, so it would not be an imposition on Stirling council that would differ from that of many other councils throughout the metropolitan area which currently pay a larger proportion of their rate revenue in debt servicing.

The Hon. K.T. GRIFFIN: I seek leave to make an explanation before asking the Minister of Local Government a question about the Stirling council.

Leave granted.

The Hon. K.T. GRIFFIN: Obviously, there is a deadlock between the Government and the Stirling council as to the amount which the ratepayers of Stirling should be required to contribute towards the liability of the council arising from the Ash Wednesday 1980 bushfires. The Government started at $14.5 million, and members will recall that a debenture charge was executed by the council in favour of the Government for that sum repayable on 31 March 1990. That arrangement conveniently got the matter out of the State election campaign and the Federal election campaign periods. The amount which the Government then said it was prepared to accept was $7.5 million—that has now decreased to $4 million. On the other hand, the council started at $1 million and held very firm on that amount for a long time, and it has now reportedly said that $2 million is the limit. Whatever the Minister says, it has been reported publicly that the threat of sacking the council is hanging over the heads of the councillors. Notwithstanding that, there still appears to be this standoff.

The proposal which I put for resolution of the dispute is that a qualified and respected accountant be appointed by agreement between the Government and the council to act as arbitrator on the dispute in order to resolve the amount which the Stirling council and the ratepayers can reasonably

be expected to pay, and that that determination be made within agreed parameters. My question is: will the Minister agree with a proposition for an independent accountant to act as arbitrator and agree to abide by that person's decision on the amount which the council reasonably ought to be required to pay as the only fair and reasonable way of resolving the deadlock?

The Hon. ANNE LEVY: I would first like to correct some of the statements made by the Hon. Mr Griffin in his explanation. The Government never said that the Stirling council should repay $7.5 million, and I want that clearly on the record. The Hon. Mr Griffin cannot in any way substantiate his statement that the Government has ever said that. What did occur was that a committee was established to look at the Stirling council's capacity to pay, which is different from what it is being asked to pay. The committee which was set up was to look at the finances of Stirling council and determine what was within its capacity to pay. That committee, from which I may say the Stirling council representatives walked out, reported that Stirling council had the capacity to repay $7 million—not $7.5 million. That was its estimate of the capacity that Stirling council had to repay.

Negotiations have occurred with the Stirling council. In those negotiations, the Government has never said that the Stirling council should repay $7 million. I do not know what the source of the Hon. Mr Griffin's information is but, if he has been told that the Government ever said Stirling should repay $7 million, he has been given incorrect information. As I announced to the Council a few minutes ago, the Government has offered to settle the debt for $4 million.

That is the only figure which the Government has offered to Stirling council—a very generous offer. It is excusing it 72 per cent of its debt, and I doubt whether there are many bank managers who would do that if any individual went to them, having trouble in repaying their debts.

The Hon. Mr Griffin made some comment about sacking the Stirling council. I forget the actual words he used, but I can assure the honourable member and this Council that the question of sacking the Stirling council has never been discussed in the meetings we have had with the Stirling council. It has not been discussed with Stirling council. It has not been discussed by me with the media.

Members interjecting:

The PRESIDENT: Order!

The Hon. ANNE LEVY: The question has been raised by the media and by representatives of Stirling council but I have not raised the question with the media or with representatives of Stirling council. I do not want to face hypothetical situations which I hope will not arise.

With regard to the question of an arbitrator, the figure of $7 million as Stirling council's capacity to pay has been carefully arrived at by representatives of Government departments, who have set out in detail the calculations by which they arrived at this figure. We have said to Stirling council that if it disputes any of these figures we would be very happy to discuss its disagreement with the figures. It has not come back to us with any disagreement regarding the figures which appear in that report. That report is a public document. I have provided copies of it to the media and to the shadow Minister, and if anyone else would like a copy I would be very happy to provide it.

As far as I am aware those figures are not disputed. I see no reason for establishing an arbitrator in any shape or form. The figures clearly indicate that Stirling council has the capacity to repay $7 million. However, the Government, in a very generous offer, has suggested only $4 million as a repayment, which is only 28 per cent of its total debt, with the Government offering to wipe off 72 per cent of the debt. I do not know of any other situation where either an individual or a body with a debt would have such an offer made to it.

WILPENA STATION

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Minister of Tourism a question about the Wilpena development.

Leave granted.

The Hon. DIANA LAIDLAW: In January last year the State Government approved the terms of a 35-year lease with Ophix Investments to build a $50 million resort at Wilpena Station. At that time the developers claimed 'everything is ready to go'. Work on stage one was set to get under way in September last year with the opening date set for April 1991, in 12 months time. I appreciate that winter rains forced the developers to reschedule the commencement of work to late October, early November, after which I am advised that the excuses to locals have included hot weather and then the closure of factories over the Christmas/New Year break. It is now some five months since the commencement was first scheduled and yet not a sod has been turned.

In the meantime, there is growing unrest amongst tourist operators in the Flinders Ranges. They are upset that there has been no communication or consultation on the part of the Government as to when work on Wilpena Station will commence, if at all. Such uncertainties are undermining the confidence of operators to market their facilities and to plan their own future operations. They have no sound basis upon which to determine whether or not to invest in the upgrading of their facilities. In fact, the lack of action at the proposed site of the Wilpena Station is placing local tourism operators in a no-win position, and tourism facilities and tourists are suffering as a consequence. The situation seems to be dragging on endlessly and should be resolved. Therefore, my questions to the Minister are:

1. When will work commence on stage one of the Wilpena Station resort?

2. Have the delays in commencing work since late October last year been due to the difficulties that the company Ophix has encountered in attracting sufficient finance from normal commercial sources?

3. Has the Minister or the Government received advice that the company's preferred option at this stage is to place the whole project on hold, with commencement of work deferred for some 12 months or more?

The Hon. BARBARA WIESE: I am not in a position to answer the questions that the honourable member has asked. As she may or may not be aware, the matter of the Flinders resort is the responsibility of the Minister for Environment and Planning through the National Parks and Wildlife Service. Any negotiations or contact with the proponents about the financial arrangements for the proposed development or starting times, etc., have taken place presumably through the officers of National Parks and Wildlife Service. I will have to refer the three questions that the honourable member has asked to my colleague in another place to receive considered replies to them.

What I can say, though, is that, as far as I am aware—I have not been informed to the contrary—the project is still proceeding. One aspect of the project is being pursued by Tourism South Australia, that is, investigations into the need for an airstrip for the area, involving the upgrading of

the Hawker airstrip, or relocation, if that seems desirable, for future use in that area of the State. There is also the question of an electricity supply to service the development. Those issues are being pursued by Tourism South Australia.

As I understand, in the past couple of months, meetings have been held between the Managing Director of Tourism South Australia and the various bodies that have some interest in these issues, such as the Hawker council and the Ophix company. They have met to discuss the arrangements that would need to be pursued in order to bring about satisfactory arrangements for those two subsidiary issues that relate to the development. As to the specific questions that the honourable member has asked, I will refer them to the Minister for Environment and Planning and bring back a reply.

The Hon. DIANA LAIDLAW: As a supplementary question, is the Minister satisfied that the company has not kept her (as Minister of Tourism) informed of the reasons for the delay and the fact that no commencement date has been yet scheduled; and has she or the Premier in recent weeks sought advice from the company to determine whether or when the project will commence?

The Hon. BARBARA WIESE: I cannot answer for the Premier, and am not aware whether he has made any representations to the company. I have not made representations to the company in recent times, and the most recent advice I received (by way of briefing from my officers) was, I believe, around the beginning of February or mid-February, when I was advised that the proponents intended to begin work shortly thereafter. I have not received any further report since that time.

The Hon. Diana Laidlaw: You were satisfied with 'shortly thereafter' as an expression of the timetable?

The Hon. BARBARA WIESE: Yes. It certainly seemed reasonable to me, if the proponents were planning to begin the development shortly after I had received my report from officers, particularly since, as the honourable member has indicated, some months have elapsed since the first proposed starting date was made known.

As I have indicated, the responsibility for the development itself, as far as the Government is concerned, rests with the Minister for Environment and Planning and her officers, and I expect that the proponents have been in regular contact with that Minister or her officers to give them up-to-date information about the matters of which the Government should be made aware.

I have not received a very recent report on the matter, but I am informed from time to time as to the progress being made and, more particularly, I am informed fairly regularly on those two matters that I indicated have now become the responsibility of Tourism South Australia to pursue. I have already indicated that I will satisfy the honourable member's inquiry by referring the matter to my colleague in another place, and I will bring back an update on the issue.

TERMITICIDES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Health, a question about termiticides.

Leave granted.

The Hon. M.J. ELLIOTT: I have received a number of telephone calls and letters lately from people wondering what alternatives are available to the use of Aldrin and Dieldrin, a matter which has been canvassed in this place in the past, particularly in relation to Streaky Bay school, but also more generally as to their use to control termites in domestic dwellings. In the United States, Aldrin and Dieldrin are no longer registered for use as termiticides, yet in South Australia they are banned for all uses but termite control.

In the United States, five alternative chemical compounds have been registered for use as termiticides. They are, apparently, both viable and safe replacements for the toxic substances currently used here. Three of the five compounds registered in the US are particularly promising as alternatives for South Australia. They are Permethrin, Cypermethrin and Fenvalerate. Called synthetic pyrethroids, these compounds are highly poisonous to insects but are not considered harmful to mammals. Another advantage is their longevity in dry conditions. Tests have shown them to perform better in dry heat than in humidity, which is of significance given our climate.

These chemicals are already in limited use in argriculture in South Australia but are not registered for use as termiticides. They were examined in a 1989 Controlled Substances Advisory Council report on the effects of banning Aldrin, Dieldrin and several other substances as termiticides. The report investigated various alternatives and at one stage said:

> Evaluation of the termiticidal activity of several synthetic pyrethroids in Australia is planned for the near future.

Alternatives to current termite control measures may also be organic or biological. Work has been done, particularly in the US, on controls utilising bacteria, nematodes, fungi and other agents which attack the insects directly. But the fact remains that viable alternatives already exist for Aldrin and Dieldrin. It has been suggested that it is almost laughable that those chemicals are banned for use in agriculture here, but are sprayed in our homes, yet the termiticides used in the United States are registered for agricultural use in Australia but not registered for use as termiticides. My questions to the Minister are:

What plans are already in place in South Australia to ban and find alternatives to Aldrin and Dieldrin? If experimenatal and research work is under way, can it be accelerated? Finally, has the Government any plans to register the synthetic pyrethroids that I have named for use as termiticides?

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

TORTURE VICTIMS

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Attorney-General, representing the Minister of Ethnic Affairs, a question about torture and trauma survivors in South Australia.

Leave granted.

The Hon. M.S. FELEPPA: This problem was brought to my attention by several ethnic community groups and the President of the Ethnic Communities Council of South Australia, Mr Bruno Krumins, and by the reading of an article that was published in the *Advertiser* of Tuesday 27 February in which a medical expert claimed that there are in South Australia at least 500 victims of torture, many of whom are in urgent need of medical and psychiatric help.

Torture and trauma victims are amongst the Chilean, Vietnamese and Middle East communities, many members of which have experienced difficulties in getting into the health care system because of the problems of ethnicity and

language, and the mistrust of Government agencies, owing to past experience. The article goes on to claim:

> Torture victims remain hidden to conventional services and often surface only when incidents such as domestic violence become apparent.
>
> If Australians wanted these people to be assimilated and play an effective and active role in their new country, dealing with their health issues during the early settlement period was critical.

Further, the trauma of readjustment in a new country, following the aftermath of war, torture and the worst kinds of deprivation, has been recognised by the Cain Government in Victoria as well as by the Greiner Government in New South Wales. There has been established a service which provides essential intensive specialist services to assist trauma and torture survivors. This service has included such assistance as: counselling and psychotherapy for individuals and groups; self-help groups; referrals to specialist medical practitioners, dentists, occupational therapists, physiotherapists, etc.; and training programs for those working with community groups whose members may have been tortured or traumatised. Will the Minister inform this House whether the South Australian Government is considering funding the establishment of a similar service in this State?

The Hon. C.J. SUMNER: I will refer the honourable member's question to the Minister and bring back a reply.

HOMESTART

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Housing and Construction, a question on the subject of HomeStart.

Leave granted.

The Hon. L.H. DAVIS: In September 1989 Premier Bannon announced the HomeStart scheme, a low start loan scheme for home buyers or home builders. It was billed as a $1 billion program over five years which would assist 16 000 people to buy existing or new houses. However, the HomeStart loan has no income eligibility test. In other words, it is possible for a person on an above-average salary of, say, $60 000 or $80 000, to take advantage of the scheme which offers funds at 15 per cent, a 2 per cent discount on market rates. Nor is there any limit to the size of the housing loan. In fact, I understand that a person can borrow up to 2.7 times their gross income. The interest rate is 15 per cent on properties up to the value of $125 000 and 16 per cent if the property is valued at more than $125 000.

Therefore, it is possible for someone on a high salary to borrow large sums of money over $125 000 at rates of interest up to 2 per cent below market rates. I have been advised recently that in fact some people have taken advantage of the 'Robin Hood in reverse' aspects of the HomeStart scheme. The scheme is managed by a private company, National Mortgage Market Corporation. Funds for the scheme are provided by the South Australian Government Financing Authority (SAFA) and channelled through to the State Bank and the Hindmarsh and Cooperative Building Societies, which receive and deal with applications. Members opposite particularly will remember in the days leading up to the State election that the Premier's Department gagged the Manager of the HomeStart scheme from any discussions with the media following an extraordinary bungle by the Government on the level of interest rates being charged for HomeStart loans.

A few weeks ago, as the newly appointed shadow Minister of Housing, I had a very amicable and helpful discussion with the State Manager of HomeStart. However, when I spoke to him a few days ago, he said that any questions on HomeStart now had to be referred to the Minister of Housing and Construction, Mr Mayes. In other words, the Government has again applied the gag, which I find quite unacceptable. Therefore, I ask—

Members interjecting:

The PRESIDENT: Order!

The Hon. L.H. DAVIS: —the following questions of the Minister of Housing and Construction for prompt reply. First, does the Minister accept the undesirable aspects, in other words, the Robin Hood in reverse aspects, of the HomeStart scheme?

Secondly, as at Friday 23 March 1990, what number of HomeStart loans have been, first, settled and, secondly, approved but not yet settled for *(a)* established houses and *(b)* new houses to be built or in the course of construction? Thirdly, what is the value of HomeStart loans which have been, first, settled and, secondly, approved but not yet settled for *(a)* established houses and *(b)* new houses to be built or in the course of construction?

Fourthly, what number of HomeStart loans have been, first, settled, and, secondly, approved but not yet settled for amounts greater than $50 000, $75 000, $90 000, $100 000, $125 000, and $150 000?

Fifthly, for loans that have been first, settled and, secondly, approved but not yet settled what number of established houses or houses yet to be built or in the course of construction were valued at over $125 000, over $150 000, and over $200 000? Finally, for loans that have been, first, settled and, secondly, approved but not yet settled, what number of persons or families have a gross family income in excess of $50 000, $60 000, $75 000 and $90 000?

The Hon. BARBARA WIESE: It seems to me that the honourable member's question should have rightly been a Question on Notice, and perhaps he should use the appropriate forums of the Council in future. However, I shall refer the questions to my colleague and bring back a reply.

FISHERIES—FISH FARMING

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Fisheries, a question about fish farming.

Leave granted.

The Hon. T. CROTHERS: It recently came to my attention that, by virtue of the diligence of officers of the Minister of Fisheries acting in conjunction with departmental officers responsible for aquiculture in the Department of Industry, Trade and Technology, Adelaide has been chosen by a West German firm of aquiculturists, Metz Mannheim, as the headquarters for its Australasian and Pacific fish farming operations. The firm first started its operations in West Germany in 1979 and today has fish farms in China, the United States, West Germany, Switzerland and Luxembourg. These plants between them are producing in excess of 3 500 tonnes of fish annually.

Australia imports between $400 million to $500 million-worth of fin fish each year, and fish consumption is rising by 5 per cent per annum—that is, consumption per annum is rising faster than the catch from present commercial fishing—and it may be fair to say that certain fish stocks in their natural state are being depleted faster than the natural cycle of replenishment. This venture is a notable first for South Australia. Given all the foregoing, my questions are as follows:

1. Does this industry fit the Government's present policy of sustainable economic growth without permanently damaging the environment?

2. Given that the company in question was looking to establish itself either in Malaysia, Singapore or Hong Kong, what finally determined the company to establish itself in Adelaide?

3. Initially, Metz will begin by breeding flounder, King George whiting, schnapper, and eels. Can the Minister say how much in terms of dollars and cents this will be worth to South Australia's economy?

4. Will this put South Australia to the Australian forefront in fish farming and associated technologies?

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

HOSPITAL WAITING LISTS

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Minister representing the Minister of Health a question on the subject of hospital waiting lists.

Leave granted.

The Hon. M.B. CAMERON: I refer to the ongoing problem within our hospitals of extended waiting lists for operations. Last August in another place the former Opposition Leader released Health Commission figures showing that a record 7 046 people were on waiting lists for surgery at Adelaide's five major hospitals. At the time, the Minister of Health stated that it was not the total number of people on waiting lists but rather the length of time that they had been waiting that was important. The Minister, however, seemed to miss the link that must exist between the two, because I would hazard a guess that one's chances of receiving prompt surgery must be only half as likely with 7 000 on a list compared to, say, 3 800 people on a list, as was the situation when the Bannon Government first released statistics on this matter in December 1984.

However, I have obtained figures for the waiting list situation at Adelaide's five major hospitals as at 30 January 1990, and they show that the record figures released by Mr Olsen last August have been surpassed. In January, 7 120 people were waiting for surgery at the five hospitals—that is an 8 per cent increase since October 1989. The most disturbing increases have occurred at Lyell McEwin, where since last July there has been a 34 per cent rise in people waiting. At the Queen Elizabeth Hospital, there has been a 17 per cent increase in the number of people waiting for operations during the past 12 months, and at the Royal Adelaide Hospital there has been more than a 15 per cent increase in people waiting during the same period.

That is the hospital that the Hon. Don Hopgood said in August 1989 would, within a week, have its full complement of nurses and was committed to reducing waiting lists. We are still waiting for that to happen. In January there were 2 461 people on the RAH's surgery lists—a figure which I believe is a record for that hospital and which now means that one in three of the total patients seeking surgery are on that hospital's lists.

The Hon. T. Crothers: Is that elective surgery?

The Hon. M.B. CAMERON: Yes. I do not want to be diverted, but I hope the honourable member is not saying that if it is called elective surgery it is not a problem to the individual because, if that is the case, I suggest that he go down and spend a couple of days in casualty, watching people come in to be put on the waiting lists; it may well be quite an experience for the honourable member.

Of course, the Health Minister may claim the 7 120 people waiting for surgery is not a concern and that it is the length of time people wait for operations that is important. Well, it appears there is no comfort on that score either. In January more than 34 per cent of people waiting for surgery had been waiting longer than six months. Of the 7 120 people on the lists, nearly 1 000—that is 14 per cent of the total—had been waiting 12 months or longer.

The various specialties show an alarming increase in the time patients have to suffer often acute pain in order to obtain surgery. The January figures show a 103 per cent increase in the number of patients waiting six months or longer for orthopaedic surgery. In case anyone should believe a recent claim by a 'Health Commission spokesman' that 'a shortage of orthopaedic surgeons was the main contributing factor to waiting lists', figures are not good in other specialties.

For example, there has been a 54 per cent rise in the number of people waiting six months or longer for general surgery, and a massive 164 per cent rise in people waiting a year or longer for an operation in that specialty. Such figures make a mockery of the Health Minister's claims that the Government is addressing the issue of waiting lists, and give a telling lie to one of his predecessor's claims, back in 1986, that waiting lists would be halved within 12 months. I seek leave to have inserted in *Hansard* a table of a purely statistical nature in order that it might be on record for the future.

Leave granted.

WAITING LISTS

	June 1988	Jan. 1989	July 1989	Oct. 1989	Jan. 1990
Royal Adelaide	2 031	2 133	2 373	2 294	2 461
Flinders Medical Centre	1 622	1 580	1 547	1 401	1 472
Queen Elizabeth	1 502	1 508	1 712	1 531	1 763
Modbury	601	660	739	794	701
Lycll McEwin	762	696	539	573	723
	6 518	6 577	6 910	6 593	7 120

TYPE OF SURGERY AND LENGTH OF TIME PEOPLE ARE WAITING

	Dec. 1988		July 1989		Oct. 1989		Jan. 1990	
	longer 6 months	1 year	longer 6 months	1 year	longer 6 months	1 year	longer 6 months	1 year
Orthopaedic	259	126	408	158	467	163	525	238
ENT	287	202	288	241	294	239	285	174
Urology	82	52	74	29	79	25	122	27
Plastic	106	162	145	209	121	184	107	195
Gynaecology	26	9	45	6	37	11	54	13
General Surgery	137	55	190	71	226	93	211	145

	Dec. 1988		July 1989		Oct. 1989		Jan. 1990	
	longer 6 months/1 year		longer 6 months/1 year		longer 6 months/1 year		longer 6 months/1 year	
Ophthalmology	133	42	124	22	142	27	128	32
Vascular	45	34	42	39	29	42	25	44

The Hon. M.B. CAMERON: My questions to the Minister are:

1. Will the Minister of Health explain why hospital surgical waiting lists continue to rise, and at January 1990 stood at a record total of 7 120 in Adelaide's five major hospitals?

2. Will the Minister explain why the length of time people have to wait for surgery continues to increase, given that in January more than 34 per cent of those waiting had been doing so for longer than six months, and particularly in view of the Minister's past statement that 'the whole question of the size of waiting lists is a nonsense' and 'the most important matter was how long people spent on waiting lists'?

3. Will the Minister finally admit that the Bannon Government's handling of the hospital waiting list issue since it came to office has been a disgrace—having allowed the total number on lists to rise from 3 827 in December 1984 to 7 120 in January 1990, especially in the light of a former Health Minister's claim, in 1986, that lists would be halved within 12 months?

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

ROXBY DOWNS

The Hon. I. GILFILLAN: I seek leave to make a brief explanation before asking the Minister of Tourism, representing the Minister of Mines and Energy, a question relating to radiation at Roxby Downs.

Leave granted.

The Hon. I. GILFILLAN: Senator Coulter issued the following statement on 23 February 1990:

Work published just this week in the *British Medical Journal* shows a statistically significant six to eight-fold increase in the leukaemia rate in the children of fathers occupationally exposed to only two years of radiation at Sellafield.

Sellafield, formerly Windscale, is a nuclear reprocessing plant in England and has been in operation since the 1950s. The allowable level of radiation exposure to workers throughout most of that time has been 50 millisieverts per year, the same as it is in Australia. The study just completed shows a six to eightfold increase in the incidence of leukaemia in the children of fathers who have been exposed to 100 millisieverts or two years at the maximum allowable rate. The average exposure of radiation workers at Sellafield is 124 mSv.

The significance for South Australia lies in the observation that radiation workers at the Olympic Dam mine are exposed to an average of about 15 mSv per year. Thus only eight years work under these conditions would result in exposures the same as those at Sellafield. The same *British Medical Journal* draws attention to the 40 per cent increase in the leukaemia rate in children at Aldermaston where the average exposure of radiation workers is only 7.8 mSv (half of one year's exposure at Roxby Downs), to a 500 per cent increase at Dounreay where the average exposure is 47 mSv (three years at Roxby), to the much higher exposure and leukaemia rate at Sellafield.

We now hear that workers at Sellafield are being advised not to have children. This is a very high price to pay for employment. It is now abundantly clear that the allowable levels of radiation exposure to male workers is set far too high. Assuming a 10 year working life before a male's reproductive life is completed, such men should not be allowed more than a small fraction of the present 50 mSv limit—perhaps no more than 1 or 2 mSv per year.

In a letter from Greenpeace to Dr Hopgood, the Minister of Health, the matter is referred to again as follows:

A further issue for concern is the lack of reference to the risk of genetic damage in the Olympic Dam Induction Manual. Under the codes of practice as legislated in clause 10 of the Roxby Downs (Indenture Ratification) Act 1982, workers must be informed of all health risks involved in their exposure to radiation, which includes genetic damage. In a meeting with Phil Crouch and Jill Fitch of the Health Commission it was stated that workers at Roxby were informed of the risk of genetic damage in the induction manual (transcript of meeting enclosed). On inspection of the manual there is no reference to the risk of genetic damage. In the light of the findings of the recent Sellafield report this omission is in need of immediate remedy.

It has also been referred to me that, as a result of this, there may very well be a thrust now from Western Mining and the joint venturers to look for workers who have had vasectomies, to avoid the dramatic consequences that have now been proved in the United Kingdom with respect to the current acceptable level of radiation in Australia, in instances of leukaemia in children. So, I hope that what mirth I hear is not related to this matter, because it is obviously of very serious concern to employees and of tragic consequences to children born under these circumstances.

Members will be aware that employees at Roxby Downs are covered by the normal processes of WorkCover. Despite uncertainty as to how aware those employees are of the risks in working with radioactive materials, it is accepted by the Government that work contracts are honoured with a full knowledge of the dangers present.

The Radiation Protection Branch of the Health Commission has admitted that it has known about the dangers of radiation exposure and genetic damage for years. My questions to the Minister are:

1. Will the Government accept that workers at Roxby will now honour their contracts of work in the fullest knowledge available on the effects of radiation exposure and the health of future offspring?

2. Will WorkCover be amended to allow for the illness or injury of offspring to be eligible for compensation, where that illness or injury is proved to be a result of parental work practices?

3. Does the Government recognise that potential legal liability for illness as a result of radiation exposure could be building up at Roxby Downs, comparable to the asbestos tragedy at Wittenoom?

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

YOUTH OFFENDER

In reply to the **Hon. DIANA LAIDLAW** (28 February).

The Hon. C.J. SUMNER: As the South Australian Youth Training Centre is not a 'prison', an offence is not committed by a youth who absconds from the South Australian Youth Training Centre. It can be an offence to induce to leave, take, harbour or conceal an absconder. I am therefore intending to introduce legislation shortly to overcome this problem.

NATIONAL CRIME AUTHORITY

In reply to the **Hon. R.I. LUCAS** (27 February).

The Hon. C.J. SUMNER: The replies are as follows:

Question 1: The appointment of Mr Gerald Dempsey as an 'additional' member of the NCA was recommended to the Commonwealth Attorney-General and members of the intergovernmental committee by the former Chairman of the NCA, Mr Peter Faris Q.C.

The South Australian Government supported the nomination and State Cabinet formally approved the appointment of Mr Dempsey on 12 February 1990. As the State member on the IGC, I advised the Commonwealth Attorney-General on 15 February 1990 of the State Cabinet's endorsement of a draft IGC resolution recommending the appointment of Mr Dempsey.

Questions 2 and 3: From January 1990 until Mr Dempsey's appointment (19 February 1990) Mr Dempsey was counsel assisting the authority in the Adelaide office, and in that capacity Mr Dempsey had the responsibility for the general administration of the Adelaide office. Prior to that, Mr Dempsey was General Counsel Assisting the National Crime Authority as from March 1989.

The question of any advice which may have been given by Mr Dempsey to the authority is an internal matter for the authority itself.

Supplementary Question: Mr Dempsey has been appointed to the NCA pursuant to section 7 (8AA) of the National Crime Authority Act as an 'additional' member of the NCA in respect of S.A. reference No. 2 made by the IGC pursuant to section 14 of the National Crime Authority Act. Mr Dempsey will hold office as a member for 12 months from the date of his appointment (that is, from 19 February 1990). Under section 39A of the National Crime Authority Act, the functions and powers of an 'additional' member appointed under section 7 (8AA) may only be exercised in relation to the original reference regarding that member (that is, S.A. reference No. 2) or a related reference that is the additional member has all the powers of an ordinary member only in relation to the S.A. reference. I draw this specifically to the attention of the Council to clarify any misunderstanding that could have occurred from my earlier answer.

The terms and conditions of Mr Dempsey's appointment are regulated by the NCA regulations. Mr Dempsey is remunerated on the same basis as the other members, that is, $122 861 (being $92 861 basic salary and allowance and $30 000 displacement and re-establishment allowance). Mr Dempsey also receives the same employer's contribution to superannuation as the other members, viz. $15 770.

LANDLORD AND TENANT ACT AMENDMENT BILL

The Hon. BARBARA WIESE (Minister of Consumer Affairs) obtained leave and introduced a Bill for an Act to amend the Landlord and Tenant Act 1936, and to make a related amendment to the Commercial Tribunal Act 1982. Read a first time.

The Hon. BARBARA WIESE: I move:

That this Bill be now read a second time.

It amends the Landlord and Tenant Act by improving the level of disclosure to those who propose entering into commercial leases in respect of premises from which retail businesses are conducted and by expanding the protection given to tenants under leases executed by them. It replaces a similar Bill introduced at the end of the last Parliament by the Attorney-General and reflects a number of submissions made by interested parties in relation to that Bill.

The Statutes Amendment (Commercial Tenancies) Act 1985 gave to tenants, under leases having a rental of $60 000 per annum or less, certain rights including the right to refer disputes to the Commercial Tribunal, a limitation on the amount of bonds, and other protections.

Many complaints have been made by tenants about the actions of some landlords to members of Parliament and the Department of Public and Consumer Affairs since the Act was passed.

Late in 1988 the Government asked the Commissioner for Consumer Affairs to establish a working party consisting of persons representative of landlords and tenants to consider whether legislation relating to retail premises leases should be amended. In this Bill certain of the recommendations of that working party are adopted.

The level of complaints by tenants has prompted the Government to take action in relation to the legislation. The types of complaints reveal a lack of appreciation by many tenants of the effect of lease documentation executed by them. The Bill therefore provides for a better standard of disclosure to tenants before lease documents are signed.

The Bill allows tenants to obtain a lease for a minimum five year term. The creation of a minimum five year term for all leases affected by the legislation (if required by the tenant) will alleviate a major concern of tenants namely that tenants are not able to secure a reasonable lease term over which to write off expenditure on fixtures and fittings incurred at the commencement of a lease. Also, the opportunity to sell the goodwill in a business at least early in a five year lease term will be afforded by the minimum five year term.

Representatives of landlords support the notion of better disclosures to potential tenants but oppose granting to tenants the right to have a five year minimum term if required by them. It is argued that the minimum term represents an unwarranted intrusion into the market for the leasing of retail premises, will discourage development in South Australia and will disrupt the optimisation of tenancy mixes in large shopping centres. It should be noted, however, that in Victoria and Western Australia tenants have the right to a five year minimum term.

This Bill reflects submissions made on the Bill tabled in the last Parliament by exempting family arrangements and short term tenancies where independent legal advice has been sought from the five year minimum term provisions. The Government concedes that it is desirable to insert these specific policy exemptions into the Act rather than leaving them to individual applications to the Commercial Tribunal for exemption (probably with the consent of both parties) under section 73 of the Act. The Bill also now makes clear that holding over beyond an initial minimum five year period should not, of itself, give rise to a possible further five year term. The original Bill's provisions have also been amended to provide for clearer and potentially longer notice of tenants' applications to extend lease terms.

Problems have also arisen in relation to the registration of leases under the Real Property Act. In order to make leases definitely enforceable by a tenant against the successor in title of a landlord, registration of leases is necessary. Some landlords include provisions in leases the effect of which is to prevent registration. The Bill includes a provision which renders void any provision in a lease preventing registration and requiring landlords to sign leases in regis-

terable form. Representatives of landlords and tenants support this proposal.

The other major issue to be addressed in the Bill is the scope of the Act. At present, the provisions of the Act apply to all leases under which the rental payable is $60 000 per annum or less. A majority of the working party recommended that in lieu of a rental limit, the determinant of whether a lease should be affected by the legislation would be whether that tenant employs 20 persons or less. The suggestion was made because the majority of those consulted in relation to the matter believed that, on the assumption that it is desired to protect 'small business tenants' the best way to do so is to use a determinant which is directly related to whether a business is small. The Small Business Corporation uses the 20 person level as the determinant of whether a business is small or not.

While appreciating this view, the Government considers that introducing the notion of determining whether a lease is affected by the legislation by reference to the number of persons employed may lead to confusion and misunderstanding. Linking protections offered under this Act to employment levels is also considered to be a disincentive to employment. The Bill therefore retains the notion of a monetary limit being the determinant and increases the current limit to $200 000 per annum. This course of action is generally supported by representatives of small businesses.

In response to submissions on the original Bill the Government has also decided that public companies and their subsidiaries do not need the protection of this legislation and they will be specifically exempted.

The Bill also addresses the circumstances under which a landlord can require a tenant to move his or her business during the term of a tenancy. In connection with the proposal for a minimum five-year term, and as a result of comments made in the working party's report, the Bill will allow a landlord to request that a tenant move his or her business to other premises within a shopping complex if the term of the tenancy has been extended under the Act. Furthermore, the Bill will require a landlord to give a tenant at least three month's notice before he or she can require the tenant to move (whether that requirement is exercised after an extension under the Act, or by virtue of the terms of the tenancy). A tenant will be entitled to apply to the Commercial Tribunal if a dispute arises with the landlord. The Government considers that these provisions will provide a fair balance between the interests and rights of landlords and the interests and rights of the tenants.

The Building Owners and Managers Association is in the process of preparing a Code of Practice which could be prescribed under the Act. That code is expected to deal with a number of issues. The vexed issue of inappropriate control by landlords of trading hours will be dealt with under the Code of Practice. Other issues including communication between landlords and tenants will also be dealt with under the code. The Government has therefore decided not to amend the Act to deal with such issues at this stage although, if the Code of Practice is, after appropriate consultation, deemed to not protect the interests of tenants effectively, the Government will take appropriate legislative action.

The Bill also makes housekeeping amendments to the Act dealing with a number of matters, including the removal of some uncertainties identified by the Chairman of the Commercial Tribunal, and the insertion of some provisions designed to streamline proceedings in the commercial tenancies jurisdiction of the Commercial Tribunal. Section 56 (4) of the Act has been repealed in order to make the Act consistent with other Acts that confer jurisdiction on the Commercial Tribunal. As a result of concerns expressed by the Chairman of the Commercial Tribunal that the current provisions do not adequately deal with the issue of goods abandoned on leased premises by former lessees, the Bill contains provisions to govern such situations. It is proposed that the time limit for the commencement of prosecutions be extended to two years—recognising that many offences occurring at the beginning of tenancies are not reported until the end of their terms.

The Government is confident that these amendments will enhance the effectiveness of this important piece of legislation and increase the ability of the Commercial Tribunal to exercise its jurisdiction under the Act efficiently and effectively. I seek leave to have the explanation of the clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides for the commencement of the measure.

Clause 3 amends the definition of 'shop premises' to include expressly business premises at which services are supplied to the public. The amendment is proposed as a result of comments made by the Supreme Court in *Hilliam Pty Ltd v Mooney and Hill* (143 L.S.J.S. 386). In this judgment, the Supreme Court considered existing paragraph *(b)* of the definition of 'shop premises', which refers to business premises 'to which the public is invited with a view to negotiating for the supply of services', and questioned whether the words 'negotiation for the supply of services' might restrict the scope of the definition in some cases. The Government considers that the relevant definition should apply to any business premises at which services are supplied to the public, whether or not negotiations are also conducted on those premises. Other definitions are included as a result of other amendments to the principal Act proposed by this Bill.

Clause 4 amends section 55 (2) of the principal Act to exclude certain companies from the operation of the commercial tenancy legislation. Another amendment will allow the regulations to exclude agreements from the operation of the provisions of the Act subject to conditions prescribed by the regulations.

Clause 5 revises section 56 of the principal Act. Section 56 vests exclusive jurisdiction in the Commercial Tribunal to hear and determine any claim that arises under or in respect of a commercial tenancy agreement. It is proposed to clarify the relationship between this jurisdiction and the jurisdiction of the courts and to revise the procedures that apply under this provision. Under the existing section, a person must begin proceedings in the Commercial Tribunal and then if the proceedings involve a monetary claim in excess of $5 000, the proceedings must, on application by a party to the proceedings, be transferred to a court competent to hear and determine a claim for the same amount founded on contract.

The new section will provide that proceedings should be commenced in a court at first instance in some cases. The provision will allow proceedings to be transferred from one forum to another if the character of the action changes during the course of the proceedings, or if it is appropriate to do so because of cross-claims. As is the case with existing section 56 (3), a court in which an action involving a claim under or in relation to a commercial tenancy agreement is commenced will be entitled to exercise the powers of the Commercial Tribunal under this legislation. Finally, new subsection (8) clarifies the relationship between Part IV of

the Landlord and Tenant Act and the remainder of the Act. The exclusive jurisdiction of the Commercial Tribunal under Part IV of the Act was confirmed by the decision in *Hemruth Advertising Pty Ltd v John Karafotias Anors.* In that decision, the Honourable Acting Justice Lunn said 'Upon a reading of the Act as a whole, and the Commercial Tribunal Act 1982, it makes good sense to construe the legislation as a complete code for dealing with all disputes relating to commercial tenancies. The efficient operation of a specialist tribunal with powers to conciliate and to resolve disputes in an expeditious and inexpensive way would be partly defeated if parties to such a dispute could resort to other courts as they saw fit.' This provision is consistent with that view.

Clause 6 proposes the insertion of two new provisions into the principal Act. Under proposed new section 61a, a landlord will be required, on the request of a tenant who is entering into a commercial tenancy agreement for a term exceeding one year, to prepare a lease in registrable form and to have the lease registered. A provision in a commercial tenancy agreement that purports to prevent registration will be void. The Commissioner for Consumer Affairs in his May 1989 report on the commercial tenancies legislation noted that the Law Society supported a proposal that would allow a tenant to require that his or her tenancy agreement be in registrable form. The registration of a lease provides the best protection for a tenant if the landlord transfers his or her interest in the premises to another person. However, there is no need to apply the provision for agreements where the term does not exceed one year as section 119 of the Real Property Act 1886 provides that every registered dealing with land is subject to a prior unregistered lease for a term not exceeding one year to a tenant in actual possession. Under proposed new section 61b, if a landlord requires that a commercial tenancy agreement be prepared by himself or herself, or by his or her representative, the costs for the preparation of the document, and for any associated attendances on the tenant, will be borne by the landlord. If the tenant has asked that the agreement be in registrable form, and the landlord is undertaking the preparation of the document, the costs for the preparation of the document, and for any associated attendances on the tenant, will be shared equally between the landlord and the tenant.

Clause 7 revises section 62 of the principal Act. In particular, where a commercial tenancy agreement is prepared by the landlord (or his or her representative), the landlord will be required to give to the tenant a written statement in the prescribed form specifying the information required by the regulations, and advising the tenant to read and sign the statement, and to read the proposed commercial tenancy agreement, before he or she executes the commercial tenancy agreement. If a landlord fails to provide such a statement, provides a statement that is not true and correct, or fails to provide the tenant with a copy of the commercial tenancy agreement, the tenant will be able to apply to the tribunal for relief. This proposal was put up by the working party established by the Commissioner for Consumer Affairs and was a major recommendation in his report.

Clause 8 makes a technical amendment to section 63 of the principal Act. It has been argued that section 63 could extend to a provision in a contract of sale of a business (conducted in premises subject to a commercial tenancy agreement) that requires the purchaser to pay an amount for goodwill or stock. This is not intended under section 63. It is therefore proposed to amend the section to clarify that it only extends to a provision under an agreement between a landlord and a tenant in respect of the sale or assignment of a business or rights under a commercial tenancy agreement.

Clause 9 proposes an amendment to section 66 of the principal Act on account of the decision in *Hilliam Pty Ltd v Mooney and Hill.* That case is authority for the proposition that the warranty under seccion 66 relates to the condition of the demised premises at (or immediately before) the commencement of the tenancy. The amendment will make the warranty a continuing warranty of structural fitness, that will continue even if the tenant assigns his or her rights under the commercial tenancy agreement, or sublets the demised premises. However, it will be a defence to a claim under section 66 to prove that any change in the structural suitability of the premises is attributable to the acts or omissions of another.

Clause 10 inserts a new section 66a that relates to any commercial tenancy agreement that does not provide for a term of at least five years, including any extensions or renewals (other than where the tenant is a specified relative of the landlord or where the tenancy is for no more than two months and the tenant has received independent legal advice to exclude the operation of the provision). Under such an agreement, the tenant will be entitled to apply to the landlord for an extension of the term so that it expires on the fifth anniversary of the date on which the tenancy first took effect (or on some earlier date). If the landlord or the tenant cannot agree on the terms of an extension of the tenancy, either party may apply to the Commercial Tribunal for a resolution of the matter.

In order to assist a landlord determine a tenant's intentions under this provision, the landlord will be entitled to serve a notice on the tenant requiring the tenant to decide whether or not the tenant will make application under the provision. The tenant will then have 21 days in which to initiate an application to the Commercial Tribunal. Furthermore, new section 66ab will regulate the circumstances under which a landlord can require a tenant to move his or her business during the term of the tenancy. Subsection (1) will allow the landlord to exercise such a right if the term of the tenancy has been extended under new section 66a. This provision is intended to provide a reasonable balance between the interests of landlords and the interests of tenants. Under subsection (2), a landlord exercising any right to require a tenant to move his or her business will be required to give the tenant at least three month's notice of his or her proposals. This right may arise under subsection (1) or exist in the lease. (It is common practice for landlords to include in leases a provision that allows the landlord to require the tenant to move his or her business to other premises.) The Government is keen to ensure that a tenant is given adequate notice in these cases. The tenant will be entitled to apply to the tribunal for relief.

Clause 11 clarifies the rights and liabilities of a landlord to deal with goods that have been left on premises after the termination of a commercial tenancy agreement. The new section is based on a similar provision in the Residential Tenancies Act 1978.

Clause 12 amends section 68 of the principal Act in conjunction with the review of the operation of section 56 of the Act. It is also intended to clarify that a party to a related guarantee can apply to the tribunal for relief. The tribunal will be empowered to restrain the breach of any law, or to ensure compliance with any law, and will also be able to make other orders as it thinks fit. (Such powers are necessary in view of the nature of the tribunal's jurisdiction.)

Clause 13 amends section 70 (2) of the Act to delete the requirement tnat the tribunal must be consulted before

income derived from the investment of the Commercial Tenancies Fund is applied under the Act. The relevant provision relates to an administrative or policy matter and it is preferable that the tribunal not be involved.

Clause 14 will allow proceedings for offences to be commenced within two years after the alleged offence (unless the Minister allows an extension of this period).

Clause 15 will enable regulations to prescribe codes of practice to be complied with by landlords and tenants.

Clause 16 provides for a revision of the penalties under the principal Act.

Clause 17 makes a related amendment to the Commercial Tribunal Act 1982. During the review of the Landlord and Tenant Act 1936, it has become apparent that it would be appropriate to allow a party to proceedings before the Commercial Tribunal to obtain a default judgment in certain cases. The amendment would allow appropriate regulations to be made under the Commercial Tribunal Act 1982.

Clause 18 is a transitional provision.

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

RATES AND LAND TAX REMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 646.)

The Hon. J.F. STEFANI: The Liberal Opposition generally supports the provisions of the Bill with some qualifications. As part of its election promise, the Bannon Government is now seeking to increase by proclamation the maximum remission allowable for water and sewerage rates to eligible persons. The present concession level is 60 per cent of the water and sewerage rates, to a maximum of $75 for each, or $150 per annum, whichever is the lesser sum.

The Government is seeking to provide an additional concession of $10 per annum for water and $10 per annum for sewerage to all eligible pensioners currently receiving the maximum concession as well as to those pensioners whose properties are valued to attract a rebate below the present maximum concession levels. Because there are instances where some eligible pensioners are not entitled to the full remission of 60 per cent of the rates, the measure further seeks to provide a proportion of the $10 remission, which will be allowed in the same ratio as the proportional percentage of the 60 per cent remission currently being received.

Whilst I applaud the initiative taken by the Government to assist people in need, particularly pensioners, I express great concern that the Bill seeks only to selectively change by proclamation the remission of water and sewerage rates payable by eligible pensioners, clearly ignoring council and land tax charges levied and payable on the principal place of residence by many elderly South Australians.

I raise this issue in the context of the amendments which are being proposed by the Government to the principal Act which covers not only concessions to water and sewerage rates, but also concessions to land tax and local government charges on the principal place of residence.

We are all well aware that all of these charges are based on the Government's valuation of the principal place of residence, and during the past few years we have all experienced an enormous increase in the valuations of our residential premises, particularly throughout the metropolitan area, which in turn has caused extremely large increases in charges levied by the Labor Government for water, sewers, land tax, as well as local government charges.

Through no fault of their own eligible pensioners as well as the community at large find themselves in a position of having to pay huge increases in Government charges by the Bannon Labor Government as a consequence of the increased valuations on their dwelling.

The Government has adopted a policy of raising revenue through unjust measures which are geared to the value of properties, which in most instances have been purchased through hard work and careful savings many years ago and which are presently occupied by people in their retirement. It is totally unfair for the Government to raise general revenue in this way from elderly eligible people who are on a fixed income and through their hard work have been able to own their home.

The Opposition is anxious to ensure that any future change to alter the level of remission for water, sewer, land tax and council rates covered by the principal Act should be implemented by regulation and not by proclamation.

We consider that any change to the structure of these rates and remissions which might be proposed by any Government should be debated and approved by the Parliament to ensure that the changes are adequate, fair and just. To make such changes by proclamation would not provide Parliament with that opportunity because the matter will not go before the Subordinate Legislation Committee. The Bill as proposed by the Government will simply allow the implementation of changes by proclamation, which will not provide Parliament or, for that matter, any member of the general public with the opportunity to put forward an alternative view or proposal which might be more appropriate or equitable for the community.

It is with this objective in mind that the Opposition will seek the support of the Australian Democrats to introduce amendments to clause 4 of the Bill which will allow changes to occur by regulation. I commend to the Council the amendments standing in my name and I will detail them in Committee.

Bill read a second time.

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Remission of rates.'

The Hon. J.F. STEFANI: I move:

Pages 1 and 2—Leave out this clause and insert new clause as follows:

Substitution of s. 4

4. Section 4 of the principal Act is repealed and the following section is substituted:

4. (1) The Governor may, by regulation—

(a) prescribe the criteria on which ratepayers are entitled to remission of rates under this Act; and

(b) fix the amount of, or prescribe the method of determining the amount of, the remission to which a ratepayer is entitled in relation to rates of a kind specified in the regulations.

(2) A regulation may—

(a) leave a matter to be determined according to the discretion of the Minister for the purposes of the regulations; and

(b) be brought into operation on a date specified in the regulations that is earlier than the date of its publication in the *Gazette*.

(3) A ratepayer who, in the opinion of the Minister, complies with the prescribed criteria is entitled to a remission of the amount fixed, or determined in accordance with the method prescribed, by the regulations in relation to rates of the kind payable by the ratepayer.

In moving this amendment, the Liberal Opposition has given careful consideration to the existing provisions of the

Act. We believe that it is appropriate for Parliament and the public to have an opportunity to discuss any changes which would affect the very people the Government is claiming it wants to assist.

The amendments proposed by the Opposition will allow debate to occur in Parliament on any proposed future change. The Liberal Party believes that the Bill as proposed will remove the existing safeguard provisions in the Act and will simply give the Government of the day the power to introduce changes at its sole discretion, deciding without veto when, how much and which people receive future benefits and remissions.

The amendment which I have proposed will enable the Government to keep its election commitments, but I believe that the yardstick for entitlements, the amount of entitlement, the determining remission and the date of commencement of any change should be determined by regulation and therefore through the established processes of Parliament. I commend the amendment to honourable members.

The Hon. ANNE LEVY: The Government opposes this amendment. As set out in this clause, the remission is to be determined by proclamation. Water rates, as set out under the Water Works Act, are determined by proclamation. Sewerage rates, as set out under the Sewerage Act, are determined by proclamation. It would be absurd to have a situation in which the rates are determined by proclamation but the remissions to them are determined by regulation. There must be consistency so that, where the rates are set by proclamation, the remissions should also be set by proclamation.

Furthermore, the idea of setting remissions by regulation would mean that there is the possibility of disallowance. Sewerage and water rates come into operation on 1 July each year, so they are proclaimed shortly before then. If the remissions were determined by regulation, the regulation would have to be gazetted to indicate who was to get remissions. Months later, Parliament could disallow that regulation. It would mean that, for people getting their water and sewerage rates early in the financial year, it may be many months before they could be sure as to whether the remission which the Government intended them to have would actually apply to them.

As members know, there must be a 14 sitting day period during which regulations can be disallowed by either Chamber of Parliament. It would be absolutely untenable to have a situation in which water and sewerage rates were determined by proclamation, with bills sent out to people and with them being told months later that the remission on those rates which the Government intended them to have was no longer available to them. That would not be acceptable to the general public and it is certainly not acceptable to the Government.

The Hon. J.F. STEFANI: I find the Minister's explanation most extraordinary and certainly not convincing. In 1986, by an amending Act, the Labor Government chose to introduce the very concessions to which the Minister referred. I have the Act in front of me which states the amounts. Her argument in that regard is totally baseless. However, I am sure that Parliament itself would seek to assist any Government that provides some remission or assistance to people in need and it is totally baseless for the Minister to claim that Parliament would put hurdles before such assistance.

By providing Parliament with an opportunity to debate whether remissions are fair, at least there would be an input by members of Parliament and members of the general public. We might find that, instead of there being Government pork-barrelling of a promise at its own whim, there would be a clearly determined way of establishing remissions for pensioners and other people in need.

The Hon. I. GILFILLAN: I indicate Democrat support for the amendment. It is well known in this Chamber that the Democrats have consistently supported more involvement by Parliament in the decision-making process. The Minister argues that the issue of remissions should be dealt with in a similar way to the proclamation of rates. It may well be that, being a financial measure, the matter of rates is properly the prerogative of the Government. Even so, discussion on those rates and how they are determined is a matter of considerable importance to all members of Parliament. The Minister would know from her previous involvement with the Public Accounts Committee that accrual accounting will become critical in the way the economics of this State deal with water, sewerage and other rates that are levied on members of the public.

In relation to this Bill, the actual issue of remissions is certainly a political matter. It is a matter of concern and compassion for a section of the community which, in their judgment, the Government and Parliament consider worthy of special consideration. One advantage of having the matter determined by regulation is that interested parties could put their argument to the Subordinate Legislation Committee. They would include pensioners and others who may be arguing for the remissions or for adjustments to the remissions. I indicate that the Democrats have no difficulty with this amendment and will support it.

The Hon. ANNE LEVY: This legislation has nothing to do with setting the rates. It is concerned only with the remissions.

The Hon. I. Gilfillan: I understand that.

The Hon. ANNE LEVY: The Hon. Mr Gilfillan spoke about Parliament's wishing to be involved in determining the rates. I point out that water and sewerage rates are determined under different Acts by proclamation. The Bill before us, and this clause in particular, deals only with remissions, the category of people who are to receive remissions and the way of determining the amount of remission that people will receive. The Hon. Mr Stefani suggests that Parliament would not take away a remission that the Government has proposed by way of regulation. If he is so sure that Parliament would not take it away, why does he wish to bring the criteria for remissions before Parliament? A regulation cannot be amended by Parliament; it can only be accepted or disallowed.

If the Government proposes a remission to certain categories of people, such as pensioners, and if Parliament disallowed the regulation, that would remove all remissions. If it does not disallow it, the remissions would be as proposed by the Government in the regulation. It seems to me that no good purpose whatsoever would be served. The possibility of Parliament's disallowing a remission that is proposed by the Government would cause a great many problems for pensioners and others in the community to whom remissions are given, because it may be many months after people have been granted their remissions and have paid their bills before Parliament disallows the regulation, and people would suddenly find that they have more to pay. If that is not intended, as the Hon. Mr Stefani implies, what is the point of its being a regulation—if there is no intention of ever disallowing it?

It seems to me to be self defeating. I repeat that people who are receiving remissions need the certainty, right from the beginning of the financial year, as to what remissions they are or are not having, and this can be achieved only by rejecting this amendment and having the entitlement for remissions determined by proclamation.

The Hon. I. GILFILLAN: I should like to comment on the Minister's interpretation of my remarks. I acknowledge that the rates are determined by the Government by proclamation, and I was observing that, from the Minister's experience with the Public Accounts Committee and her awareness of accrual accounting, we as a Parliament in the years ahead may be very concerned that the rates that are set reflect the true cost. I apologise: it really was a diversion that was not particularly germane to the debate but, in case the Minister misunderstood me, I quite clearly understand the situation.

I am just observing whether, in comparison, it would be advisable when setting the rates that they be subject to a wider debate within the Parliament, being conscious of the extraordinary ramifications of not having these rates set properly. I do not wish that matter particularly to be involved in the debate on the amendment, and I rise only to explain to the Minister that what I understood to be the case is exactly as she explained it, although that does not have any effect on the Democrats' support for the amendment. We believe that it is appropriate for this matter to be dealt with by the Subordinate Legislation Committee.

The Hon. ANNE LEVY: I rise to correct an assumption made twice by the Hon. Mr Gilfillan: I have never been a member of the Public Accounts Committee; nor has any member of the Legislative Council, as it is a committee composed entirely of members of the House of Assembly.

The Committee divided on the suggested new clause:

Ayes (11)—The Hons J.C. Burdett, M.B. Cameron, L.H. Davis, Peter Dunn, M.J. Elliott, I. Gilfillan, K.T. Griffin, Diana Laidlaw, R.I. Lucas, R.J. Ritson, and J.F. Stefani (teller).

Noes (8)—The Hons T. Crothers, M.S. Feleppa, Anne Levy (teller), Carolyn Pickles, T.G. Roberts, C.J. Sumner, G. Weatherill, and Barbara Wiese.

Pair—Aye—The Hon. J.C. Irwin. No—The Hon. R.R. Roberts.

Majority of 3 for the Ayes.

Suggested new clause thus inserted.

Clause 5 and title passed.

Bill read a third time and passed.

ABORIGINAL LANDS TRUST ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 751.)

The Hon. M.B. CAMERON: This Bill clearly arises out of amendments which were moved to the Pitjantjatjara Land Rights Act some time ago and which came about as a result of the Hon. Mr Dunn and I being invited by the Pitjantjatjara council to visit the Pitjantjatjara lands in January 1988. I must say that it was an invitation that I could easily have refused at the time: if anyone has been up in that area in January, he or she will be aware that it is not the coolest place to visit in Australia.

However, at that time the communities had become totally frustrated with the Government's refusal to listen to requests they had made for changes that would give them the ability to control problems in their own lands. It was not until after a meeting with the Pitjantjatjara council and after bringing the concerns back to the Government that the Government, through a select committee and through representations to that committee by the Pitjantjatjara council, agreed to give those communities by-law making power and the ability to control within their communities the problems of petrol sniffing, drinking and gambling. Basically, from information I have received, the moves have been pretty successful.

There have been some problems because somehow our legal system finds it difficult to cope with something new. As I understand it, in the initial stages some of the people making the decisions about penalties found it difficult to understand that a reasonable size penalty must be imposed in order to make any difference to the behaviour of people who, for a long time, have been transporting alcohol onto the lands and causing horrific problems within the communities. I know that a number of members have visited those communities and would be aware of the problems that have been experienced in the past and the sort of damage that has been done within those communities by people who were not prepared to behave like reasonable human beings and who took alcohol into the lands and encouraged these people in other ways.

One of the penalties that was included was the confiscation of motor vehicles. I note that that penalty has also been included in this Bill to cover Aboriginal Lands Trust land. That penalty has created some difficulty in the Pitjantjatjara lands because it must be understood that some of these people live in very isolated communities. For example, Pipalyatpjara is about 13 hours by road from Marla Bore, the police station nearest to that community. So, if a police officer decides to order the confiscation of a motor vehicle because of the suspicion of the offence of providing alcohol, and because in some cases the vehicles may be worth only $300 to $500, the officer, often having flown into the community, is faced with the job of transporting the vehicle for 13 hours by road. The logistics involved in that are very obvious, I would imagine. At the end of the day, the magistrate who makes the final decision may say, 'No, that vehicle should not be confiscated,' in which event the police officer is then faced with the problem of transporting the vehicle worth $300 to $500 back to Pipalyatpjara. That does create logistical problems of enormous proportions.

As I understand it, the end result is that no vehicle has yet been confiscated because no police officer is prepared to make that decision, knowing what the end result could be. If a penalty such as this is included—and I agree with the penalty because it does mean something—we must provide for the safe custody of these vehicles from when the suspected offence is reported until the decision is made by the magistrate, and that is a matter for Government. The Government must ensure that there are provisions for safe custody of vehicles. That will not be easy but it is something that must be addressed by the Government because there is absolutely no point in penalties being included in Acts if they cannot be enforced.

As I understand it, in the Pitjantjatjara lands, on some occasions this problem has been overcome by the communities themselves. After the police officer leaves, they take the vehicle out of the community and burn it, and that solves the problem. Whether or not the person concerned likes it, he is deprived of the vehicle. It is rough justice but, in some cases, it is perhaps justified.

I totally support the moves that are being made. It is amazing how the wheel has turned from when the Government first decided that Aborigines should be full citizens of this State. I remember one of the great cries at that time was that at last these people would be able to go into a hotel and drink. It has become fairly obvious that, in the process of giving these people this right, we have not prepared them for the consequences of the use of alcohol. We are now moving quite properly to the provision of dry areas

in the majority of isolated Aboriginal communities in South Australia. Although it is surprising that I am saying this, I believe that to be a very forward looking step, because it is the only way that these people are able to cope with the problems that have been created in these communities. The community of Yalata is an example of what can occur if the use of alcohol is not controlled. The other areas of the State that have suffered the consequences of the misuse of substances other than alcohol are well known and have been well documented, and I have raised them in this place on many occasions.

We do not seem yet to have fully coped, or helped these people to cope, with the problems we have created by providing them with alcohol, petrol and other things that have ruined not only their lives but also those of their children and the community in general. I applaud the forward looking step that has been taken by the extension of these provisions of imprisonment, heavy penalties and of dry areas for Aboriginal communities in this State that were first initiated from this side of the Chamber. I support the Bill.

Bill read a second time.

In Committee.

Clause 1—'Short title.'

The Hon. DIANA LAIDLAW: I am disappointed that the Minister has not sought to sum up the second reading debate, because both the Hon. Mike Elliott and I posed quite a number of considered questions about aspects of this Bill. Also, the Hon. Mr Cameron has raised some questions and I would have thought that, as my remarks were made last Thursday, there was ample time for the Minister to have considered them and come back with some answers about the administration of this legislation and about the resources involved.

I take this opportunity to ask the Minister if she has answers to my questions on resource allocations by the Government to ensure not only the proper administration of this legislation but also general rehabilitation programs for Aborigines. I feel these sentiments even more strongly now that both the Minister in this place and the Minister in the other place have spoken with great euphoria about the introduction of this Bill. However, without resources to ensure that more police aides are provided to help with the administration of these very wide powers and responsibilities within Aboriginal lands; without resources to ensure the provision of rehabilitation programs for Aborigines who are engaged in or suffer from excessive alcoholism; and without resources to help the reestablishment of public and private property, the Minister's euphoria will count for little in practical terms.

That is because it is not possible just to declare a dry area and believe that problems such as excessive alcohol consumption will no longer be rampant in some of these communities. Also, the Hon. Mike Elliott and I talked about the need for resources for programs that would relieve the excessive boredom that, in part, drives many Aborigines to look for distractions in habits such as drinking or petrol sniffing. That point was also made by the Hon. Peter Dunn. I expressed some alarm about those matters during the second reading debate and I will express even more concern about them if we find that this Government has not only not sought to address those very genuine concerns in terms of the administration of this Act but has also not dealt with the problems of Aboriginal drinking, petrol sniffing and health in general.

I make those points and perhaps, as the Hon. Legh Davis suggests, the Committee should report progress to see whether the Minister can provide some answers to some of those questions referred to during the second reading debate, in a very genuine attempt by the Liberal Party to ensure that this worry of excessive alcohol consumption within the Aboriginal Lands Trust areas is dealt with thoroughly, rather than simply looking at imposing dry areas, if that is what the communities themselves want.

The Hon. ANNE LEVY: I have not been provided with any responses to the queries raised by the Hon. Ms Laidlaw. I was completely unaware that her support for this Bill depended on them; certainly, I had taken her support for the legislation before us as wholehearted, as was that of her colleagues behind her who have spoken on this matter. I will certainly undertake to seek responses, as I am sure she would expect to receive them. Apparently, she is adamant that she does not wish to proceed until such responses are received, but she in no way indicated before that her willingness to pass the legislation depended on receiving the responses. If that is her position, I will move that progress be reported.

Progress reported; Committee to sit again.

REAL PROPERTY ACT AMENDMENT BILL

In Committee

(Continued from 22 March. Page 764.)

Clauses 3 to 10 passed.

Clause 11—'Insertion of Division II of Part V.'

The Hon. ANNE LEVY: I move:

Page 2, line 32—After 'this Act' insert '(excluding Division I).'

This is proposed in an excess of caution to make quite clear that this clause does not refer to Division I, as it was never intended to do so.

The Hon. L.H. DAVIS: The Opposition supports this amendment. The Hon. Trevor Griffin and I have had the benefit of a background briefing on this Bill, which is complex, given that it seeks to cover the introduction of computerisation of the registration of titles in the Lands Titles Office.

We appreciated the full and frank briefing that we have had, and I think I can speak for my colleagues in saying that it resolves most of the concerns which were expressed by the Law Society and which were referred to by the Hon. Trevor Griffin in his second reading contribution. Indeed, some of those concerns are reflected in the amendments to clause 11 and other clauses.

However, clause 11 remains somewhat complex and, for the record, it may be useful if the Minister explains how the existing manual system will operate alongside the computerised system, which will be phased in over a 10-year period. The manual system provides for original and duplicate certificates of title. The definitions of these terms are referred to in section 51b *(c)* and *(d)*. I take it that those terms cover the existing system. However, alongside this system a system of electronic registration of title will be developed whereby the title will be retained electronically by the Registrar and a hard copy will be provided to the land-holder. This copy will still provide a full description of the title and any encumbrances relating to it. The Hon. Trevor Griffin and I are well satisfied on this point.

However, there remains the necessary difficulty in drafting section 51b, which refers to 'certificates of title', 'original certificates' and 'duplicate certificates'. Will the Minister explain how new section 51b provides for the two systems to operate side by side, and will she spell out the elements of this provision which deal specifically with the new system, as compared to the old system?

Amendment carried.

The Hon. ANNE LEVY: With regard to the first question raised by the Hon. Mr Davis, I am informed that the computerised and manually operated systems will operate side by side during the transition period. However, as computerisation occurs, section by section the manual system will decrease. For example, when strata titles are computerised they will no longer be handled manually. So, throughout the transition period the computerised system will grow and the manual system will shrink.

In relation to the second point raised by the Hon. Mr Davis, the terms 'certificate', 'certificate of title' and 'register book' have readily understood meanings in the manual system that are familiar to all its users, and to avoid a change in terminology the same terms will be used in the computerised system so that confusion will not be generated for people who are used to the manual system.

The Hon. L.H. DAVIS: I take it that the introduction of the computerised electronic system will not result in cost increases and that, on the other hand, it will result in savings of labour, time and effort. Can the Minister assure us that cost benefits will be reflected in the cost to users of the system at the Lands Titles Office?

The Hon. ANNE LEVY: This matter was discussed in Committee the other day. I was then able to assure the Hon. Mr Davis that savings are expected both for the department and the general public as the result of introduction of the computerised system. When the Committee last considered this matter, savings in staff were discussed, and there is no suggestion that there will be increased costs to anyone.

Clause as amended passed.

Clauses 12 to 36 passed.

Clause 37—'Fraudulent misdemeanours.'

The Hon. ANNE LEVY: I move:

Page 7—

After line 20 insert the following paragraph:

(aa) by striking out 'If any person is guilty of any of the following offences, that is to say' and substituting 'A person who';.

Line 22—Leave out this line and insert—

(iv) without lawful authority and knowing that no such authority exists intentionally alters or causes to be altered—

.

Line 32—Leave out paragraph *(b)* and insert the following paragraph:

(b) by striking out 'such person shall be guilty of a misdemeanour, and shall incur a penalty not exceeding one thousand dollars, or may, at the discretion of the Court before which the case may be tried, be imprisoned with or without hard labour for any period not exceeding three years.' and substituting 'is guilty of an indictable offence. Penalty: $40 000 or imprisonment for 10 years.'

These are partly tidying up amendments to make the matter clearer, and they also make clear the severe penalties that will apply in all cases. The penalties apply not only to people who deliberately try to be fraudulent but also to people who are, shall we say, thrillseekers, who just for the sake of mischief—it could be aggrieved staff—act in what effect is a fraudulent manner. These very severe penalties will apply to those situations as much as to any other. The amendments are to make quite clear that this does apply.

The Hon. L.H. DAVIS: This clause, which seeks to amend clause 233 of the principal Act, is obviously directed at the possibilities of people from within or without the department altering records. The Minister has made that quite clear. As I understand it, the two ways in which records can be altered or destroyed are through hacking, or through the introduction of a virus. The virus could be introduced and triggered over a period of, say, several weeks or months. It may lie dormant for a long time. It may not simply alter the record—it may totally destroy it. I take it that the Minister is confident that the definition which is covered in this amendment picks up the possibility of a virus obliterating a total record.

In other words, I am making a separate point. A hacker may wish to change a specific title so that X is deemed to own a certain block of land rather than Y. That may be one element that could be involved and picked up by this clause, but the other element is something much more sinister where someone attempts to wipe out the whole system through a virus.

I think that the background briefing that we received was reassuring in the sense that there is a backup system. A duplicate will be kept and the original records which accumulate can always be used to reconstruct the overall record, if the worst happened. However, I return to this point about the virus which could actually obliterate a whole section of titles. Is the Minister confident that the definition that we are now debating would cover that particular point over and above just a mere alteration of information?

The Hon. ANNE LEVY: I am assured that the wording currently used covers that situation. Altering a record includes deleting it. So, the reference to 'alteration of the record' would cover the situation of a virus which deleted parts of the record, and the penalties would apply in that situation.

The Hon. K.T. GRIFFIN: I support the amendments, which largely arose out of some matters I raised during the second reading debate. I was concerned about the dependence of this paragraph upon the description of 'fraudulent behaviour'. I think that now the offence is very much wider and that it adequately covers any unlawful access to the computer and any intentional alteration of material which might be on it. I am pleased to see that the issues have now been appropriately addressed and I think it will adequately deal with the situations I envisaged at the time that I raised the matter.

Amendments carried; clause as amended passed.

Remaining clauses (38 to 42), schedule and title passed.

Bill read a third time and passed.

The Hon. K.T. GRIFFIN: Mr President, I draw your attention to the state of the Council.

A quorum having been formed:

JAMES BROWN MEMORIAL TRUST INCORPORATION BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 645.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. The object of the Bill is to seek to broaden the objects upon which the trust operates, so that the trust is permitted to extend its operation to provide care for the aged and infirm or those in need of charitable assistance regardless of their financial position. Currently, the trust is limited to providing for the poor and destitute or those persons suffering from lung diseases.

At present, the trust operates the Kalyra Nursing Home and two blocks of hospital units, for approximately 50 persons at Kalyra, and a number of pensioner flats in various suburbs of Adelaide. The amendment has been requested by the trustees and the trustees were given access to Parliamentary Counsel to draft the Bill.

The Kalyra Nursing Home, as it now is and as members of this Council would be familiar, was previously a hospice and rehabilitation care unit in South Australia and these functions of Kalyra were discontinued by action of the Government. This was a disgraceful exercise and deprived

the State of an excellent institution. In the last session of Parliament, the Hon. Martin Cameron moved a motion to disallow a regulation to remove Kalyra from the list of recognised hospitals. That did deprive the State of an excellent service which was appreciated by the persons who were cared for in Kalyra and which was a help to care givers.

In moving a motion in relation to the Kalyra Hospital on 8 March 1989, the Hon. Mr Cameron said:

Because I went to school near there I know exactly the situation it was in and the care it provided. In a similar vein the trust responded to the South Australian Health Commission's letter of 27 July 1988, inquiring into the trust's attitude towards the commission's intention to remove Kalyra Hospital from the list of recognised hopsitals under the Medicare agreement regulations under the SAHC . . .

At Kalyra, hospice care for the terminally ill advanced in technique and status to the level we appreciate in South Australia today. I do not think anyone would argue that, if it had not been for Kalyra we would not be at the standard of hospice care in South Australia that we have reached today . . . The blueprint for today's hospice services is embodied in the State Government's hospice policy, which is a statement of practice formerly at the Kalyra hospice, integrated with the community hospice program based at Flinders Medical Centre.

In fact, a booklet on hospice care was put out by the Government using photograph after photograph of Kalyra Hospital to indicate how hospice care was carried out in this State. There was the Government prepared to use Kalyra as a means of promoting hospice care, but, when it came to the crunch, the Government just defunded it.

Further in his speech, the Hon. Mr Cameron said:

The Government ought to be ashamed of this whole saga because right from the start it was clear to everyone concerned that the Government was not interested in the provision of care; it was interested only in saving money. That is the sad thing about this whole saga, that somehow or other the people who were receiving care were forgotten; the people who were providing care were forgotten; the institution was forgotten. In amongst it all, I do not know what happened—whether someone got himself uptight; whether someone developed an antagonistic attitude towards this institution; whether there was a Minister who felt he had to prove himself in some way; or whether there was a Chairman of the commission who said, 'There is $1 million; let us save it,' I do not know what happened. It was clear to me right from the start that it was done without any thought at all as to the consequences. In fact, it was done without any consultation with Kalyra or the James Brown Memorial Trust.

In my view, it was disgraceful of the Government to have acted in that way and to have terminated an institution acting in that way (of course, it has continued in another way) when it was carrying out a very valuable service to some of the people in South Australia. As I understand it, the trustees were opposed to the closing of Kalyra in that form—that is, the trustees of the James Brown Memorial Trust—but they acknowledged that they have to go on administering the trust of the will of the late Jessie Brown, who died in the last century. She set up this trust in memory of her husband, the late James Brown.

The people of South Australia, particularly those who have had the benefits of the services of the trust, whether in the form of the former hospice or, as at present, of the nursing home, or otherwise, have every reason to be grateful to the memory of the late Jessie Brown, for her munificence and for the diligence of successive trustees. The present trustees have sought this Bill and have been given access to Parliamentary Counsel and they have indicated to the Opposition that they want the Bill to proceed as soon as possible and in this session of Parliament.

Clearly, the Bill is a hybrid Bill and will have to be referred to a select committee, in any event, but it is the kind of select committee that should be able to be conducted speedily. For those reasons, I have pleasure in supporting the second reading of this Bill, but with the observations that I have made about the former function of the Kalyra hostel.

The Hon. M.B. CAMERON: I support the Bill. I do not suppose there is any point in going back over the past too much. The Hon. Mr Burdett has quoted some of the remarks that I made last year, and I think those quotes probably cover my feelings—although I will forever remain puzzled about the peculiar attitude taken towards this invaluable institution. I would have thought it had done nothing to upset the Government of South Australia. On the contrary, I would have thought that it provided very reasonable and cheap care to the citizens of South Australia, and that it was an institution that was not there for the wealthy but generally for the people of less substance in South Australia, and the people who ran it did so on a voluntary basis and have always done so. It is an excellent institution.

I have one suggestion in relation to this trust, that is, that it might be an idea for the select committee to put to the trustees (I think it should be done only with the support of the trustees) that perhaps the name of this trust should be slightly altered to include at the beginning the name 'Jessie Brown' because she was the person who set up the trust.

There is a story behind James Brown that leads me to wish that Jessie's name be put first because, without wanting to go into details, James Brown had a property in the South-East, and his alleged behaviour towards the Aboriginal community there leads me to believe that he should not be first on the list of people who are described in this trust. The allegations related to the provision of arsenic laced flour to the Aboriginal community near Avenue Range, and I do not know what the results were of court cases at the time or what happened as a result, but I ask that the suggestion be put to the trustees. Members on the select committee may find that the trustees are amenable to such a change.

Bill read a second time.

The PRESIDENT: As this is a hybrid Bill, it must be referred to a select committee pursuant to Standing Order 268.

Bill referred to a select committee consisting of the Hons J.C. Burdett, M.S. Feleppa, Carolyn Pickles, R.J. Ritson, R.R. Roberts, and J.F. Stefani.

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

That the quorum of members necessary to be present at all meetings of the select committee be fixed at four members; and that Standing Order 389 be so far suspended as to enable the Chairperson of the select committee to have a deliberative vote only.

Motion carried.

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

That this Council permits the select committee to authorise the disclosure or publication as it thinks fit of any evidence presented to the committee prior to such evidence being reported to the Council; that the select committee have power to send for persons, papers and records; to adjourn from place to place; and to report on Tuesday 3 April 1990.

Motion carried.

CORONERS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 759.)

The Hon. R.J. RITSON: The Opposition does not necessarily oppose this Bill but seeks to delay it because it does not know enough about it and because there appears to have been little, if any, consultation with the professionals who will have to work with the Bill. Most of the matters dealt with in the Bill are matters of adjustment of wording without significant practical consequences but, for the first time, clause 5 requires mandatory reporting of a new class

of death which may occur in a class of building, accommodation or institution.

The Opposition's first problem here is some ambiguity in the wording. I mention to members that the wording complained of has been in the legislation for eight years without difficulty, because it merely described an area of jurisdiction of the Coroner but did not require mandatory reporting on the part of the people working in these institutions. The problem has been created because, prior to 1986, the jurisdiction of the Coroner was to inquire into violent or unusual deaths or deaths of unknown causes and deaths arising where the person was detained in custody within the State pursuant to an Act or law of the State.

There was a statutory duty upon people who became aware of a violent or unnatural death to report the same, and it carried a penalty of some $200. The other classifications of death were not mandatorily reportable but, as a matter of common practice, I believe that they were so reported. In 1986, an additional class of death came within the jurisdiction of the Coroner, namely, a death while the person was accommodated within an institution or part of an institution established for the care or treatment of persons who are suffering from mental illness, intellectual retardation or impairment or who were dependent upon drugs.

It is one thing to have that there as a general area of jurisdiction. It is another thing to understand what will happen if these become compulsorily reportable. In the first place, I cannot tell whether the part of an institution refers to a part of an institution, that whole institution being an institution established for the care of these people, or whether it means any part of any institution, that part being devoted to the care of these people.

For example, if one takes the broadest interpretation, namely, a part of any institution, that part being devoted to this purpose, then an annex in a small nursing home where dementia patients are accommodated would come within the ambit of the Act. If one takes the narrow interpretation that it must be part of an institution which is wholly dedicated to this purpose, the Act will cover Glenside, for instance, but not the psychiatric ward of the Royal Adelaide Hospital. These sorts of difficulties with interpretation did not matter because people reported deaths on a commonsense basis and there was a good relationship with the Coroner's Office.

The Coroner's Office is an extremely helpful office, I find, but what has happened here is that the Government, depending on the correct interpretation of the wording, has brought into the ambit of compulsorily reporting all the deaths from natural causes the cause of which is known and adequately medically documented. These deaths would normally be dealt with by the provision of a death certificate, although we do not know how many of these there are. Also, the $200 has become $4 000 or one year's imprisonment, and what we might be seeing is a draconian penalty applicable to a wide range of situations that the public does not understand.

If we are to have a change such as this, we must re-educate about 4 000 doctors and we must consult with the nursing profession because, if we take the wider interpretation and the onus falls upon the person in charge of the institution or part of the institution, the person in charge in many cases will, perhaps, be a senior enrolled nurse. The Act seems to envisage that there will be a little confusion between the person in charge of the institution and the person in charge of part of the institution, because it provides as the only defence to this a thought that the Coroner had already been notified.

There is no defence on the ground that the person had not ever heard of the law, was confused about the law, or did not think that his or her institution was an institution under the Act. It is a strict liability penalty of $4 000 or one year's imprisonment. So, we really ought to know what the Nursing Federation, for example, thinks of this.

We do not know the number of people accommodated in dementia units, nor do we know how many dementia units purpose built are presently being planned, designed and built in the private sector. We do not know the death rate from natural causes in these units. The Coroner's Office knows that there will be an increase in workload and knows that it will need some extra staff, although it does not know how much it will cost. The office takes the view that 'they will just have to fund us for it.'

I wonder whether the Minister knows the expense occassioned by this Bill in the additional reporting of natural deaths the cause of which is clearly documented, just because they happen to occur in an institution. The Government has gone about it the wrong way. It has tried to define a group of people by defining buildings instead of defining the class of person whom it wants to know more about. Further expense will be generated if the autopsy rate increases. I do not know what plans forensic science may have for additional staff and what that will cost. So, it has an unknown cost implication.

What does the Coroner think of it? When I spoke to him on Friday he had not seen the Bill. The Coroner's Act Amendment Bill came into the other place with a misleadingly brief second reading explanation that pointed to none of the difficulties, yet, when I rang up the Coroner, I found that he had not seen the Bill. Do members know how the Bill arose? A Deputy Coroner, observing some difficulties—and I do not know what they were—with inquiries into deaths in custody (I think it was Aboriginal deaths in custody), felt that there was some need for mandatory reporting regarding prisoners. He therefore went to the Crown Law Department and had discussions and, as a result, this Bill emerged.

The Australian Medical Association has never heard of it—yet we have to re-educate 4 000 doctors about the rules. We have written to the Police Association, although we have not received a response as yet. The Bill places the same penalties of $4 000 or one year's imprisonment on police officers for failing to notify the Coroner immediately, in the case of being called to a violent death. I do not know what ' immediately' means. There is no defence of oversight and no indication that some element of guilty mind must be involved before the penalty is imposed. The police may have a view on that, and we are awaiting the Police Association's response.

The Private Hospitals Association is quite interested in the impact that this legislation will have on administration within private nursing homes and hospitals. The Nursing Homes Association is interested, but there has not been the slightest consultation. When, instead of providing a death certificate, a Coroner's notification is made, the procedures are quite different for funeral directors in relation to the amount of work they must do. This applies not only to the paperwork but also, if autopsies are ordered, for the transport to the autopsy room and to the uncertainties which may arise about the date of the funeral. The Funeral Directors Association has not been consulted.

I suspect that this Bill was generated almost without the Attorney-General's knowledge or thoughtful consideration and that it prematurely escaped between his legs when he was busy. I have received a letter from the Funeral Directors Association, which reads as follows:

Dear Dr Ritson, It has come to our attention that an amendment Bill to the Coroner's Act was passed in the Lower House last Tuesday.

It came to their attention, of course, because I told them—the Government did not think to. The letter continues:

It seems the Bill which was presented as a non-contentious one seeks to enlarge on the number of deaths that will need to be reported to the Coroner's department. This association has not been given an opportunity to review the Bill.

It is obvious that such a change to the Act could result in an alteration to the day to day operations of the funeral directors. We request a stay in the passage of the Bill until such time as we can assess its impact on our industry.

The second letter, from the Private Hospitals Association of South Australia, reads as follows:

We understand that a Bill to enact legislation which will effectively require State private psychiatric hospitals to inform the Coroner of any deaths within the hospitals is before the House.

The Private Hospitals Association of South Australia, which represents a majority of State private psychiatric hospitals in South Australia, has not been previously informed of the content of this Bill, and feels strongly that consultation and discussion should occur with our members prior to the Bill being passed.

We therefore request that discussion on this Bill be delayed to enable us to consider the proposed legislation and provide an appropriate response.

In fact, the private psychiatric hospitals will not be greatly affected, because the number of deaths from natural causes in such hospitals will be low. However, in the case of nursing homes, the problems will be many. I have received a letter from the Nursing Homes Association that states:

Thank you for forwarding a copy of 'An Act to amend the Coroners Act 1975'. As this association is soon to undertake representation for the Psychiatric and Rehabilitation Hostels in South Australia, we believe that we should have some input into the amendment of this Act.

The proposed amendments appear to have implications for our members, so we are surprised that the Government has not consulted our association. The Nursing Homes Association would value the opportunity to comment on the proposed amendments to the Act.

Anyone who has worked at the coalface in the nursing home field will be aware of the sort of practical day-to-day problems that exist. For a start, it is considered increasingly appropriate to segregate dementia patients rather than have them mixed up with other patients. Therefore, many nursing homes now have a dementia wing and may very well be part of an institution created to care for the people referred to in the Bill, but it is not the class of people to whom the Act applies. It does not apply to dementia patients as such: it applies to any death that occurs in that place.

So, if there was a spare bed in the dementia unit and, for reasons of urgency, another patient—let us say an unconscious terminally ill cancer patient—was boarded out for a few days in a bed in that unit, and that patient died of well documented natural causes, it would nevertheless be mandatory to notify the Coroner because the death occurred in that part of the institution. If the person in charge of that part of the institution were an enrolled nurse but had never heard of the law because the Government did not consult with the Nurses Federation and she did not read the *Government Gazette* regularly, or because she thought it applied only to dementia patients and not cancer patients, there is no defence with a maximum penalty of $4 000 or one year's imprisonment.

I do not know all the answers to these complex questions but there is every sign that this Bill is drafted by people who have not consulted with anyone who works at the coalface of the care of these people. If we look at the spirit of section 5 (4), which has always been in the Act and which applies to the deaths of people detained pursuant to the law of the State, it is all very well for them to do what they have always done and report all deaths (or nearly all of them) to the Coroner. However, this will place a legal burden on a whole new class of carers. It will place a financial burden on the administration of forensic science in the Coroner's office—it may be great or small but as yet it is unquantified. It is not possible at this stage to systematically analyse the Bill and make sense of it in terms of its practical consequences.

All I have had the opportunity to do since I received a copy of the Bill last Thursday afternoon is to look at some of these emerging questions and the apparent lack of consultation (the Coroner himself has not yet read the Bill). I ask the Government to be perhaps humble enough to hold off for a while and for the Attorney-General to apply his not inconsiderable intellect to it and have—

Members interjecting:

The Hon. R.J. RITSON: Well, I admire his mind. He is a busy man, and I really think that this Bill escaped between his legs when he was not looking. A deputy coroner has devised it, none of the caring professions were consulted and suddenly penalties were upgraded. He is a very busy man, but I ask him to devote a little of his time to it. There is no urgency because it is something that was to come into force on a date to be proclaimed. If it goes ahead, some space will have to be appointed down in the Coroner's office for new administrative or clerical officers—something will have to be done. They expect a big increase in clerical work, all devoted to deaths from natural causes which are medically well documented.

The unnatural deaths are already reported. I do not know whether it would be a big or little bureaucracy but they will need to find a room, a word processor and a filing cabinet—at least a little infrastructure will be required. Perhaps down in the Forensic Science Unit somebody already has his eye on a newly created vacancy for another pathologist and is just waiting for this legislation. I ask the Attorney-General to find out these things for his satisfaction. It will not matter if this Bill is not finally dealt with until next session.

The Hon. L.H. Davis: I think you just caught the Government with its pants down.

The Hon. R.J. RITSON: Well, they are busy people. We have an enormous number of Bills suddenly coming in during the dying days of the Parliament, and that is the time we make mistakes. Obviously, the Government will indicate to us which Bills are to be dealt with urgently and which are not. I submit that this is one that is not. I do not necessarily oppose it but I want the Government to take it away, consult, analyse it, bring it back in the next session and explain it to us, and we will give it very fair consideration. I hope that the Attorney-General in the next few days might be able to indicate his attitude to me concerning this matter. Until then, I seek leave to conclude my remarks later.

Leave granted; debate adjourned.

WAREHOUSE LIENS BILL

Adjourned debate on second reading.

(Continued from 22 March. Page 760.)

The Hon. J.F. STEFANI: The Liberal Opposition supports the Bill, which is similar to the Bill previously introduced in the last session of Parliament. In addition, it includes a number of amendments raised during the debate at that time. The Bill repeals the 1941 Act and streamlines procedures. It establishes the warehouseman's lien but abolishes the requirement to give notice of a lien to those persons who may have an interest in the goods, until such

goods are required to be sold for the non-payment of fees. The Bill further requires that notice must be given to persons known to have an interest in the goods to be sold as well as to those persons whose interest might be discovered by a search of the Goods Security Register and the Bills of Sale Register. The new legislation seeks to reduce the number of regulations previously enshrined in the 1941 Act, an approach which I fully endorse. I support the Bill.

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

AGED AND INFIRM PERSONS' PROPERTY ACT AMENDMENT BILL

Adjourned debate on second reading.
(Continued from 22 March. Page 761.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. The Aged and Infirm Persons' Property Act allows the Supreme Court to appoint a manager of a protected estate where a person is aged or infirm and incapable of exercising responsibility for his or her own affairs. In all circumstances at present, it is the Supreme Court that makes those protection orders. The Bill seeks to provide for the District Court to make protection orders when dealing with an action for damages for personal injury. The District Court currently has power to direct that money payable to a plaintiff for damages be paid to the Public Trustee under the Administration and Probate Act, which constitutes the Public Trustee as a trustee, and that is not always the appropriate way to go.

A protection order under the Aged and Infirm Persons' Property Act will give more flexibility in the application of such moneys, as well as allowing the District Court to appoint some person other than the Public Trustee to be the manager of the protected estate. The Bill also seeks to terminate a protection order under the Aged and Infirm Persons' Property Act, when an administrator is appointed to manage the affairs of a person who is mentally ill or mentally handicapped under the Mental Health Act 1977. In addition, a protection order under the Aged and Infirm Persons' Property Act cannot be made in respect of a person whose estate is the subject of an administration order under the Mental Health Act. A number of statute revision amendments are also made.

These objects of the Bill are all commendable, but there are some matters which need some attention. First, under clause 9, where the relationship between the Aged and Infirm Persons' Property Act and the Mental Health Act is dealt with, it is my view that notice of the appointment of an administrator under the Mental Health Act ought to be given to a manager appointed under the Aged and Infirm Persons' Property Act. I have an amendment on file to deal with this and I will say more during the Committee stage, but I would say at this stage that, when a manager is appointed and is acting under the Aged and Infirm Persons' Property Act and when, by virtue of this Bill if it becomes law (as I believe it will), an order of appointment of an administrator under the Mental Health Act is made, the manager, under the Aged and Infirm Persons' Property Act, ought to be notified that his rights, obligations, duties and so on have been terminated. It seems to make sense that, where his authority ceases by virtue of the act of somebody else and of this Bill, he ought to be notified of that. The appropriate person to notify him is the administrator appointed under the Mental Health Act.

This amendment and the other amendment I propose have been moved in the other place and were unsuccessful. When this amendment was moved, the Minister having the conduct of the Bill in another place said that it was not the responsibility of the administrator appointed under the Mental Health Act; it was the responsibility of the Government. Then, later, he seemed to say that it was the responsibility of the court. If the Government wishes to amend the amendment or move an alternative amendment to say that it should be someone else who notifies the manager, I have no objection to that, but it seems to me that the administrator who is appointed under the Mental Health Act is the appropriate person. It was said in the other place by the Minister having the conduct of the Bill that the administrator appointed under the Mental Health Act may not even know that a manager was appointed under the Aged and Infirm Persons' Property Act. He could very easily ascertain that. This Bill having been passed, it should be part of his standard procedures that that is addressed.

The other amendment is more significant. In this general area of aged and infirm persons and of mental health—the general area of managers or administrators being appointed—one matter that could be properly addressed at this stage is an amendment to the Mental Health Act. The Mental Health Act currently provides that the administrator appointed under the Act shall be the Public Trustee, unless special reasons exist to appoint somebody else. The Guardianship Board has laid down some guidelines, some of which are contradictory, as to what constitutes special reasons but, in any event, it seems to me that the thrust is wrong. There should not have to be special reasons. The board ought to be able to appoint administrators other than the Public Trustee in its discretion and having regard to the circumstances of the case. Most members in this Chamber will have had complaints made to them about this matter and, probably, many have also had personal contact with this problem, as I have, through elderly relatives.

Often when an order is made in respect of one's spouse, the other spouse has had the conduct of the affairs of the person in respect of whom the order is made. Sometimes under power of attorney or sometimes perhaps just *de facto* the husband or wife, as the case may be, may have conducted the business of the other spouse. When the order is made, it is taken out of their hands. Except in special circumstances they may not be appointed as the administrator and it is placed in the hands of the Public Trustee. They feel that the care in regard to the material assets, business and so on of their partner has been taken out of their hands. They also feel upset, put down, frustrated and that they have lost control.

I concede that there are cases when they would not be the most appropriate administrator. Sometimes their own ability may be in question and sometimes, in the family situation, they may not be the appropriate person, but all I am suggesting is that the discretion be given to the board that they may be appointed—not that they must or even that they ordinarily will be, but that they may be appointed. All sorts of problems arise, as I have found.

The administration of the Public Trustee, as is said in a review from which I shall quote in a moment, is not efficient and often it is very difficult to meet the simple needs of the person in respect of whom an order has been made and the Public Trustee has been appointed as public administrator. This may relate to small items of clothing, small items of comfort and things of that kind and it is quite a business to enable those needs to be met out of the assets of the deceased person. I refer in this regard and rely very strongly on a review of the Guardianship Board and Mental Health Tribunal of May 1989. The personnel of the review team were Mr Peter Eriksen, Chairman; barrister, Murray

Chambers; Mrs Rosemary Wighton, Deputy Director, Department for Community Welfare; Mr Victor Symons, Chief Executive Officer, Spastic Centres of South Australia; and Mrs Anne Burgess (Executive Officer), Senior Project Executive Officer of that review team who is also the Senior Project Officer, Statewide Health Services, South Australian Health Commission. On page 42 at paragraph 7.4.1, under the heading 'Administration Orders, Public Trustee', the review states:

> The issue raised most frequently in relation to administration orders refers to the perceived inefficient handling of estates by the Public Trustee.
>
> The delays in attending to the needs of clients and caregivers have been acknowledged by the board and the Public Trustee. However, despite meetings between both parties the situation does not appear to have improved. The review team is informed by the Public Trustee that the delays and inefficiencies are due to inadequate resources and training in the Public Trustee's office.

That is exactly what I have been talking about—administration by the Public Trustee has been inefficient and there have been difficulties in meeting the needs of the clients and caregivers. While I suppose that the Attorney could say that the remedy for that is to make the Public Trustee more efficient, that does not seem to have been possible so far, and, anyway, I can see no reason why there should not be the ability to appoint spouses or other people as administrators in lieu of the Public Trustee. On the subject of appointment of an administrator, at paragraph 7.4.2. the review states:

> A related concern is the requirement that the board appoint the Public Trustee as administrator unless there are special reasons not to do so. There are criteria for determining special reasons and, although the board has adopted some informal guidelines, there is inconsistency in the way they are being applied. There is also a concern that some administrators may abuse their authority if appointed.

That is what I have been saying. It continues:

> However, there is also concern that the Public Trustee is being appointed when a family member or other private administrator could provide a more personalised and effective service. It is acknowledged that complex decision making is sometimes involved with large estates.

In the main I have been talking about small estates—cases where a spouse, a relative or some other person could be more effective, less bureaucratic and more efficient, particularly in small matters, in dealing with the administration than is the Public Trustee. While this matter is not directly raised by the Bill and, therefore, an instruction is necessary, it is part of the same issue dealing with the estates of aged and infirm persons, whether under that legislation or under the Mental Health Act. For these reasons I support the Bill, the thrust of which is good, but I believe that the other matters to which I have referred should be addressed at this time.

Bill read a second time.

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

> That it be an instruction to the Committee of the whole Council on the Bill that it have power to consider a new clause relating to the appointment of a person other than the Public Trustee, as an administrator under the Mental Health Act 1977.

Motion carried.

In Committee.

Clause 1 to 8 passed.

Clause 9—'Relationship between this Act and the Mental Health Act 1977.'

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

> Page 2, line 33—After 'court' insert 'and serve a copy of the notice on the former manager of the protected estate'.

I canvassed this matter fairly well during the second reading stage. The Bill provides (and I do not oppose this in any way) that, where an administrator is appointed under the Mental Health Act, a manager appointed under the Aged and Infirm Persons' Property Act shall cease to have the power to administer the estate. This amendment simply says that an administrator, under the Mental Health Act, has not only to inform the court but also serve a copy of the notice on the former manager of the protected estate.

I suggest that surely, this is only commonsense. A manager under the Aged and Infirm Persons' Property Act is duly appointed by the court pursuant to an Act of Parliament. If by virtue of the Act which this Bill will result in and another act of an outside person, namely, the appointment of an administrator under the Mental Health Act, the manager under the Aged and Infirm Persons' Property Act is to be deprived of his authority, he ought to be told. He should not have to find out in some other way. He ought to be told that his right to administer has ceased and his obligations have ceased.

My suggestion is that there is no reason why the administrator under the Mental Health Act should not be required to serve the notice. As I said, it was stated in the other place that the administrator may not know that a manager had been appointed under the Aged and Infirm Persons' Property Act. He could easily find out and that could easily be part of the procedures that he has to go through in future.

If the Minister believes that some Government authority or the court should serve the notice on the manager appointed under the Aged and Infirm Persons' Property Act, then I would not necessarily object to that as an alternative amendment. It seems to me that it is not too much of a duty on the administrator, appointed under the Mental Health Act to have to serve notice on the manager who previously had authority under the Aged and Infirm Persons' Property Act.

The Hon. C.J. SUMNER: The Government's position on this is that it agrees that the former manager of the protected estate should be notified if an administrator is appointed but it feels that it should be the responsibility of the court to notify the former manager.

The Hon. K.T. Griffin: The court objects to that.

The Hon. C.J. SUMNER: I don't know whether it objects or not.

The Hon. K.T. Griffin: I think we raised the matter a few years ago in the context of something else.

The Hon. C.J. SUMNER: I am instructed that the only problem that will occur is that the administrator who is appointed may not have all the details about who the former manager of the protected estate might have been.

The Hon. K.T. Griffin: He can easily find out.

The Hon. C.J. SUMNER: So can the court, I suppose.

The Hon. J.C. Burdett: I do not think it is the court's role to go serving notices on people in situations like this.

The Hon. C.J. SUMNER: Why not?

The Hon. K.T. Griffin interjecting:

The CHAIRMAN: For the purposes of the record, is the honourable member conversing or contributing to the debate? It makes it very hard.

The Hon. C.J. SUMNER: It was a permitted interjection.

The CHAIRMAN: It was a fairly lengthy one.

The Hon. C.J. SUMNER: The administrator is hardly a party, in the normal sense of the word, and Parliamentary Counsel's view initially was that this particular notice could be given by the court pursuant to the rules of the court and it would be a matter for the court to make its own rules to govern it.

The Hon. J.C. Burdett: They may or may not make the rules.

The Hon. C.J. SUMNER: Well, we will write to them and ask them to. I suppose in some respects that might be the best, because then it can determine whether it will notify

or whether it is more appropriate for the new administrator to notify the former manager. So, the Government agrees that the former manager should be notified; it is just a matter of how we do it and who does it. I am happy, if the honourable member is happy, to write to the court and advise it of the situation and ask the court to deal with the matter by rules of court and then it can decide whether the notice should be given by the new administrator or by the court itself.

The Hon. J.C. BURDETT: I am not happy with that. This Bill was introduced by the Government and it does change the situation in that it takes the matter out of the hands of the manager appointed under the Aged and Infirm Persons' Property Act upon an administrator being appointed under the Mental Health Act. I do not think the Bill ought to leave this Parliament until this matter has been resolved. I think we ought to resolve it. It is a Bill which has been introduced by the Government. If it is passed it will become an Act of this Parliament. I do not think it is satisfactory to then write to the court to ask them what they think ought to be done about it.

The Hon. C.J. Sumner interjecting:

The Hon. J.C. BURDETT: I think we ought to resolve it, though, in terms of the Bill. The Government probably should have thought of this before and got the opinion of the court about it before. I can well see the court taking legitimate umbrage at being required to advise the former manager. I would see it as probably not being the court's role; whereas the administrator has been appointed and he has the authority under the Mental Health Act. I see no reason why he should not inform, serve notice on, the former manager. I really do not see any difficulty in his finding out whether or not there is such a manager and, if so, who he is. There is an order of the Guardianship Board, which is recorded—and can easily be part of his procedure to find out what that order is and who the manager is.

The Hon. C.J. SUMNER: I am advised that the best way to deal with the matter would be by the Rules of Court. There are Supreme Court rules made under the Aged and Infirm Persons' Property Act, and it is appropriate that this issue of notice be dealt with under the rules. To accommodate that, I have a proposed amendment to the honourable member's amendment which would mean that his amendment would read 'and a copy of notice must be served on the former manager of the protected estate in accordance with the Rules of Court'. It provides that the former manager must be notified but leaves the method of notification to the Rules of Court, but it is still in the Act.

The Hon. J.C. BURDETT: I am happy with that. I wanted it to be inserted in this Bill before it left Parliament, and it is. It provides that what I said ought to be done is done, and the method is left to Rules of Court. That is quite appropriate, so I seek leave of the Committee to withdraw my amendment.

Leave granted; amendment withdrawn.

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

Page 2, Line 23—After 'court' insert 'a copy of the notice must be served on the former manager of the protected estate in accordance with the Rules of Court'.

Amendment carried; clause as amended passed.

Clauses 10 and 11 passed.

New clause 12—'Amendment of Mental Health Act 1977.'

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

Page 3, after line 8—Insert new clause as follows:

12. The Mental Health Act 1977, is amended by striking out subsection (3) of section 28.

This proposed new clause deals with the Mental Health Act, as did the parent Bill, but in a different regard. The amendment that the Committee just dealt with provided for the case of a manager who has been appointed under the Aged and Infirm Persons' Property Act and where an administrator is subsequently appointed under the Mental Health Act. This is the same area—there is no argument about that. As I said at some length in my second reading speech (and I do not intend to go over all that again) this is a very practical area and very much in the minds of many people who are affected by the appointment of administrators under the Mental Health Act.

At present, the administrator appointed under the Mental Health Act may only be Public Trustee, unless special reasons exist for appointing someone else. The relevant portion of the review of May of last year made the point that, very often, it was a problem. It pointed out, among other things, that, while special guidelines were given by the Guardianship Board as to what special reasons were, that had only been informally and they had been inconsistently administered. There were no proper, effective formal guidelines under which it was determined whether or not there were special reasons.

It is a sort of onus of proof situation. Anyone other than Public Trustee could only be appointed if it had been established that there were special reasons. The purpose of this amendment is to take out the onus of proof and to leave it at the discretion of the Guardianship Board as to whom it appoints, whether Public Trustee or someone else. It was mentioned in the review that, in the case of large and complex estates, Public Trustee was probably the most suitable person in most cases, and I do not disagree with that. It is the other cases that concern me.

In the review, it was pointed out that many people complained about the administration of Public Trustee, that it was inefficient and did not meet with the needs of clients and care givers. Public trustee admitted that. He said that it was because of inadequate staffing and training. As I said when I spoke in the second reading debate, the Attorney-General may well say that the remedy is to have better staff and a better trained Public Trustee so that the inefficiencies will be removed, but I doubt whether that will happen. In any event, the review went on to set out more cogent and personal reasons why, in the discretion of the board, the administrator could quite readily be someone other than Public Trustee.

It particularly made the point of the spouse of the person in respect of whom an administrator is appointed under the Mental Health Act. Very often, the spouse has been administering the affairs of the other person under power of an attorney or otherwise, *de facto* administering his or her affairs. They often feel frustrated, hurt and angry, and certainly a lot of constituents have come to me along these lines: that they have been looking after the person concerned and his or her affairs, an order is made under the Mental Health Act and an administrator is appointed and they no longer have any rights or powers. It becomes completely impersonal and is taken quite out of their hands.

I admitted in my second reading speech that there are many cases in which the spouse may not be very qualified or competent, or where, for family reasons, they may not be the most appropriate person. However, there are in many cases, especially with small estates, for example, when it is only a matter of dealing with small assets, small amounts of money which are for the benefit of the person in respect of whom the administrator was appointed. I mentioned that I have had lots of similar cases from constituents, and I am sure that most members of this Chamber have, as well. Probably many members of this Chamber are in the same position as I am: we have had personal experience in respect of elderly members of our own families. I have found it

very frustrating for elderly members of my family, in respect of whom an administrator has been appointed. It is a terribly difficult, bureaucratic and enormous procedure to get from the Public Trustee small money for small items of clothing and comforts to be spent on the person concerned.

It is for these reasons that I have moved this amendment, not saying that always or even ordinarily a spouse, other relative or some other similar person other than Public Trustee should be appointed, but that it should be a power of the Guardianship Board. It should be within its discretion to decide who is the most appropriate person to be the administrator. I read out the personnel on the review tribunal, and I have the backing of the review in saying that that is the case and that is what ought to happen. Having had considerable experience with the orders of the Guardianship Board, I trust in its discretion. I think it would be loath to appoint a spouse or person other than Public Trustee where it thought there was any doubt as to whether or not that would be in the best interests of the person or his or her estate in respect of whom the administrator was appointed. It is for these reasons that I have moved my amendment.

The Hon. C.J. SUMNER: The Government opposes this amendment, not necessarily because it will disagree in the ultimate analysis with what the honourable member has said, but the amendment that he has moved has nothing to do with the Bill before the Committee. It is completely extraneous to it and raises a completely new topic. Obviously, the honourable member was given an instruction to deal with this matter, but the fact is that it is not something with which this particular piece of legislation is dealing.

The honourable member has mentioned the review of the Guardianship Board, a report which has been made public and of which the honourable member obviously has a copy. The Government currently is considering that review report, and it is anticipated that legislation will be introduced during the budget session of Parliament to deal with that review and its recommendations. Included in that will be a decision—one way or another—on this issue.

I suggest to the Council that the most appropriate way to deal with this is to await the Government's Bill which will deal with all the issues raised in the review of the Guardianship Board and then, if the honourable member is not happy with the Government response, seeing it in its totality, he can introduce his own amendments to the Bill at that stage. In the final analysis, the Government may well agree with what the honourable member has to say; I cannot pre-empt that. However, I should prefer the matter to be dealt with as part of the review of the Guardianship Board legislation when that is introduced and, for the moment, I ask the Committee to oppose the amendment.

The Hon. J.C. BURDETT: I cannot agree that the matter is extraneous to this Bill. After all, clause 9 proposes a new section 30 which is headed 'Relationship between this Act and the Mental Health Act 1977'.

The Hon. C.J. Sumner: That has nothing to do with it.

The Hon. J.C. BURDETT: No, but it means that this Bill is dealing with the relationship between this legislation and the Mental Health Act 1977. The Bill says roundly and clearly that it is dealing with the relationship between this legislation and the Mental Health Act 1977 and, although it is in another area, I do not think that that alters the argument at all. If it is deemed by the Government to be appropriate that this Bill should deal with a relationship between it and the Mental Health Act 1977—

The Hon. K.T. Griffin: In relation to administration.

The Hon. J.C. BURDETT: Sure—it is appropriate to deal with it in other regards. I can see no reason whatever why it should not be dealt with by this Committee now.

The Hon. C.J. SUMNER: The Government opposes it. I am prepared to ensure that the honourable member's comments are referred to the Minister responsible for preparation of the review of the Guardianship Board legislation and if, as I said before, the honourable member is not happy with that legislation when it is introduced, he can move his amendments at that time.

The Hon. M.J. ELLIOTT: The problems raised by the Hon. Mr Burdett have also come to my attention on several occasions. No doubt, there is a real problem, and there seems to be no doubt that the sort of solution he is offering is perfectly reasonable. I take the point that the Minister is making as to how relevant this amendment is to the very heart of the Bill that we have before us. Certainly, he did not construct any argument against the amendment itself or its merits.

One concern I have is that we are now talking about the possibility of some amending Bill in August or September—some time during the budget session. I have seen many reports of recent years which have gathered dust, with no legislation resulting from them, and one becomes a bit nervous about the prospect of actually seeing legislation emerging. There is a possibility of picking up at least one recommendation of the Guardianship Board and Mental Health Review Tribunal back in May last year.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: That is also true. I suppose it is no great joy to those people who have now been waiting some years for a little relief and, perhaps, a little humanity, and there does not seem to be any strong argument against the amendment itself. If the Attorney-General can raise substantial arguments or suggest problems that may be created by this move, or any reasonable doubt at all, I should happily oppose this amendment. However, he has not really placed any doubts about the amendment itself or any problems that may arise should we pass it at this time. I will be interested in his reaction.

The Hon. C.J. SUMNER: There are possible problems within Public Trustee. They have certain submissions on the matter that they wish to make to the Government, and that process is going on at the present time.

The Hon. K.T. Griffin: It is still in the discretion of the Guardianship Board.

The Hon. C.J. SUMNER: Of course: and I understand that. That is, apparently, what is recommended by the review of the Guardianship Board. It may be that in the final analysis there are no arguments against what the honourable member says. It is just that the consultation process with the Public Trustee and others concerned is going on at the present time. There will be a Bill which will deal with the whole review of the Act. Why take out just one section and put it in this Bill because you happen to have another Bill which is very vaguely related to it before the Parliament? My proposal is that we deal with the lot at the one time, when the legislation to give effect to the review of the Guardianship Board is introduced.

The Hon. J.C. BURDETT: No argument has been advanced against the amendment, other than that it relates to another Act. But, then, the Bill itself does make an amendment to the other Act, anyway, so I see no reason why we should not deal with it now.

The Hon. M.J. ELLIOTT: At least for the time being, I should like to see the amendment live, even if it should die a little later. The matter was brought to my attention only earlier today, and I have had a brief moment only to reflect

on the counter-arguments of the Attorney-General. But, as I said, there are questions here of the humane treatment of some people which I think we can address fairly easily.

No real problems appear to be created by accepting the amendment at this time, so I shall support the amendment. It does, at least, give the Government the opportunity to take it back to the other place and, in the meantime, consult on this matter. I do not see why this handful of 10, 20 or perhaps more people who are being affected should wait another 12 months for legislation.

The Hon. C.J. Sumner: It is a large part of the Public Trustee's work.

The Hon. M.J. ELLIOTT: I do not think that that is a compelling argument at this stage.

The Hon. C.J. Sumner: All I am saying is that that is why the consultation process has to be gone through.

The Hon. M.J. ELLIOTT: At this stage, I agree to the amendment but will be open to further persuasion should it come back to this place.

New clause inserted.

Long title.

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

After '1940' insert '; and to make a related amendment to the Mental Health Act 1977'.

This amendment is consequential on the previous amendment.

Amendment carried; long title as amended passed.

Bill read a third time and passed.

SELECT COMMITTEE ON JAMES BROWN MEMORIAL TRUST INCORPORATION BILL

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

That the select committee have permission to meet during the sitting of the Council this day.

Motion carried.

[Sitting suspended from 6.7 to 7.45 p.m.]

EQUAL OPPORTUNITY ACT AMENDMENT BILL

In Committee.

Clause 1—'Short title.'

The Hon. C.J. SUMNER: I will take this opportunity to respond to matters raised by members in the second reading debate. I thank members for their second reading contribution and provide the following comments on matters raised by them. The Hon. Mr Davis has referred to the provisions dealing with retirement age and has placed an amendment on file which would provide for subsection (5) to expire on a day to be fixed by proclamation being a day not less than three years after the commencement of the Part of the Act. The Government's provision provides for an automatic expiry on the second anniversary of the commencement. The Hon. Diana Laidlaw and the Hon. Mr Griffin have indicated their support for the Hon. Mr Davis's approach.

The Government Bill provides a two year framework in which to examine the wider implications of making a standard retirement age unlawful. The Government has taken the advice of the task force as to the likely time frame needed for such a review. The two-year time frame is considered to be adequate for a review to be conducted and for information to be provided to employers, etc. The Opposition's proposal would result in a minimum three-year period before the provisions came into effect. This is considered to be unnecessarily long, especially given that it is likely some other States will be abolishing compulsory retirement ages as from the date of proclamation of their Acts so as to take immediate effect. Therefore, the Government would seek to retain the original sunset clause in the Bill.

The Hon. Mr Davis has raised a query regarding the position of a company wanting to develop a corporate image by employing staff of a certain age. A company may wish to target clientele by only employing staff of a certain age. The company could be in breach of the new provisions if they discount a person's application merely on the basis of age; the company would need to be able to justify the choice of staff on a ground other than age. The aim of the Equal Opportunity Act is to remove stereotypes such as the view that older people cannot provide services or relate to younger people.

The Hon. Mr Davis, the Hon. Mr Elliott and the Hon. Diana Laidlaw have all queried the matter of junior wages in awards. The task force examined this issue in detail and discussed the proposal with employers and the Department of Labour. The Government has taken the view that award based junior wages should be able to continue at this stage but that the matter should be considered in the industrial arena. There is considerable debate regarding junior award wages both at a State and national level. A proper assessment of industrial and business implications would need to be conducted before a final decision is taken. The industrial arena is seen to be the more appropriate forum.

The Hon. Mr Davis and the Hon. Mr Lucas have raised queries regarding the provisions dealing with discrimination in education. The Hon. Mr Davis has indicated an intention to move an amendment. It is acknowledged that the current provisions may cause concerns for a number of educational institutions, particularly with respect to minimum age levels. The Government agrees that this matter should be looked at in Committee.

The Hon. Mr Davis has also raised a point relating to the discrimination in provision of goods and services where a person is accompanied by a child. The amendment moved by the Hon. Mr Davis allows a decision to be made to refuse the provisions of goods or entry provided that discrimination is based on a genuine and reasonable ground relating to health, safety, welfare or well-being of children. Such an amendment may be criticised because it could allow discrimination to continue because of assumptions concerning age. Genuine concerns about safeguards for children have already been enshrined into other legislation which will not be affected by these amendments. Therefore, I am not convinced of the need for an amendment as proposed by the Hon. Mr Davis.

The Hon. Mr Davis has also raised a point regarding accommodation. The comments made regarding 'adult style' accommodation and clubs have been noted and considered. The provision of section 58 in the Residential Tenancies Act has also been noted, and it is agreed that a provision similar to that should be included in the Bill. The Government also accepts the arguments put forward in respect of certain tourist accommodation.

The Hon. Mr Davis, the Hon. Mr Griffin and the Hon. Diana Laidlaw have urged an amendment to include a non-derogation clause to clarify the position of age levels in current legislation. The advice of the Crown Solicitor has been sought in this matter and I am advised that such a provision is not necessary. The Government accepts under the normal rules of statutory interpretation that, where there

is conflict between general and specific provisions, the specific provisions will prevail. Therefore, where Parliament has stipulated an age limit in legislation it will prevail over the general provisions in the Equal Opportunity Act.

The Hon. Mr Davis has raised a question regarding the economic impact of the legislation. The Government does not envisage significant economic impact. The areas of potential economic impact would tend to be junior award wages and compulsory retirement. These matters are still to be addressed. If an employer is currently operating in accordance with equal opportunity principles, it is not expected that significant cost will be incurred by the addition of age as a potential ground of discrimination.

The Hon. Diana Laidlaw has raised a question regarding proclamation and the possibility of a staged introduction. The Bill provides for staged introduction with respect to compulsory retirement age. However, the remainder of the Bill is likely to be proclaimed to come into operation at the same time. I advise that a significant lead time will be allowed to enable employers, in particular, to assess their need to change policies to conform to the proposed legislation.

The Hon. Ms Laidlaw also raised a matter regarding the two-year period to review statute-based age discrimination. The task force identified the areas where age levels are referred to in legislation. However, to await a full review and analysis of these provisions would have resulted in an unnecessary delay for the remainder of the Bill.

The Hon. Ms Laidlaw and the Hon. Mr Elliott have also raised a query regarding the need to conduct a review into junior wages in awards similar to that in respect of ages in legislation. The Government considers that different considerations apply in respect of age in legislation from those that apply ages in awards. The Government is aware that the issue of junior wages are already being considered in the industrial arena. As I said before, it is considered more appropriate to await outcomes in the area.

The Hon. Ms Laidlaw has also raised a matter regarding frivolous and vexatious claims. The Hon. Mr Davis has filed an amendment on this issue. The Government does not accept the need for the amendments relating to awards of costs or compensation for vexatious claims. The policy currently embodied in the Equal Opportunity Act 1984 is the policy usually followed in relation to tribunals such as the Equal Opportunity Tribunal. The underlying policy is that complainants should not be inhibited from proceeding with their complaints for fear that they will be burdened with the defendant's costs if unsuccessful. Section 26 of the Act is a safeguard to ensure that complaints are not proceeded with unreasonably.

The Hon. Mr Griffin and the Hon. Mr Elliott have raised a query regarding new section 85h. The subsection is consistent with other provisions in the Act dealing with exemptions in the area of employment and by qualifying bodies. The Government considers that in order to maintain consistency in the Act the subsection should be retained.

The Hon. Mr Griffin has raised a number of matters which have a wider impact than merely this Bill, namely, discrimination by agents against principals; and the disposal of interest in goods by testamentary disposition and deeds. The provisions in the Bill in these areas are consistent with other areas of the Act. The problems alluded to by the Hon. Mr Griffin have not been a source of problems in those areas.

The Hon. K.T. Griffin: Except, of course, where you have testamentary disposition on the basis of age. That's not relevant in relation to the other areas of sex or disability.

The Hon. C.J. SUMNER: If you want that point, you had better put it in. The relationship of discrimination by an agent against a principal does not currently fall within the framework of the current Act. At this stage I do not see any justification for amending this provision to address discrimination on the ground of age by an agent. However, in the area of disposition of goods under a will I can see that the age is a common qualifying factor under a will. Accordingly, it may be that a specific exemption should be provided to deal with the matter. The Government will examine the need for an amendment to address this issue.

The Hon. Mr Griffin has raised a query regarding co-operatives providing accommodation and whether or not such groups would be covered by the exemption in new section 85*l*(4). It is difficult to give an all encompassing answer to this question. It would be necessary to see how the cooperative had been established and whether the rules provided specifically for money to be paid to members or whether the profit would be put back into the work of the cooperative.

The Hon. Mr Griffin has also raised a query regarding disability insurance and workers compensation and rehabilitation. The Government does not foresee any difficulties in this area at this time. The reason why life insurance is treated differently is because of the High Court case in *Goulden v AMP*. This decision made it clear that State Governments could not address discrimination in life insurance policies because of the Commonwealth Life Insurance Act.

The Hon. Mr Elliott, in his second reading contribution, also raised a query regarding insurance and superannuation. The issue of superannuation schemes and provident funds is being considered by the Federal Government. There are a number of matters currently under review in the Commonwealth arena which may impact on the issue of superannuation. Therefore, the Government has decided to exempt such schemes from the operation of the State Act at this time. This will allow a Commonwealth-State analysis of issues.

Finally, the Hon. Mr Lucas's point relating to discrimination in education policies, which I touched on before, is not seen as a problem. This matter has been discussed with the Education Department. Many of the policies mentioned by the Hon. Mr Lucas are not strictly age based. They can be justified on other grounds such as social capacity of children, educational needs, etc. The department does not envisage any major difficulties with regard to advancement of students, corporal punishment, etc.

The Hon. K.T. Griffin interjecting:

The Hon. M.J. ELLIOTT: I had expected that we might be reporting progress. I was waiting for the responses before proceeding further with amendments on some matters.

Clause passed.

Progress reported; Committee to sit again.

WATER RESOURCES BILL

Adjourned debate on second reading.

(Continued from 21 March. Page 665.)

The Hon. PETER DUNN: The Opposition supports this Bill. It is a wide ranging Bill dealing with a matter about which everybody has considerable knowledge and concern. Water affects every one of us, and in this State particularly, because of the lack of it. We need water for many purposes; from growing the food we want to eat to putting in our whisky, and for all things in between. This State needs to

look after the quantity and quality of our water—and I think quality comes before quantity. There is plenty of water for South Australia if it is harvested and used carefully, bearing in mind the present population in South Australia. The use of our water has to be clever and judicious, and it has to be recognised, particularly by city people, that we have to be careful using it.

Relatively large resources of water are available to South Australia, ranging from all over Australia to the water that is immediately around us. Obviously, if we mess up or use up our water supplies in South Australia by polluting them, over using them or causing them to go salty for whatever reason, it will be expensive to get water from further out, and so we must look after the water that we have, because it is the cheapest water available. South Australia has a history of reticulating its water all over the State, and I do not think that any State in Australia, or probably anywhere in the world, reticulates its water as widely as does South Australia.

Even though this is reputed to be the driest State in the driest continent, we see fewer water restrictions in this State than in many other parts of Australia. We must go back to history to determine why that is the case; probably to the Playford era or before that. Just after the turn of the century a lot of water was reticulated around this State—from about 1910 to 1925. So, we can thank our forefathers for the fact that we have water reticulated around the country. Much of South Australia could not have been opened up without water being made available in those areas. If one looks back further than the time I have spoken of, one will note that a lot of the water was carted by train. Bullocks were used for pulling a lot of scrub, but one of the reasons they failed in this country was that there was never enough water for bullocks; horses could do with less water. That water often had to be carted long distances, and in the early days, trains carted enormous quantities of water for those operations.

South Australia has an excellent history of distributing its water. We have a very intricate pipeline system from one end of the State to the other. Even the South-East, which has an abundance of underground water, has a reasonable distribution system, particularly in the upper South-East. It has a reasonable distribution system of pipelines, which is used enormously by farmers and townships.

Probably one of the greatest areas and sources of water is the Great Artesian Basin. Much research still needs to be done in that basin to determine exactly how much water is there, where it is and how much we can use. However, a lot of research has been done on the Great Artesian Basin recently, particularly since the oil drilling period, so a lot more is known about the southern end of the Great Artesian Basin now than was known 20 years ago. That water has supplied the stations in the very dry areas along the Birdsville Track since just after the turn of the century. It is a remarkable feat that the people there were able to drill 3 000 feet in those days to get that artesian water. The water arrives at the surface of Mulka Station at about 92° Celsius, which is nearly boiling point, and, a little further to the north, it is even hotter, because it comes from a slightly deeper area and in fact in some places it comes out boiling. That is being used in some of those areas, by different methods, to generate electricity, and very interesting experiments can be seen.

The water itself is not of high quality; it is very high in sulphur and it has a fairly high level of total dissolved salts. Nevertheless, it is good stock water and is used very effectively by pastoralists in that area. It is interesting to note that the oil fields at Moomba have used that water. Because they have a very cheap energy source there, they are able to flash distil that water, so Moomba is supplied with Great Artesian Basin water which has been distilled and which is very little different from rainwater.

One of these days, perhaps, Adelaide will be using some of that Great Artesian Basin water. More and more people are using it. The new township of Roxby Downs is tapped into it and is using that water. It uses a different method to take the total dissolved salts out of it. They use a reverse osmosis method, by which water is forced through a membrane, the salts stay on one side of it and the water is collected from the other. That system has been developed mostly in Australia and has proven to be very effective and relatively cheap. A number of the northern towns are using that system now. Leigh Creek, for instance, gets a large percentage of its water supply using this method. Coober Pedy has all of its reticulated water produced by this method, because the water in those areas is extremely high in total dissolved salts.

Those areas have relatively small populations. If one applies that model to an area where there is a high population the costs would be very high and so it is not particularly applicable in the more densely populated areas of South Australia. We have to adopt other methods of looking after our water in this southern part of South Australia, and I guess this Bill sets out to do that. This Bill has in it much of the repealed Water Resources Bill of 1976. However, I am disturbed by some of the attitudes that this Bill seems to take for granted; that 'you will do it and you will like it; you do not have any choice.' I will go through that in some detail shortly.

After the Green Paper was circulated a couple of years ago, discussion groups and committees were set up to investigate this matter. Finally, a couple of papers were circulated, in particular one by Mr Don Alexander, the Chief Executive Officer of the Engineering and Water Supply Department, who has written a paper where he makes some good points which I suppose are preamble to this Bill. The document is written in an unusual way. I would like to think that public servants write information in relatively simple and plain terms, because they deal with many people, some of whom do not understand the flowery terms. However, I must say that Mr Alexander took some licence when he wrote this, and some of the discussion he describes in it leaves me fairly cold.

I think it is relevant that I read some of it in order to demonstrate what one is fighting against when it comes to public servants. I am not having a go at Mr Alexander; rather, I am demonstrating that this document is written in a fashion that is not applauded or accepted by the community. In my opinion a lot of it is written in absolute jargon. It is hard to explain. I have to take it out of context, and in doing so it makes it even worse, but it demonstrates my point. He is talking about the discussion that took place after the Green Paper had been published. He states:

> The water use interface arrangements such as the present Statewide Water Resource Advisory Committees who manage proclaimed underground water regions, should be where the integrated/conjunctive actual 'hands-on' management takes place.

Can any honourable member tell me what that means? In my opinion, it is gobbledegook. He has mixed about four things in one sentence. The document further states:

> This is where the other natural resource managers become involved within appropriate mechanisms, for example, land care, Soil Conservation Boards, and relevant local community groups.

I can understand the last part, but the middle part does not make a lot of sense, and I do not think that many people would understand it. All in all, what is written here is sensible. He makes the following comments part way through the document:

Remember: water is not just another resource, it is the basic resource for life. It must be planned and managed by recognising its uniqueness.

Water is not unique—it is everywhere; we are surrounded by it. It is certainly not unique. It is scarce and we have to look after it, but it is not unique. He goes on to say:

The proposed new water resource legislation provides the means, and this paper the mechanisms.

What he says is right, but I would argue that water is not unique. However, that document explains a little about the intent of the Bill.

In her second reading explanation the Minister says that one of the things that the Bill endeavours to do is to make the public aware of how scarce the water is and how we should manage it. She attempts to do that by setting up regional management committees as well as a Water Resources Council (which is already in place). She is involving a great number of people. It is not actually mentioned in the Bill, but I believe that the Minister anticipates about nine regions with advisory councils. I can see a great diversity of opinion coming out of this process. Although I am a great believer in the concept of the region which uses the water or which is being administered having some say in what that administration is doing, I believe that the Minister is going overboard, and I will explain that a little later.

In addition to those two committees—that is, the Water Resources Council and the nine regional advisory councils—we will also have a Well Drillers' Examination Committee. I suppose that is important. I am not sure how many people will be on that committee—I think the Bill explains it, but I have not read that part closely enough to go into that sort of detail. However, the point is that the Bill impinges on everybody. It says, 'You will do as I tell you', and it does not allow for much divergence from that. Some sections of the Bill allow aggrieved persons to appeal to an appeals tribunal, but one cannot appeal regarding a large number of sections of the Bill. That fact will involve some problems that will perhaps not be accepted by local people to whom these committees will be administering. One can catch many more flies with honey than by belting them with a four pound sledgehammer and I think the Bill does that.

The Minister said in another place that this Bill has been in existence since 1976 and that is true, but it has been repealed. This Bill actually repeals the old Act and, because of that, it is a new ballgame. We are starting off with this new ballgame so, therefore, it is not necessary just to follow the provisions of the old Bill. It would have been wiser if the Minister had removed the good provisions from the old Bill and inserted them in this legislation. However, this legislation strengthens the parts of the Bill that say to those people who are affected by the Bill, 'You will do it and you will like it. You will not have an option to argue'. I will highlight some provisions later that do not provide any avenue for negotiation. One cannot even go to the landowner or whoever uses the water and negotiate—there is no room for negotiation.

A portion of the Bill deals with the irrigation area. I suppose that more research has been done on irrigation in South Australia than any other section of the water harvesting industry. Changes in technique have occurred and those techniques have been well documented. South Australia has experimented with and improved information. We have also taken a lot of information from places like Israel and Central America. For instance, a quite obvious example of changed techniques occurred in the days of Chaffey when they started the irrigation blocks at Renmark and on the river. It was all flood irrigation, which worked extremely well, but it was inefficient use of water. We have now developed undertree sprinklers, drip irrigation, nighttime watering, and many other techniques can be used today which use much less water and which mean that much less salt drains back into the Murray River (which is such a very important lifeblood to South Australia).

The Bill mentions 12 underground water regions in the State and it spends some time on the quality of the water in those underground basins. Because South Australia has a relatively low rainfall, it does not have many water basins. In the western regions of the State one finds a lot of rainwater and fresh water sitting on top of salt water. It is necessary to harvest that water carefully so that the two are not mixed together. Trouble can follow if the two are mixed together.

This Bill attempts to cover qualified engineers and people who understand the drilling of wells, etc. The methods used today are very sophisticated because we can drill holes so much more quickly than we did in the old days. Therefore, it is very easy to go through a relatively thin lens of water and into perhaps, a salt lens which may mix and cause problems.

In the Minister's second reading speech she refers to a number of activities involving domestic or holiday homes and stock watering where the use of water is minimal and where it is unreasonable to require that a licence be obtained. In those circumstances the Minister is empowered to exempt by gazettal water taken for certain purposes. That demonstrates very clearly that the Bill allows for very little variation, which is what I have been saying.

Water is the life-blood of us all. We must all have it. If we must have licences to take water, God forbid. The Minister mentions those small activities but there are a number of activities in which one can be involved. I guess that, if one wants to have an enlarged garden, 'domestic use' may cover that, but, then again, it may not. So, I worry about Bills under which everything must be licensed, under which one must pay for everything; where one has some person looking over one's shoulder, or at least where one has given a neighbour the opportunity to report one for some misconduct because one has used water in the wrong fashion. I find that objectionable and unnecessary, because we all need water. Most of us are relatively careful with water, although there are odd people who are not careful with it. That is all this Bill is talking about: the use of water.

If the Bill refers to licensing for water outside these parameters, it will not be long before the Minister says that one will be licensed to take water for domestic use, holiday homes and for stock watering. Let us be honest about it. I have not found sheep that do not have to drink—they must all drink. We have licences for irrigation and for taking water in unproclaimed areas, that is outside council boundaries. History has shown that those people, in many cases, drilled their own bores or dug their own wells. I think the interpretation provision at the front of this Bill is a little mixed up. I will come back to that very briefly, because there is a vast difference between a bore and a well.

It is very difficult to affect water quality in the outback simply because most of it comes from very deep wells, not from shallow lenses or areas. This applies particularly in the South-East, where water sometimes comes to the surface. I guess that is why most of the people in the South-East have rings around their calves, because they have been wearing wellington boots all their lives.

An honourable member: Where's the Hon. Mr Cameron?

The Hon. PETER DUNN: Yes, he is one of the South-Easterners who has nearly got webbed toes. Those who have that water are lucky. I live in a much drier area. They are the areas in which one must be careful about poisoning the

waterways through industrial waste and agricultural chemicals, because we know it is fairly easy to pollute those waters. It is very important that we have very sensible guidelines when it comes to determining what we do and do not put into our waterways. It is interesting to note that in the Bill the Minister precludes herself. She can pour things in, if she wants to. She can allow a permit and the Bill states that the Crown is not even bound by it. That is a bit of an anomaly.

So, it is not appropriate to apply this Bill to the poisoning of water and waterways in the northern regions. I say that for the simple reason to which I have already referred, namely, that the water is very deep there and the likelihood of poisoning is very rare—unless somebody wants to pour something down a well or a bore. I will speak briefly later on the agriculture chemicals and what the Bill would do in relation to retrospectivity.

The Minister's second reading speech goes on to refer to the composition of the Water Resources Council. One interesting aspect is that the council will be able to appoint people with special interests. It says not that they are to be academics or qualified, and thus they can have a special interest. I can see some manipulation occurring and I think it is the Minister's way of saying that, if there is a green group or a group with a special interest in this area, to cajole a little favour and perhaps get a vote here or there, someone with a special interest can be appointed. I can foresee real trouble occurring if that happens because people who really do not understand what they are doing will try to be appointed. We see that in the Adelaide Hills, particularly in the areas where people take on small properties, believing that they are now rural people, even though in many cases they still have a job in town. These people think that they are adept at running a few horses and a cow, and they usually have a few coloured sheep and goats. They believe they understand it all.

I imagine, that these people will want to get on that committee and determine how they should use the water. What happens now is that they go up there and say, 'You can't cut this down.' Their houses are burnt down and they have a case against the local council, which has a $14 million bill to pick up. It all reads pretty easily. I can see the same thing happening with this Bill. These people do not know it all. I do not know it all, either, but I believe that, when you put on committees such as this people who have no specific skills, trouble will follow.

Basically, the Bill finishes up by talking about philosophy and political judgment in putting people on and making out cases. It talks about that all the time. It does not get down to very many physical things relating to what one will actually do to prevent pollution of water, or to how people can be helped. The Bill talks very little about research, although it does refer to wells and bores. One of the things which I picked up and which I think is wrong is that the Bill provides that anybody who repairs a bore or a well must be licensed. Licensing people would cause a great deal of hardship to some people, particularly those in the North. It is not so bad in the Adelaide Hills, where a number of people can be licensed and there is use for those people.

In the pastoral industry, 80 per cent of a pastoralist's time is spent checking wells, bores and windmills. On Granite Downs, which is near the Northern Territory border, there are 2 000 head of stock. If something happens to the bore—if it breaks, if the filter clogs on the end of the bore or a cup inverts itself in the well—the manager would probably ring up Adelaide and get an engineer to fix it. I am sure that he is likely to do that for the 2 000 head of cattle that are pretty thirsty after a long, hot week.

In my opinion, this Bill has unrealistic provisions. It provides for a permit so that people do not have to comply with its provisions. It is silly to permit people to do something. In that sense, the Bill is back to front. It is unrealistic to expect that of someone in the North, who knows more about bores and wells, fixing them up, cleaning out casings, and looking after windmills than 90 per cent of people drilling wells today; yet, the Bill states that, with respect to the drilling or maintaining of wells, a person must not repair, replace or make any alterations to the casings, linings or screens of a well. That is pretty clear.

The Bill also provides that it is a defence if it is unreasonable to obtain the services of a licensed well driller. That is nonsense. With that in the Bill, the next thing that will happen is that someone, say at Verdun, will claim that he had to fix a well himself because he could not get a licensed person immediately. I may move a small amendment to make that provision clearer. When we get to the Committee stage, we will look at that more closely.

Clause 66 provides that an application for a permit to drill a well or carry out other works in relation to the well must be in a form approved by the Minister and must be for fees prescribed. Once again, the Government is grabbing a bit of money for no reason at all. One must have money to live in this world, and this Bill will certainly bring a little more into the Government's coffers.

It is interesting to note how several of the interpretations have been cobbled together. 'Watercourse' means a river, creek or other natural watercourse (whether modified or not). In my opinion, that interpretation is remarkable. There are a number of watercourses in this State, particularly in the wetter areas, such as Kangaroo Island and in the mid North, where a lot of creeks were dammed off years ago. They now fall within the definition of 'watercourse' and are under the Minister's control.

Such is that control that, under clause 31, the Minister may take water from any watercourse, lake or well notwithstanding that the right of any person to take water from that or any other watercourse, lake or well is prejudicially affected. I would have thought it discreet of the Minister to ask for the water first, not just take it. The Minister should get permission. Who knows: the person concerned might have lived there for 40 years and understands more about the water and whether it has any ability to replenish. However, under this Bill, the Minister has the sole right to take such water. It is etiquette to ask for water in the first instance. It is not likely to happen but, if it is in the Bill, it can happen, the Minister has that right.

Under clause 58, a person must not destroy vegetation growing in the bed or on the banks of a watercourse or lake. One must have a permit to do so. This is in the same bracket as the provision giving the Minister the right to stop a person from doing so. I do not know whether that includes grazing. What the Minister is saying is that the watercourse will have to be fenced off because cattle graze in creek beds and in similar places, and not every farmer will get a permit for that. Perhaps the Minister will have an answer for me in Committee.

Clause 27 provides for the powers and procedures of the tribunal. Subclause (1) *(e)* provides that the tribunal may, for the purposes of proceedings before the tribunal, require any person appearing before it to answer any relevant questions put by a member of the tribunal or by a person appearing before it. I hoped that it would be relevant to this legislation, but it is a pretty far-reaching provision when any relevant question can be asked. It might be relevant to anything—the time of day or someone's personal life. The Bill does not set that out and it, too, should be cleared up.

I do not think that the Crown is bound under the Bill, and it should be. The Crown has many areas over which, under which and through which water flows; therefore, it should be bound by exactly the same provisions as apply to the general public. Clause 33 provides for the proclamation of watercourses, lakes and wells, stating that the Governor may, by proclamation, declare that a watercourse or lake is a proclaimed watercourse or lake. Does this provision include a dam because, in the definitions, a watercourse means a river, creek or other natural watercourse (whether modified or not)? In my opinion, a dam could be declared a watercourse because it is on an old creek line, for instance. That has further implications because the Bill states that many will be demolished.

Clause 40 provides that the Minister may, by notice published in the *Gazette*, prohibit or restrict the taking of water from a watercourse, lake or well to allow time for replenishment or assessment of the quality of the water. Many of these areas have been held by the one family for many years. Those people understand whether the water supply will replenish. This provision really demonstrates the dictatorial attitude that the Bill takes right from the word go.

Members interjecting:

The PRESIDENT: Order! The Hon. Mr Dunn has the floor.

The Hon. PETER DUNN: Thank you for your protection, Mr President. I am not sure that the Government backbenchers really understand what the Bill is about. All they understand is that if you turn on a tap, water runs out of it. It is a little more complex than that.

Members interjecting:

The Hon. PETER DUNN: I notice the Democrats interjecting—of course they understand it, although I do not think they have ever had to go out and dig and dam or look for water. I presume that they just get it out of a tap, exactly as the backbenchers of the Labor Party do.

In my view, the Bill is far too dictatorial and unrealistic. Its direction is right: it is trying to do the right thing but does it in a fashion that is objectionable to me, and, I think, to a number of other people. The Bill contains some unrealistic ideas.

I note that clause 47 contains the reverse onus of proof, which is very dangerous. Someone may have to prove he innocently built a dam perhaps 50 years ago, if for some reason it starts to cause a problem, whatever that problem might be (and there could be a number of reasons for those problems). If there are all these committees around the country administering this legislation, they ought to be able to determine whether a person has deliberately or not deliberately caused a mischief.

'Well' is defined as 'an opening in the ground excavated for the purpose of obtaining access to underground water'. That is pretty broad. In some regions in the South-East all that is necessary is for a person to use a front end loader or bulldozer to make a slight depression in the ground. In fact, a person may just be digging post holes and, all of a sudden, he strikes water, so this Bill comes into effect. If you want to put in a post, you cannot, because this Bill says that unless you are licensed you cannot fill in that hole. Some fairly ridiculous situations could occur.

Members interjecting:

The Hon. PETER DUNN: Yes, it comes under the definition of 'well'. Surely, if I have underground water I ought to be entitled to be self-sufficient. 'Well' is further defined as 'an opening in the ground excavated for some other purpose but that gives access to underground water'. So, if you dig a post hole, you finish up with the problem that you cannot do anything with it: you cannot fill it in or put a post in it for a fence. Perhaps it is for a fence to fence off the creek to stop the cattle eating the grass they are not allowed to eat, according to this Bill, but if you want to put in a fence post to string up some wire, you cannot do it under this Bill, since you will be excavating for some other purpose and it gives you access to underground water.

Finally, a 'well' is defined as a 'natural opening in the ground that gives access to underground water'. That is very interesting. I should have thought that that could be changed a little, but that is the definition that has been put in. It also means a bore. Traditionally, a well was an area dug approximately 4 ft 6 in. square, and some of them are very deep, but they are dug by human means, usually a pick and shovel and gelignite, and they are dug to 200 or 300 ft deep.

There is a real art to that. Bores are generally drilled mechanically, usually about 4 in. to 6 in. in diameter, and are totally different. Usually, they are not used for any other purpose than taking water out of the ground. Wells, however, have been used for other reasons—primarily to get water but, because of the size of the well, generally they can be used for disposal of other things. I do not believe that a bore should become a well but, under the definition, a bore is a well. I find that difficult to understand.

We believe in the general thrust of the Bill, but have some problems with it. It is very much like the Pastoral Act. You do not have much choice: you do it at the Minister's request. If you do not, someone will come along and tell you how to do it, and I find that objectionable. However, that has been the thrust of this socialist Government right from the word go.

During the seven or eight years I have been here, the Government has never been any different. It has always said, 'We know best and you will do as we tell you,' yet I notice that every time someone asks for a little assistance—such as for water west of Ceduna (and those people have been asking for water for 20 years, and never been given any water)—the Government is very quiet. The Premier went up there 18 months ago—

The Hon. K.T. Griffin interjecting:

The Hon. PETER DUNN: Perhaps he knew my speech was coming up. I understand that some Federal money has been allocated, but that is not for the farmers west of Ceduna. That is to go to Koonibba and the Aboriginal reserve. They have a right to the water, and it is very difficult to get water in that area. In the Penong area, you can drive for miles and miles without seeing any water pipelines, but you will come across 13 or 14 windmills in a very small area, pumping water to supply the area. The people in that area spend a lot of time carting water from Ceduna.

If there is anything more soul destroying than carting water, I do not know what it is. You get up in the morning, fill your tanker and cart the water 20 or 30 miles, and then tip it out. When you have finished, you have not achieved anything: someone has drunk it and walked away from the trough, and there is nothing to show for your efforts. Had the Government been wiser, there could have been another 40 000 or 50 000 sheep in that area, which could have brought another $2 million into the State's coffers.

However, this Government did not think that that was sensible, so it has not provided any water. The South Australian Department of Agriculture did a study of this matter, using Roger Stokes and Associates, Consulting Engineers. They published a booklet entitled *Far West Coast Alternative Water Supplies*, which is a very comprehensive document. The Department of Agriculture recognised the necessity for water in that area. I will not go into detail

now, but the study demonstrates that the Government is not very interested in providing anything, but is prepared to regulate everything—a very sad state of affairs.

If you want to regulate people, you ought to be prepared to help them as well. Unfortunately, the Bill has the same effect of putting people offside as has the Pastoral Act. One of the interesting things I noted when negotiating on that Act was that we asked the Minister how many pastoral leases there might be for national parks or other regions and we were told possibly three or four. I noted from last week's paper that there are 10. I expect the same criteria to be applied to this Bill. We will be told that it will not be very costly to get a permit, but we can be assured it will be pretty costly to get a permit or a licensed engineer to do some work in the future.

I worry about the way this Bill has been put together. However, I applaud its general thrust. It is so important that we look after the quality and quantity of the water in this State. It is important that we do have some water for our children and their children and, because of the nature of this very dry State, we must continue the good work that was done in the early part of this century in distributing reasonably good water around the State. That has made it the very viable State that it is. We have largely an agrarian community with much of the State's income generated by primary industry, and primary industry cannot exist without good water. For those reasons, I support the Bill.

The Hon. M.J. ELLIOTT secured the adjournment of the debate.

CLEAN AIR ACT AMENDMENT BILL

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

The Hon. BARBARA WIESE (Minister of Tourism): I move:

That this Bill be now read a second time.

In view of the lateness of the hour, I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Bill

I propose to introduce a Clean Air Act Amendment Bill 1990, the principal purpose of which is to aid the administration of regulations relating to fires on domestic, commercial and industrial premises.

The amendments are being sought in response to requests by local councils which have delegated responsibility for administering the provisions controlling fires in the open on non-domestic premises and fires both in the open and in incinerators on domestic premises.

The first provision of this Bill seeks to clarify what is meant by a fire in the open and additionally, to empower local councils to administer the provisions controlling domestic incinerators that are used by occupiers of flats and other multiple household dwellings.

The Clean Air Regulations 1984 prohibit a fire in the open on non-domestic premises except by written consent of council and subject to such conditions the council may wish to impose to minimise nuisance.

The Minister for Environment and Planning through the Department of Environment and Planning has responsibility for controlling emissions from incinerators on non-domestic premises. Some units, depending on type and capacity, require a licence to operate under the Clean Air Act.

These units are often technically complex, designed to burn specific materials. Local councils generally do not have the technical expertise or equipment necessary to assess the design and operation of these incinerators, hence the State provides this service.

A problem encountered by local councils is what constitutes an incinerator on non-domestic premises and whether a fire within a semi-permanent construction is a fire in the open.

A notable example of this dilemma is that faced by a council officer when responding to the nuisance caused by the disposal of waste by burning in a 205 litre drum.

This means of waste disposal does not meet the department's incinerator criteria and provides an inefficient means of combustion. There is no means by which the burning or the emission of pollutants can be controlled.

Nevertheless, these problems hardly need the technical expertise of the authorised officers appointed by the Minister for industrial air pollution control, and could be solved more quickly and effectively by local council officers.

The Bill seeks to clarify the position by regarding any fire in the open air, that is, any fire not within a building, as an open fire unless the products of combustion are discharged into the atmosphere via a chimney.

There is no point in simply adding a chimney to a rudimentary container to call it an incinerator. I would point out that such action would allow air pollutants to be tested and the unit would most surely fail the statutory emission standards.

This amendment therefore will eliminate a matter of interpretation and provide local councils with the opportunity to control what is essentially a matter of local nuisance.

The second provision of this Bill is also intended to assist authorised officers appointed by a local council in the execution of their duties under the Act.

Currently, despite a fire in the open or in a domestic incinerator adversely affecting the public, a council officer only has the power to issue a notice of an offence against the Act.

There is no power to eliminate the source of the complaint by either requiring the fire to be extinguished, or causing it to be extinguished. This has led to the unacceptable situation of the law appearing to be administered, yet the air pollution problem remains.

The Bill therefore contains a provision to provide authorised officers with specific power to require a person to extinguish a fire where it contravenes the regulations.

Recognising that some offenders may refuse, the officer is also empowered to extinguish it personally or through another appropriate agency.

These provisions are necessary to ensure the effective administration of air pollution regulations relating to burning rubbish, and to prevent unwarranted nuisance associated with that activity.

The opportunity is also taken to amend the Act in relation to the power to make regulations fixing fees for exemption from the prohibition against the sale, use, etc., of ozone depleting substances. Regulations have been made fixing these fees, but, as some of the fees are based on the quantity of substance used or sold by an applicant during the previous calendar year, it is necessary to provide that such a fee, which could be viewed as being a tax, can be fixed by way of regulation. As the regulations came into operation on 1 February 1990, it is provided that this amendment will be back-dated to that date.

I commend the Bill to members.

Clause 1 is formal.

Clause 2 provides for the operation of the Act to be by proclamation, except for section 5, which is back-dated to 1 February 1990.

Clause 3 amends section 3 of the principal Act, which is an interpretation provision. The definition of 'domestic incinerator' has been broadened by the removal of the restriction that domestic incinerators be used to burn refuse from less than three private households.

New subsection (2) provides an interpretation of the term 'fire in the open'. For the purposes of the principal Act and the regulations, a fire burning in the open air will be regarded as a fire in the open notwithstanding that it is burning in connection with the operation of any fuel burning equipment or within a container, unless such fuel burning equipment or container has a chimney.

Clause 4 amends section 53 of the principal Act, which deals with the powers of authorised officers.

New subsection (1a) widens the powers of authorised officers. If it appears to such officers while on any premises that matter is being burned by a fire in the open or in contravention of the regulations, the authorised officer may require the fire to be extinguished. If it is not extinguished, or if there is apparently no person in charge of the fire, the authorised officer may extinguish the fire himself or herself.

Clause 5 provides that regulations prescribing fees for exemption from the prohibition against the use, sale, etc., of ozone depleting substances may fix the fees by reference to the quantity of substance used or sold over a specified period.

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

CONTROLLED SUBSTANCES ACT AMENDMENT BILL (No. 2)

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

ADJOURNMENT

At 8.54 p.m. the Council adjourned until Wednesday 28 March at 2.15 p.m.